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DEPARTMENT OF HOMELAND SECURITY

8 CFR Parts 214 and 274a

[CIS No. 2667–20; DHS Docket No. USCIS–2020–0008]

RIN 1615–AC55

Temporary Changes to Requirements Affecting H–2A Nonimmigrants Due to the COVID–19 National Emergency

AGENCY: U.S. Citizenship and Immigration Services, DHS.

ACTION: Temporary final rule.

SUMMARY: As a result of disruptions and uncertainty to the U.S. food agriculture sector during the upcoming summer agricultural season caused by the global novel Coronavirus Disease 2019 (COVID–19) public health emergency, the Department of Homeland Security, U.S. Citizenship and Immigration Services, has decided to temporarily amend the regulations regarding temporary and seasonal agricultural workers, and their U.S. employers, within the H–2A nonimmigrant classification. The Department is temporarily removing certain limitations on agricultural employers and workers in order to provide agricultural employers with an orderly and timely flow of legal foreign workers, thereby protecting the integrity of the nation's food supply chain and decreasing possible reliance on unauthorized aliens, while encouraging agricultural employers' use of the H–2A program, which protects the rights of U.S. and foreign workers. Namely, the Department will allow H–2A employers whose extension of stay H–2A petitions are supported by valid temporary labor certifications (TLCs) issued by the Department of Labor to begin work immediately after the extension of stay petition is received by USCIS. The Department is also temporarily amending its regulations to allow H–2A workers to stay in the United States beyond the 3 years maximum allowable period of stay. DHS will apply this temporary final rule to H–2A petitions requesting an extension of stay, and, if applicable, any associated applications for an extension of stay filed by or on behalf of an H–2A worker, if they were received on or after March 1, 2020 and remain pending as of the effective date of this rule, as well as H–2A petitions for an extension of stay, received on or after the effective date of this rule, ending on the last day this rule is in effect.

DATES: This final rule is effective from April 20, 2020 through August 18, 2020.

FOR FURTHER INFORMATION CONTACT: Charles L. Nimick, Chief, Business and Foreign Workers Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Ave. NW, Suite 1100, Washington, DC 20529–2120, Telephone Number (202) 272–8377 (not a toll-free call).

Individuals with hearing or speech impairments may access the telephone numbers above via TTY by calling the toll-free Federal Information Relay Service at 1–877–889–5627 (TTY/TDD).

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I. Background

A. Legal Framework

The Secretary of Homeland Security (Secretary) has the authority to amend this regulation under section 102 of the Homeland Security Act of 2002 (HSA), Public Law 107–296, 116 Stat. 2135, 6 U.S.C. 112, and section 103(a) of the Immigration and Nationality Act (INA), 8 U.S.C. 1103(a), which authorize the Secretary to administer and enforce the immigration and nationality laws. Under section 101 of the HSA, 6 U.S.C. 111(b)(1)(F), a primary mission of the Department is to ''ensure that the overall economic security of the United States is not diminished by efforts, activities, and programs aimed at securing the homeland.'' In addition, section 214(a)(1) of the INA, 8 U.S.C. 1184(a)(1), provides the Secretary with authority to prescribe the terms and conditions of any alien's admission to the United States as a nonimmigrant. The INA further requires that ''[t]he question of importing any alien as [an H–2A] nonimmigrant . . . in any specific case or specific cases shall be determined by [DHS], after consultation with appropriate agencies of the Government [the U.S. Department of Labor and the U.S. Department of Agriculture], upon petition by the importing employer.'' INA 214(c)(1), 8 U.S.C. 1184(c)(1). Section 274A(h)(3)(B) of the INA, 8 U.S.C. 1324a(h)(3)(B), states that '''an unauthorized alien' means . . . that the alien is not at that time . . . authorized to be employed by this chapter or by the [Secretary].''

B. Description of the H–2A Program

The H–2A nonimmigrant classification applies to alien workers seeking to perform agricultural labor or services of a temporary or seasonal nature in the United States on a temporary basis, usually lasting no longer than 1 year, for which U.S. workers are not available. INA 101(a)(15)(H)(ii)(a), 8 U.S.C. 1101(a)(15)(H)(ii)(a); *see also* 8 CFR 214.1(a)(2). As noted in the statute, not only must the alien be coming ''temporarily'' to the United States, but the agricultural labor or services that the alien is performing must also be ''temporary or seasonal.'' INA 101(a)(15)(H)(ii)(a). The regulations further define an employer's temporary need as employment that is of a

temporary nature where the employer's need to fill the position with a temporary worker will, except in extraordinary circumstances, last no longer than 1 year. 8 CFR 214.2(h)(5)(iv)(A). An employer's seasonal need is defined as employment that is tied to a certain time of year by an event or pattern, such as a short annual growing cycle or a specific aspect of a longer cycle, and requires labor levels above those necessary for ongoing operations. *Id.*

An employer, agent, or association (''H–2A petitioner'') must submit a petition to U.S. Citizenship and Immigration Services (USCIS) to obtain authorization of temporary workers as H–2A nonimmigrants before the employer may begin employing H–2A workers. INA 214(c)(1), 8 U.S.C. 1184(c)(1); 8 CFR 214.2(h)(2)(i). DHS must approve this petition before the alien can be considered eligible for H–2A status or a visa. To qualify for H–2A classification, the H–2A petitioner must, among other things, offer a job that is of a temporary or seasonal nature, and must submit a single, valid temporary labor certification (TLC) from the U.S. Department of Labor (DOL) establishing that there are not enough U.S. workers who are able, willing, qualified, and available to do the temporary work, and that employing H–2A workers will not adversely affect the wages and working conditions of workers in the United States similarly employed.[1] INA 101(a)(15)(H)(ii)(a) and 218, 8 U.S.C. 1101(a)(15)(H)(ii)(a) and 1188; *see also generally* 8 CFR 214.2(h)(5)(i)(A) and (h)(5)(iv). Aliens who are outside of the United States also must first obtain an H–2A visa from the U.S. Department of State (DOS) at a U.S. Embassy or Consulate abroad, if required, and then seek admission with U.S. Customs and Border Protection (CBP) at a U.S. port of entry prior to commencing employment as an H–2A nonimmigrant. Aliens may be admitted for an additional period of up to one week prior to the employment start date for the purpose of travel to the worksite. 8 CFR 214.2(h)(5)(viii)(B).

i. DOL Temporary Labor Certification (TLC) Procedures

Prior to filing the H–2A petition with DHS, the U.S. employer or agent must obtain a valid TLC from DOL for the job opportunity the employer seeks to fill with an H–2A worker(s). As part of the TLC process, the petitioning employer must have demonstrated to the satisfaction of the Secretary of Labor that (a) there are not sufficient U.S. workers who are able, willing, and qualified, and who will be available at the time and place needed to perform the labor or services involved in the petition, and (b) the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed. 8 U.S.C. 1188(a)(1); *see also* 20 CFR 655.100.

The INA specifies a number of conditions under which the Secretary cannot grant a temporary labor certification. 8 U.S.C. 1188(b). One such condition is where ''[t]he Secretary determines that the employer has not made positive recruitment efforts within a multi-state region of traditional or expected labor supply where the Secretary finds that there are a significant number of qualified United States workers who, if recruited, would be willing to make themselves available for work at the time and place needed.'' 8 U.S.C. 1188(b)(4). The ''positive recruitment'' that the INA requires ''is in addition to, and shall be conducted within the same time period as, the circulation through the interstate employment service system of the employer's job offer.'' 8 U.S.C. 1188(b)(4). An employer's obligation to engage in this recruitment terminates ''on the date the H–2A workers depart for the employer's place of employment.'' *Id.* The standards and procedures governing the positive recruitment of U.S. workers are set forth in DOL's regulations. 20 CFR 655.151 through 655.154.

To obtain a TLC from DOL, the employer must first submit an agricultural job order, within 75 to 60 calendar days prior to the start date of work, to the State Workforce Agency (SWA) that serves the state where the actual work will be performed. The SWA will then initiate the interstate recruitment of U.S. workers. In addition, the employer must submit an H–2A application to DOL's Office of Foreign Labor Certification (OFLC) no less than 45 calendar days before the start date of work. OFLC will review the H–2A application and notify the employer of any deficiencies, as well as provide instructions for additional recruitment efforts for U.S. workers.

As noted above, in granting the TLC, DOL certifies that there are no U.S. workers who are able, willing, and qualified to fill the temporary or seasonal position and that the employment of H–2A workers will not adversely affect the wages and working conditions of workers in the United States similarly employed. INA 214(c)(1) and 218(a), 8 U.S.C. 1184 (c)(1) and 1188(a); 8 CFR 214.2(h)(5)(ii) and (h)(5)(iv)(B); 20 CFR 655.100. The U.S. employer must comply with DOL's regulations covering the H–2A process, including, but not limited to, offering the job opportunity identified on the TLC to any laid-off U.S. worker(s) and contacting former U.S. workers who were employed in the job opportunity identified on the TLC. 20 CFR 655.135 and 655.153. The U.S. employer must also continue to accept referrals of all eligible U.S. workers who apply for the job opportunity until 50 percent of the work contract period certified by DOL has elapsed, as specified in 20 CFR 655.135(d).

ii. DHS Petition Procedures

After receiving a valid TLC from DOL, the employer listed on the TLC, an employer's agent, or the association of United States agricultural producers named as a joint employer on the TLC (''H–2A petitioner'') may file the H–2A petition with the appropriate USCIS office. INA 214(c)(1), 8 U.S.C. 1184(c)(1); 8 CFR 214.2(h)(2)(i), (h)(5)(i)(A). The H–2A petitioner may petition for one or more named or unnamed H–2A workers, but the total number of workers may not exceed the number of positions indicated on the TLC. 8 CFR 214.2(h)(2)(iii) and (h)(5)(i)(B). H–2A petitioners must name the H–2A worker if the worker is in the United States or if the H–2A worker is a national of a country that is not designated as an H–2A participating country. 8 CFR 214.2(h)(2)(iii). USCIS recommends that petitioners submit a separate H–2A petition when requesting a worker(s) who is a national of a country that is not designated as an H–2A participating country. *See* 8 CFR 214.2(h)(5)(i)(F); *see also Identification of Foreign Countries Whose Nationals Are Eligible To Participate in the H–2A and H–2B Nonimmigrant Worker Programs,* Notice, 85 FR 3067 (Jan. 17, 2020). Petitioners for such aliens must submit evidence demonstrating the factors by which the request for H–2A workers serves the U.S. national interest. 8 CFR 214.2(h)(5)(i)(F)(*1*)(*ii*). USCIS will review each petition naming a national from a country not on the list and all supporting documentation and make a determination on a case-by-case basis.

A U.S. employer or U.S. agent generally may submit a new H–2A petition, with a new, valid TLC, to USCIS to request an extension of H–2A nonimmigrant status for a period of up to 1 year. 8 CFR 214.2(h)(15)(ii)(C). The H–2A petitioner must name the worker on the Form I–129, Petition for

[1] Under certain emergent circumstances, petitions requesting a continuation of employment with the same employer for 2 weeks or less are exempt from the TLC requirement. *See* 8 CFR 214.2(h)(5)(x).

Nonimmigrant Worker, since the H–2A worker is in the United States and requesting an extension of stay. In the event of an emergency circumstance, however, a U.S. employer may request an extension not to exceed 14 days without first having to obtain an additional approved TLC from DOL if certain criteria are met, by simply submitting the new H–2A petition. *See* 8 CFR 214.2(h)(5)(x).

In 2008, USCIS promulgated regulations allowing H–2A workers to begin work with a new petitioning employer upon the filing of an H–2A petition, before petition approval, provided that the new employer is a participant in good standing in the E-Verify program.[2] 8 CFR 214.2(h)(2)(i)(D) and 8 CFR 274a.12(b)(21). In such a case, the H–2A worker's employment authorization continues for a period not to exceed 120 days beginning on the ''Received Date'' on the Form I–797, Notice of Action, which acknowledges the receipt of the new H–2A extension petition. With the exception of the new employer and worksite, the employment authorization extension remains subject to the same conditions and limitations indicated on the initial H–2A petition. The continued employment authorization extension will terminate automatically if the new employer fails to remain a participant in good standing in the E-Verify program, as determined by USCIS in its discretion.

iii. Admission and Limitations of Stay

Upon USCIS approval of the H–2A petition, the U.S. employer or agent may hire the H–2A workers to fill the job opening. USCIS will generally grant the workers H–2A classification for up to the period of time authorized on the valid TLC. H–2A workers who are outside of the United States may apply for a visa with DOS at a U.S. Embassy or Consulate abroad, if required, and seek admission to the United States with CBP at a U.S. port of entry. Spouses and children of H–2A workers may request H–4 nonimmigrant status to accompany the principal H–2A worker. The spouse and children of an H nonimmigrant, if they are accompanying or following to join such H nonimmigrant in the United States, may be admitted, if otherwise admissible, as H–4 nonimmigrants for the same period of admission or extension as the principal spouse or parent. 8 CFR 214.2(h)(9)(iv). Thus, H–4 dependents of these H–2A workers are subject to the same limitations on stay, and permission to remain in the country during the pendency of the new employer's petition, as the H–2A beneficiary.

An alien's H–2A status is limited by the validity dates on the approved H–2A petition, which must be less than 1 year. 8 CFR 214.2(h)(5)(viii)(C). H–2A workers may be admitted into the United States for a period of up to 1 week prior to the beginning validity date listed on the approved H–2A petition so that they may travel to their worksites, but may not begin work until the beginning validity date. H–2A workers may also remain in the United States 30 days beyond the expiration date of the approved H–2A petition to prepare for departure or to seek an extension or change of nonimmigrant status. H–2A workers do not have employment authorization outside of the validity period listed on the approved petition unless otherwise authorized. 8 CFR 214.2(h)(5)(viii)(B).

The maximum period of stay for an alien in H–2A classification is 3 years. 8 CFR 214.2(h)(5)(viii)(C). Once an alien has held H–2A nonimmigrant status for a total of 3 years, the alien must depart and remain outside of the United States for an uninterrupted period of 3 months before seeking readmission as an H–2A nonimmigrant. 8 CFR 214.2(h)(5)(viii)(C).

C. COVID–19 National Emergency

On January 31, 2020, the Secretary of the U.S. Department of Health and Human Services (HHS) declared a public health emergency under section 319 of the Public Health Service Act (42 U.S.C. 247d), in response to the Coronavirus Disease 2019 (COVID–19).[3] On March 13, 2020, President Trump declared a National Emergency concerning the COVID–19 outbreak to control the spread of the virus in the United States.[4] The President's proclamation declared that the emergency began on March 1, 2020. In response to the Mexican government's call to increase social distancing, DOS announced the temporary suspension of routine immigrant and nonimmigrant visa services processed at the U.S. Embassy in Mexico City and all U.S. consulates in Mexico beginning on March 18, 2020.[5] DOS expanded the temporary suspension of routine immigrant and nonimmigrant visa services to all U.S. Embassies and Consulates on March 20, 2020.[6] DOS designated H–2A visas as mission critical, however, and announced that U.S. Embassies and Consulates will continue to process H–2A cases to the extent possible and implemented a change in its procedures, to include interview waivers.[7] In addition, DHS has identified occupations in food and agriculture as critical to the U.S. public health and safety and economy.[8]

II. Discussion

A. Temporary Changes to DHS Requirements for H–2A Change of Employer Requests and H–2A Maximum Period of Stay Exception during the COVID–19 National Emergency

DHS regulations currently permit H–2A workers to continue to be employment-authorized while waiting for their extensions of H–2A status based on an H–2A petition, accompanied by an approved TLC, filed by a new employer if the new employer is in good standing in the E-Verify program. 8 CFR 274a.12(b)(21).

DHS is committed to both protecting U.S. workers and to helping U.S. businesses receive the legal and work-authorized labor for temporary or seasonal agricultural labor or services that they need. Due to travel restrictions and visa processing limitations as a result of actions taken to mitigate the spread of COVID–19, as well as the possibility that some H–2A workers may become unavailable due to COVID–19 related illness, U.S. employers who have approved H–2A petitions or who will be filing H–2A petitions might not receive all of the workers requested to fill the temporary positions, and similarly, employers that currently employ H–2A workers may lose the services of these workers due to COVID–19 related illness. In the wealth of uncertainty inherent to confronting a public health emergency of this magnitude, DHS is taking steps to ensure that the agricultural sector has

[2] *See* Changes to Requirements Affecting H–2A Nonimmigrants, 73 FR 76891, 76905 (Dec. 8, 2008).

[3] HHS, *Determination of Public Health Emergency,* 85 FR 7316 (Feb. 7, 2020).

[4] Proclamation 9994 of March 13, 2020, *Declaring a National Emergency Concerning the Coronavirus Disease (COVID–19) Outbreak,* 85 FR 15337 (Mar. 18, 2020). *See also https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/* (last visited Mar. 25, 2020).

[5] DOS, *Status of U.S. Consular Operations in Mexico in Light of COVID–19, https://mx.usembassy.gov/status-of-u-s-consular-operations-in-mexico-in-light-of-covid-19/.*

[6] DOS, *Suspension of Routine Visa Services, https://travel.state.gov/content/travel/en/News/visas-news/suspension-of-routine-visa-services.html.*

[7] *See* DOS website, *Important Announcement on H2 Visas, https://travel.state.gov/content/travel/en/News/visas-news/important-announcement-on-h2-visas.html* (last updated Mar. 26, 2020).

[8] DHS, *Memorandum on Identification of Essential Critical Infrastructure Workers During COVID–19 Response, https://www.cisa.gov/sites/default/files/publications/CISA-Guidance-on-Essential-Critical-Infrastructure-Workers-1-20-508c.pdf* (Mar. 19, 2020).

greater certainty and flexibility to minimize gaps in their H–2A workflow. Therefore, for at least 120 days, the Department is providing the flexibilities discussed herein. The Department is amending its regulations to temporarily permit all H–2A employers to allow aliens who currently hold H–2A status to start working upon the receipt of the employer's new H–2A petition, but no earlier than the start date of employment listed on the H–2A petition, to meet the employer's needs during the national emergency. *See* new 8 CFR 214.2(h)(21) and 8 CFR 274a.12(b)(26). Unlike the current regulation at 8 CFR 274a.12(b)(21), which allows the H–2A worker(s) to immediately work for a new H–2A employer in good standing in E-Verify upon the filing of an H–2A petition, this final rule temporarily allows the H–2A worker(s) to immediately work for any new H–2A employer, but no earlier than the start date of employment listed on the H–2A petition, upon the filing of a new H–2A petition during the COVID–19 National Emergency only.

The Department remains committed to promoting the use of E-Verify to ensure a legal workforce. E-Verify is free, user friendly, and over 98% accurate.[9] Notwithstanding the numerous benefits E-Verify offers to ensure all employers only employ a legal workforce, the Department has determined that it is necessary to temporarily amend its regulations affecting H–2A workers to mitigate the impact on the agricultural industry due to COVID–19. These H–2A petitioners will have completed a test of the U.S. labor market, and DOL will have determined that there are no qualified U.S. workers available to fill these temporary positions. The Department believes that granting H–2A workers the option to begin employment with any new H–2A petitioner as soon as the H–2A petition is received by USCIS will also benefit U.S. agricultural employers and provide stability to the U.S. food supply chain during the unique challenges the country faces because of COVID–19.

In addition, the Department has determined that it is necessary to create a temporary exception to its regulations at 8 CFR 214.2(h)(5)(viii)(C), (h)(13)(i)(B), and (h)(15)(ii)(C) to allow aliens to extend their H–2A period of stay beyond the 3-year limitation, without first requiring them to remain outside of the United States for an uninterrupted period of 3 months.

Given these extraordinary times and possible delays of H–2A visa issuance at the U.S. Embassies and Consulates, the Department has determined to temporarily amend its regulations affecting H–2A workers in order to meet the needs of U.S. employers in the food and agricultural industries, who have already conducted a test of the U.S. labor market but have not been able to find qualified, available U.S. workers to fill the positions, during the National Emergency. This final rule proposes no changes to DOL's regulations or to the TLC process, which the employer must undergo to recruit U.S. workers prior to the filing of an H–2A petition with USCIS. The flexibility for H–2A workers to quickly move to a new employer will help meet the urgent need to minimize any negative impact to the U.S. food supply chain due to COVID–19. This extraordinary treatment is limited to aliens who are and have been complying with the terms of their H–2A status.

To be approved under this final rule, an H–2A petition for an extension of stay with a new employer must have been received on or after March 1, 2020 and remain pending as of the effective date of this rule, or received on or after the effective date of this rule and no later than the last day that this final rule is in effect (*i.e.,* August 18, 2020). If the new petition is approved, the H–2A worker's extension of stay may be granted for the validity of the approved petition for a period not to exceed the validity period of the TLC. In addition, the temporary provisions differ from the existing provisions in that they grant employment authorization for 45 days from the date of the receipt notice. The 45-day employment authorization associated with the filed petition will automatically terminate 15 days after the date of denial or withdrawal if USCIS denies the petition, or if the petition is withdrawn.

To provide greater certainty to the market for the duration of the summer growing season, the changes made by this final rule will automatically terminate on August 18, 2020. DHS will issue a new temporary final rule to extend the termination date in 8 CFR 214.2(h)(21)(iii) in the event DHS determines that economic circumstances related to our food supply and U.S. agriculture demonstrate a continued need for these temporary changes to the regulatory requirements involving H–2A agricultural employers and workers. USCIS will continue to adjudicate H–2A petitions received no later than August 18, 2020 under the provisions of this rule. If DHS extends the termination date, DHS will continue to adjudicate H–2A petitions received no later than the new termination date. Any H–2A petition received after the termination of this final rule, or any subsequently established termination date, will be adjudicated in accordance with the existing provisions. *See* 8 CFR 214.2(h)(2)(i)(D) and 274a.12(b)(21).

III. Statutory and Regulatory Requirements

A. Administrative Procedure Act

This rule is issued without prior notice and opportunity to comment and with an immediate effective date pursuant to sections 553(b) and (d) of the Administrative Procedure Act (APA). 5 U.S.C. 551 *et seq.*

1. Good Cause To Forgo Notice and Comment Rulemaking

The APA, 5 U.S.C. 553(b)(B), authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' The good-cause exception for forgoing notice-and-comment rulemaking ''excuses notice and comment in emergency situations, or where delay could result in serious harm.'' *Jifry* v. *FAA,* 370 F.3d 1174, 1179 (D.C. Cir. 2004). Although the good cause exception is ''narrowly construed and only reluctantly countenanced,'' *Tenn. Gas Pipeline Co.* v. *FERC,* 969 F.2d 1141, 1144 (D.C. Cir 1992), the Department has appropriately invoked the exception in this case, for the reasons set forth below. As also discussed earlier in this preamble, on January 31, 2020, the Secretary of Health and Human Services declared a public health emergency under section 319 of the Public Health Service Actin response to COVID–19.[10] On March 13, 2020, President Trump declared a National Emergency concerning the COVID–19 outbreak, dated back to March 1, 2020, to control the spread of the virus in the United States.[11] In response to the Mexican government's call to increase social distancing in that country, DOS announced the temporary suspension of routine immigrant and nonimmigrant visa services processed at the U.S. Embassy in Mexico City and all U.S. consulates in Mexico beginning on March 18, 2020.[12] DOS expanded the temporary suspension of routine immigrant and nonimmigrant visa

[9] *See https://www.e-verify.gov/about-e-verify/e-verify-data/e-verify-performance* (last visited on Mar. 30, 2020).

[10] *Determination of Public Health Emergency.*

[11] Proclamation 9994.

[12] *Status of U.S. Consular Operations in Mexico in Light of COVID–19.*

services at all U.S. Embassies and Consulates on March 20, 2020.[13]

DOS designated H–2A visas as mission critical, and announced that U.S. Embassies and Consulates will continue to process H–2 cases to the extent possible and implemented a change in its procedures, to include interview waivers.[14] In addition, DHS identified occupations in food and agriculture as critical to the U.S. public health and safety and economy.[15] Due to travel restrictions, visa processing limitations as a result of actions taken to mitigate the spread of COVID–19, as well as the possibility that some H–2A workers may become unavailable due to illness related to the spread of COVID–19, U.S. employers who have approved temporary agricultural labor certifications and either approved H–2A petitions or who will be filing H–2A petitions might not receive, or be able to continuously employ, all of the workers requested to fill all of their DHS-approved temporary or seasonal agricultural positions. Due to these anticipated labor shortages, these employers may experience adverse economic impacts to their agricultural operations. Finally, fears over COVID–19 have prompted concerns about food shortages and food insecurity globally.[16] To partially address these concerns, DHS is acting expeditiously to put in place rules that will facilitate the continued employment of H–2A workers already present in the United States. This action will help U.S. employers fill critically necessary agricultural job openings, protect economic investments in their agricultural operations, and contribute to U.S. food security.

Courts have found ''good cause'' under the APA when an agency is moving expeditiously to avoid significant economic harm to a program, program users, or an industry. Courts have held that an agency may use the good-cause exception to address ''a serious threat to the financial stability of [a government] benefit program,'' *Nat'l Fed'n of Fed. Emps.* v. *Devine,* 671 F.2d 607, 611 (D.C. Cir 1982), or to avoid ''economic harm and disruption'' to a given industry, which would likely result in higher consumer prices, *Am. Fed'n of Gov't Emps.* v. *Block,* 655 F.2d 1153, 1156 (D.C. Cir 1981). Consistent with the above authorities, the Department has bypassed notice and comment to facilitate the employment of H–2A workers already in the United States, and prevent potential economic harms to H–2A agricultural employers and downstream employers engaged in the processing of agricultural products, as well as potential harms to the American economy and people that could result from ongoing uncertainty over the availability of H–2A agricultural workers, and potential associated negative impacts on food security in the United States. *See Bayou Lawn & Landscape Servs.* v. *Johnson,* 173 F. Supp. 3d 1271, 1285 & n.12 (N.D. Fla. 2016). This action is temporary in nature, and includes appropriate conditions to ensure that it is narrowly tailored to the National Emergency caused by COVID–19.

2. Good Cause To Proceed With an Immediate Effective Date

The APA also authorizes agencies to make a rule effective immediately, upon a showing of good cause, instead of imposing a 30-day delay. 5 U.S.C. 553(d)(3). The good-cause exception to the 30-day effective date requirement is easier to meet than the good-cause exception for forgoing notice and comment rulemaking. *Riverbend Farms, Inc.* v. *Madigan,* 958 F.2d 1479, 1485 (9th Cir. 1992); *Am. Fed'n of Gov't Emps., AFL–CIO* v. *Block,* 655 F.2d 1153, 1156 (D.C. Cir 1981); *U.S. Steel Corp.* v. *EPA,* 605 F.2d 283, 289–90 (7th Cir. 1979). An agency can show good cause for eliminating the 30-day delayed effective date when it demonstrates urgent conditions the rule seeks to correct or unavoidable time limitations. *U.S. Steel Corp.,* 605 F.2d at 290; *United States* v. *Gavrilovic,* 511 F.2d 1099, 1104 (8th Cir. 1977). For the same reasons set forth above, we also conclude that the Department has good cause to dispense with the 30-day effective date requirement given that this rule is necessary to prevent serious economic harms to U.S. employers in the agricultural industry caused by unavailability of workers due to COVID–19, and to ensure food stability for the American people.

B. Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review)

Executive Orders (E.O.) 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This rule is designated a significant regulatory action under E.O. 12866. Accordingly, the Office of Management and Budget (OMB) has reviewed this regulation. DHS, however, is proceeding under the emergency provision of Executive Order 12866 Section 6(a)(3)(D) based on the need to move expeditiously during the current public health emergency to secure labor for our food supply.

This rule will help U.S. employers fill critically necessary agricultural job openings, protect their economic investments in their agricultural operations, and contribute to U.S. food security. In addition, it will benefit H–2A workers already in the United States by making it easier for employers to hire them, and allowing them to remain employed, if applicable, longer than the 3-year limitation on their stay. As this rule helps fill critical labor needs for agricultural employers, DHS believes this rule will help ensure a continual food supply chain in the United States.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA), imposes certain requirements on Federal agency rules that are subject to the notice and comment requirements of the APA. *See* 5 U.S.C. 603(a), 604(a). This final rule is exempt from notice and comment requirements for the reasons stated above in Part III.A. Therefore, the requirements of the RFA applicable to final rules, 5 U.S.C. 604, do not apply to this final rule. Accordingly, the Department is not required to either certify that the final rule would not have a significant economic impact on a substantial number of small entities or conduct a regulatory flexibility analysis.

D. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995, Public Law 104–4, 2 U.S.C. 1501, *et seq.* (UMRA), is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed rule, or final rule for which the agency published a proposed rule that includes any Federal mandate that may result in $100 million

[13] *Suspension of Routine Visa Services.*

[14] *Important Announcement on H2 Visas.*

[15] *DHS Memorandum on Identification of Essential Critical Infrastructure Workers During COVID–19 Response.*

[16] *See, e.g. Coronavirus measures could cause global food shortage, UN warns. https://www.theguardian.com/global-development/2020/mar/26/coronavirus-measures-could-cause-global-food-shortage-un-warns* (last visited on Mar. 27, 2020).

or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector. 2 U.S.C. 1532. This rule does not contain such a mandate. The requirements of Title II of UMRA, therefore, do not apply, and DHS has not prepared a statement under UMRA.

E. Executive Order 13132 (Federalism)

This rule does not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of E.O. 13132, 64 FR 43255, 43258 (Aug. 4, 1999), this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

F. Executive Order 12988 (Civil Justice Reform)

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of E.O. 12988, 61 FR 4729 (Feb. 5, 1996).

G. Congressional Review Act

The Office of Information and Regulatory Affairs, of the Office of Management and Budget, has determined that this final rule is not a ''major rule'' as defined by the Congressional Review Act, 5 U.S.C. 804(2), and thus is not subject to a 60-day delay in the rule becoming effective. DHS will send this temporary final rule to Congress and to the Comptroller General under the Congressional Review Act, 5 U.S.C. 801 *et seq.*

H. National Environmental Policy Act

DHS analyzes actions to determine whether the National Environmental Policy Act, Public Law 91–190, 42 U.S.C. 4231, *et seq.* (NEPA), applies to them and, if so, what degree of analysis is required. DHS Directive 023–01 Rev. 01 (Directive) and Instruction Manual 023–01–001–01 Rev. 01 (Instruction Manual) establish the policies and procedures that DHS and its components use to comply with NEPA and the Council on Environmental Quality (CEQ) regulations for implementing NEPA, 40 CFR parts 1500–1508.

The CEQ regulations allow federal agencies to establish, with CEQ review and concurrence, categories of actions (''categorical exclusions'') which experience has shown do not individually or cumulatively have a significant effect on the human environment and, therefore, do not require an Environmental Assessment (EA) or Environmental Impact Statement (EIS). 40 CFR 1507.3(b)(2)(ii), 1508.4. Categorical exclusions established by DHS are set forth in Appendix A of the Instruction Manual. Under DHS NEPA implementing procedures, for an action to be categorically excluded, it must satisfy each of the following three conditions: (1) The entire action clearly fits within one or more of the categorical exclusions; (2) the action is not a piece of a larger action; and (3) no extraordinary circumstances exist that create the potential for a significant environmental effect. Instruction Manual section V.B(2)(a)–(c). This rule temporarily amends regulations governing the H–2A nonimmigrant visa program to facilitate the continued employment of H–2A nonimmigrants in the United States by allowing them to change employers in the United States and begin working in the same visa classification for a period not to exceed 45 days before the nonimmigrant visa petition is approved, due to the National Emergency caused by the COVID–19 global pandemic. It also establishes a temporary exception from the 3-year limit on the maximum period of stay for H–2A workers. This rule does not change the number of H–2A workers that may be employed by U.S. employers as there is not an established statutory limit. It also does not change rules for where H–2A nonimmigrants may be employed; only employers with approved temporary labor certifications for workers to perform temporary or seasonal agricultural work may be allowed to employ H–2A workers under these temporary provisions. Generally, DHS believes NEPA does not apply to a rule intended to make it easier for H–2A employers to hire workers who are already in the United States in addition to, or instead of, also hiring H–2A workers from abroad because any attempt to analyze its potential impacts would be largely speculative, if not completely so. DHS cannot reasonably estimate how many petitions will be filed under these temporary provisions, and therefore how many H–2A workers already in the United States will be employed by different employers, as opposed to how many petitions would have been filed for H–2A workers employed under normal circumstances. DHS has no reason to believe that the temporary amendments to H–2A regulations would change the environmental effect, if any, of the existing regulations. Therefore, DHS has determined that even if NEPA were to apply to this action, this rule clearly fits within categorical exclusion A3(d) in the Instruction Manual, which provides an exclusion for ''promulgation of rules . . . that amend an existing regulation without changing its environmental effect.''

This rule maintains the current human environment by helping to prevent irreparable harm to certain U.S. businesses and to prevent significant adverse effects on the human environment that would likely result from loss of jobs or income, or disruption of the nation's food supply chain. This rule is not a part of a larger action and presents no extraordinary circumstances creating the potential for significant environmental effects. Therefore, this action is categorically excluded and no further NEPA analysis is required.

I. Signature

The Acting Secretary of Homeland Security, Chad F. Wolf, having reviewed and approved this document, is delegating the authority to electronically sign this document to Chad R. Mizelle, who is the Senior Official Performing the Duties of the General Counsel for DHS, for purposes of publication in the **Federal Register**.

List of Subjects

8 CFR Part 214

Administrative practice and procedure, Aliens, Cultural exchange programs, Employment, Foreign officials, Health professions, Reporting and recordkeeping requirements, Students.

8 CFR Part 274a

Administrative practice and procedure, Aliens, Employment, Penalties, Reporting and recordkeeping requirements.

Accordingly, DHS amends chapter I of title 8 of the Code of Federal Regulations as follows:

PART 214—NONIMMIGRANT CLASSES

■ 1. The authority citation for part 214 continues to read as follows:

Authority: 6 U.S.C. 202, 236; 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1186a, 1187, 1221, 1281, 1282, 1301–1305 and 1372; sec. 643, Pub. L. 104–208, 110 Stat. 3009–708; Public Law 106–386, 114 Stat. 1477–1480; section 141 of the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands, and with the Government of Palau, 48 U.S.C. 1901 note and 1931 note, respectively; 48 U.S.C. 1806; 8 CFR part 2.

■ 2. Amend § 214.2 by adding paragraph (h)(21) to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(h) * * *

(21) *Change of employers during COVID–19 National Emergency.* (i) If an H–2A nonimmigrant who is physically present in the United States seeks to change employers during the COVID–19 National Emergency (which began on March 1, 2020), the prospective new H–2A employer may file an H–2A petition on Form I–129, accompanied by a valid temporary agricultural labor certification, requesting an extension of the alien's stay in the United States. To be approved under this paragraph (h)(21), an H–2A petition must be received no later than August 18, 2020. If the new petition is approved, the extension of stay may be granted for the validity of the approved petition for a period not to exceed the validity period of the temporary agricultural labor certification. Notwithstanding paragraph (h)(2)(i)(D) of this section and 8 CFR 274a.12(b)(21), an alien in valid H–2A nonimmigrant status on March 1, 2020, or lawfully obtaining such status thereafter pursuant to this paragraph (h)(21), is authorized to begin employment with the new petitioner after the petition described in this paragraph (h)(21) is received by USCIS, but no earlier than the start date of employment, indicated in the H–2A petition. The H–2A worker is authorized to commence employment with the petitioner before the petition is approved and subject to the requirements of 8 CFR 274a.12(b)(26) for a period of up to 45 days beginning on the Received Date on Form I–797 (Notice of Action) or, if the start date of employment occurs after the I–797 Received Date, 45 days beginning on the start date of employment indicated in the H–2A petition. If USCIS adjudicates the petition prior to the expiration of this 45-day period and denies the petition for extension of stay, or if the petition is withdrawn by the petitioner before the expiration of the 45-day period, the employment authorization associated with the filing of that petition under 8 CFR 274a.12(b)(26) will automatically terminate 15 days after the date of the denial decision or the date on which the petition is withdrawn.

(ii) Notwithstanding paragraphs (h)(5)(viii)(C), (h)(13)(i)(B), and (h)(15)(ii)(C) of this section, an H–2A petition seeking an extension of stay, submitted with a valid temporary agricultural labor certification, may be approved on the basis of paragraph (h)(21)(i) of this section, even if any of the aliens requested in the H–2A petition have exhausted the otherwise applicable 3-year maximum period of stay in the United States and have not thereafter been absent from the United States for an uninterrupted period of 3 months, or if any such aliens would exceed the 3-year limit as a consequence of the approval of the extension.

(iii) This paragraph (h)(21) will expire on August 18, 2020.

* * * * *

PART 274a—CONTROL OF EMPLOYMENT OF ALIENS

■ 3. The authority citation for part 274a continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1324a; 48 U.S.C. 1806; 8 CFR part 2; Pub. L. 101–410, 104 Stat. 890, as amended by Pub. L. 114–74, 129 Stat. 599.

■ 4. Amend § 274a.12 by adding paragraph (b)(26) to read as follows:

§ 274a.12 Classes of aliens authorized to accept employment.

* * * * *

(b) * * *

(26)(i) Pursuant to 8 CFR 214.2(h)(21) and notwithstanding 8 CFR 214.2(h)(2)(i)(D) and paragraph (b)(21) of this section, an alien is authorized to be employed, but no earlier than the start date of employment indicated in the H–2A petition, by a new employer that has filed an H–2A petition naming the alien as a beneficiary and requesting an extension of stay for the alien, for a period not to exceed 45 days beginning from the ''Received Date'' on Form I–797 (Notice of Action) acknowledging receipt of the petition requesting an extension of stay, or 45 days beginning on the start date of employment if the start date of employment indicated in the H–2A petition occurs after the filing. The length of the period (up to 45 days) is to be determined by USCIS in its discretion. However, if USCIS adjudicates the petition prior to the expiration of this 45-day period and denies the petition for extension of stay, or if the petitioner withdraws the petition before the expiration of the 45-day period, the employment authorization under this paragraph (b)(26) will automatically terminate upon 15 days after the date of the denial decision or the date on which the petition is withdrawn.

(ii) This paragraph (b)(26) is in effect for the period set forth in 8 CFR 214.2(h)(21)(iii).

* * * * *

Chad R. Mizelle,

Senior Official Performing the Duties of the General Counsel, U.S. Department of Homeland Security.

[FR Doc. 2020–08356 Filed 4–17–20; 8:45 am]

BILLING CODE 49111–97–P

DEPARTMENT OF ENERGY

10 CFR Part 430

[EERE–2014–BT–TP–0014]

RIN 1904–AD22

Energy Conservation Program: Test Procedures for Portable Air Conditioners; Correction

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Final rule; correcting amendments.

SUMMARY: On June 1, 2016, the U.S. Department of Energy (''DOE'') published a final rule adopting test procedures for portable air conditioners (''June 2016 final rule''). A correction rule was subsequently published on October 14, 2016 (''October 2016 correction rule''), to correct typographical errors in the June 2016 final rule that were included in the regulatory text. This document corrects typographical errors introduced in the October 2016 correction rule, including missing parentheses and incorrect variable names. Neither the errors nor the corrections in this document affect the substance of the rulemaking or any of the conclusions reached in support of the final rule.

DATES: Effective April 20, 2020.

FOR FURTHER INFORMATION CONTACT:

Mr. Bryan Berringer, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–0371. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Ms. Sarah Butler, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Ave. SW, Washington, DC 20585–0121. Telephone: (202) 586–177. Email: *Sarah.Butler@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

DOE published a final rule in the **Federal Register** on June 1, 2016, establishing test procedures for portable air conditioners in appendix CC to subpart B of Title 10 of the Code of Federal Regulations (CFR) part 430 (''appendix CC''). 81 FR 35242. On October 14, 2016, DOE published a correction rule that revised appendix CC to correct typographical errors identified following the publication of the June 2016 final rule. 81 FR 70923. An additional correction rule was published on February 21, 2019, to republish amendments that could not be incorporated the Code of Federal Regulations due to inaccurate amendatory instructions provided in the June 2016 final rule. 84 FR 5346. DOE subsequently identified typographical errors in appendix CC that were introduced in the October 2016 correction rule. This correction rule revises appendix CC to correct these typographical errors.

Specifically, in section 4.1.2 of appendix CC, DOE is correcting the following errors: Missing parentheses in the Q_{s_95} and Q_{s_83} equations; extended underscore and capitalization in the subscript for the variable c_{p_wv} and missing underscore for the variable ω_{ia_95} in the Q_{s_95} equation; and missing subscripts for the Q_{l_83} variable in the $Q_{infiltration_83}$ equation. DOE is also clarifying in the variable list for the Q_{l_95} and Q_{l_83} equations that the ''60'' value represents the conversion factor from minutes to hours.

II. Need for Correction

As published, the regulatory text in the June 2016 final rule as corrected by the October 2016 and February 2019 correction rules may result in confusion due to typographical errors in section 4.1.2 of appendix CC. Because this final rule would simply correct errors in the text without making substantive changes in the June 2016 final rule, the changes addressed in this document are technical in nature.

III. Procedural Issues and Regulatory Review

DOE has concluded that the determinations made pursuant to the various procedural requirements applicable to the June 2016 final rule remain unchanged for this final rule technical correction. These determinations are set forth in the June 2016 final rule. 81 FR 35242, 35260.

Pursuant to the Administrative Procedure Act, 5 U.S.C. 553(b), DOE has determined there is good cause to find that notice and prior opportunity for comment on this rule are unnecessary and contrary to the public interest. Neither the errors nor the corrections in this document affect the substance of the June 2016 final rule or any of the conclusions reached in support of the final rule. Providing prior notice and an opportunity for public comment on correcting objective, typographical errors that do not change the substance of the test procedure serves no useful purpose. Further, this rule correcting typographical errors makes non-substantive changes to the test procedure. As such, this rule is not subject to the 30-day delay in effective date requirement of 5 U.S.C. 553(d) otherwise applicable to rules that make substantive changes.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Incorporation by reference, Intergovernmental relations, Small businesses.

Signed in Washington, DC, on March 10, 2020.

Alexander N. Fitzsimmons,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

For the reasons stated in the preamble, DOE amends part 430 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations by making the following correcting amendments:

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 1. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

■ 2. Appendix CC to subpart B of part 430 is amended by revising section 4.1.2 to read as follows:

Appendix CC to Subpart B of Part 430–Uniform Test Method for Measuring the Energy Consumption of Portable Air Conditioners

* * * * *

4. * * *

4.1.2. *Infiltration Air Heat Transfer.* Measure the heat contribution from infiltration air for single-duct portable air conditioners and dual-duct portable air conditioners that draw at least part of the condenser air from the conditioned space. Calculate the heat contribution from infiltration air for single-duct and dual-duct portable air conditioners for both cooling mode outdoor test conditions, as described in this section. Calculate the dry air mass flow rate of infiltration air according to the following equations:

$$\dot{m}_{SD} = \frac{V_{co_SD} \times \rho_{co_SD}}{\left(1 + \omega_{co_SD}\right)}$$

For dual-duct portable air conditioners:

$$\dot{m}_{95} = \left[\frac{V_{co_95} \times \rho_{co_95}}{\left(1 + \omega_{co_95}\right)}\right] - \left[\frac{V_{ci_95} \times \rho_{ci_95}}{\left(1 + \omega_{ci_95}\right)}\right]$$

$$\dot{m}_{83} = \left[\frac{V_{co_83} \times \rho_{co_83}}{\left(1 + \omega_{co_83}\right)}\right] - \left[\frac{V_{ci_83} \times \rho_{ci_83}}{\left(1 + \omega_{ci_83}\right)}\right]$$

Where:

$\dot{m}_{SD}$ = dry air mass flow rate of infiltration air for single-duct portable air conditioners, in pounds per minute (lb/m).

$\dot{m}_{95}$ and $\dot{m}_{83}$ = dry air mass flow rate of infiltration air for dual-duct portable air conditioners, as calculated based on testing according to the test conditions in Table 1 of this appendix, in lb/m.

V_{co_SD}, V_{co_95}, and V_{co_83} = average volumetric flow rate of the condenser outlet air during cooling mode testing for single-duct portable air conditioners; and at the 95 °F and 83 °F dry-bulb outdoor conditions for dual-duct portable air conditioners, respectively, in cubic feet per minute (cfm).

V_{ci_95} and V_{ci_83} = average volumetric flow rate of the condenser inlet air during cooling mode testing at the 95 °F and 83 °F dry-bulb outdoor conditions for dual-duct portable air conditioners, respectively, in cfm.

ρ_{co_SD}, ρ_{co_95}, and ρ_{co_83} = average density of the condenser outlet air during cooling mode testing for single-duct portable air conditioners, and at the 95 °F and 83 °F dry-bulb outdoor conditions for dual-duct portable air conditioners, respectively, in pounds mass per cubic foot (lb_m/ft^3).

ρ_{ci_95} and ρ_{ci_83} = average density of the condenser inlet air during cooling mode testing at the 95 °F and 83 °F dry-bulb outdoor conditions for dual-duct portable air conditioners, respectively, in lb_m/ft^3.

ω_{co_SD}, ω_{co_95}, and ω_{co_83} = average humidity ratio of condenser outlet air during cooling mode testing for single-duct portable air conditioners, and at the 95 °F and 83 °F dry-bulb outdoor conditions for dual-duct portable air conditioners, respectively, in pounds mass of water vapor per pounds mass of dry air (lb_w/lb_{da}).

ω_{ci_95} and ω_{ci_83} = average humidity ratio of condenser inlet air during cooling mode testing at the 95 °F and 83 °F dry-bulb outdoor conditions for dual-duct portable air conditioners, respectively, in lb_w/lb_{da}.

For single-duct and dual-duct portable air conditioners, calculate the sensible component of infiltration air heat contribution according to:

$$Q_{s_95} = \dot{m} \times 60 \times [(c_{p_da} \times (T_{ia_95} - T_{indoor})) + (c_{p_wv} \times (\omega_{ia_95} \times T_{ia_95} - \omega_{indoor} \times T_{indoor}))]$$

$$Q_{s_83} = \dot{m} \times 60 \times [(c_{p_da} \times (T_{ia_83} - T_{indoor})) + (c_{p_wv} \times (\omega_{ia_83} \times T_{ia_83} - \omega_{indoor} \times T_{indoor}))]$$

Where:

Q_{s_95} and Q_{s_83} = sensible heat added to the room by infiltration air, calculated at the 95 °F and 83 °F dry-bulb outdoor conditions in Table 1 of this appendix, in Btu/h.

$\dot{m}$ = dry air mass flow rate of infiltration air, $\dot{m}_{SD}$ or $\dot{m}_{95}$ when calculating Q_{s_95} and $\dot{m}_{SD}$ or $\dot{m}_{83}$ when calculating Q_{s_83}, in lb/m.

c_{p_da} = specific heat of dry air, 0.24 Btu/lb_m-°F.

c_{p_wv} = specific heat of water vapor, 0.444 Btu/lb_m-°F.

T_{indoor} = indoor chamber dry-bulb temperature, 80 °F.

T_{ia_95} and T_{ia_83} = infiltration air dry-bulb temperatures for the two test conditions in Table 1 of this appendix, 95 °F and 83 °F, respectively.

ω_{ia_95} and ω_{ia_83} = humidity ratios of the 95 °F and 83 °F dry-bulb infiltration air, 0.0141 and 0.01086 lb_w/lb_{da}, respectively.

ω_{indoor} = humidity ratio of the indoor chamber air, 0.0112 lb_w/lb_{da}.

60 = conversion factor from minutes to hours.

Calculate the latent heat contribution of the infiltration air according to:

$$Q_{l_95} = \dot{m} \times 60 \times H_{fg} \times (\omega_{ia_95} - \omega_{indoor})$$

$$Q_{l_83} = \dot{m} \times 60 \times H_{fg} \times (\omega_{ia_83} - \omega_{indoor})$$

Where:

Q_{l_95} and Q_{l_83} = latent heat added to the room by infiltration air, calculated at the 95 °F and 83 °F dry-bulb outdoor conditions in Table 1 of this appendix, in Btu/h.

$\dot{m}$ = mass flow rate of infiltration air, $\dot{m}_{SD}$ or $\dot{m}_{95}$ when calculating Q_{l_95} and $\dot{m}_{SD}$ or $\dot{m}_{83}$ when calculating Q_{l_83}, in lb/m.

H_{fg} = latent heat of vaporization for water vapor, 1061 Btu/lb_m.

ω_{ia_95} and ω_{ia_83} = humidity ratios of the 95 °F and 83 °F dry-bulb infiltration air, 0.0141 and 0.01086 lb_w/lb_{da}, respectively.

ω_{indoor} = humidity ratio of the indoor chamber air, 0.0112 lb_w/lb_{da}.

60 = conversion factor from minutes to hours.

The total heat contribution of the infiltration air is the sum of the sensible and latent heat:

$$Q_{infiltration_95} = Q_{s_95} + Q_{l_95}$$

$$Q_{infiltration_83} = Q_{s_83} + Q_{l_83}$$

Where:

$Q_{infiltration_95}$ and $Q_{infiltration_83}$ = total infiltration air heat in cooling mode, calculated at the 95 °F and 83 °F dry-bulb outdoor conditions in Table 1 of this appendix, in Btu/h.

Q_{s_95} and Q_{s_83} = sensible heat added to the room by infiltration air, calculated at the 95 °F and 83 °F dry-bulb outdoor conditions in Table 1 of this appendix, in Btu/h.

Q_{l_95} and Q_{l_83} = latent heat added to the room by infiltration air, calculated at the 95 °F and 83 °F dry-bulb outdoor conditions in Table 1 of this appendix, in Btu/h.

* * * * *

[FR Doc. 2020–07733 Filed 4–17–20; 8:45 am]

BILLING CODE 6450–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

[Docket Number SBA–2020–0020]

RIN 3245–AH36

Business Loan Program Temporary Changes; Paycheck Protection Program—Additional Eligibility Criteria and Requirements for Certain Pledges of Loans

AGENCY: U. S. Small Business Administration.

ACTION: Interim final rule.

SUMMARY: On April 2, 2020, the U.S. Small Business Administration (SBA) posted an interim final rule (the First PPP Interim Final Rule) announcing the implementation of sections 1102 and 1106 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act or the Act). Section 1102 of the Act temporarily adds a new program, titled the ''Paycheck Protection Program,'' to the SBA's 7(a) Loan Program. Section 1106 of the Act provides for forgiveness of up to the full principal amount of qualifying loans guaranteed under the Paycheck Protection Program (PPP). The PPP is intended to provide economic relief to small businesses nationwide adversely impacted by the Coronavirus Disease 2019 (COVID–19). This interim final rule supplements the First PPP Interim Final Rule with guidance for individuals with self-employment income who file a Form 1040, Schedule C. This rule also addresses eligibility issues for certain business concerns and requirements for certain pledges of PPP loans. This interim final rule supplements SBA's implementation of sections 1102 and 1106 of the Act and requests public comment.

DATES:

Effective Date: This rule is effective April 20, 2020.

Applicability Date: This interim final rule applies to applications submitted under the Paycheck Protection Program through June 30, 2020, or until funds made available for this purpose are exhausted.

Comment Date: Comments must be received on or before May 20, 2020.

ADDRESSES: You may submit comments, identified by number SBA–2020–0020 through the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments. SBA will post all comments on *www.regulations.gov.* If you wish to submit confidential business information (CBI) as defined in the User Notice at *www.regulations.gov,* please send an email to *ppp-ifr@sba.gov.*

Highlight the information that you consider to be CBI and explain why you believe SBA should hold this information as confidential. SBA will review the information and make the final determination whether it will publish the information.

FOR FURTHER INFORMATION CONTACT: A Call Center Representative at 833–572–0502, or the local SBA Field Office; the list of offices can be found at *https://www.sba.gov/tools/local-assistance/districtoffices.*

SUPPLEMENTARY INFORMATION:

I. Background Information

On March 13, 2020, President Trump declared the ongoing Coronavirus Disease 2019 (COVID–19) pandemic of sufficient severity and magnitude to warrant an emergency declaration for all States, territories, and the District of Columbia. With the COVID–19 emergency, many small businesses nationwide are experiencing economic hardship as a direct result of the Federal, State, tribal, and local public health measures that are being taken to minimize the public's exposure to the virus. These measures, some of which are government-mandated, are being implemented nationwide and include the closures of restaurants, bars, and gyms. In addition, based on the advice of public health officials, other measures, such as keeping a safe distance from others or even stay-at-home orders, are being implemented, resulting in a dramatic decrease in economic activity as the public avoids malls, retail stores, and other businesses.

On March 27, 2020, the President signed the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act or the Act) (Pub. L. 116–136) to provide emergency assistance and health care response for individuals, families, and businesses affected by the coronavirus pandemic. The Small Business Administration (SBA) received funding and authority through the Act to modify existing loan programs and establish a new loan program to assist small businesses nationwide adversely impacted by the COVID–19 emergency. Section 1102 of the Act temporarily permits SBA to guarantee 100 percent of 7(a) loans under a new program titled the ''Paycheck Protection Program.'' Section 1106 of the Act provides for forgiveness of up to the full principal amount of qualifying loans guaranteed under the Paycheck Protection Program.

II. Comments and Immediate Effective Date

The intent of the Act is that SBA provide relief to America's small businesses expeditiously. This intent, along with the dramatic decrease in economic activity nationwide, provides good cause for SBA to dispense with the 30-day delayed effective date provided in the Administrative Procedure Act. Specifically, small businesses need to be informed on whether they are eligible to apply for a loan, how to apply for a loan, and the terms of the loan under section 1102 of the Act as soon as possible because the last day to apply for and receive a loan is June 30, 2020. The immediate effective date of this interim final rule will benefit small businesses so that they can immediately determine their eligibility and apply for the loan with a full understanding of loan terms and conditions. This interim final rule is effective without advance notice and public comment because section 1114 of the Act authorizes SBA to issue regulations to implement Title I of the Act without regard to notice requirements. This rule is being issued to allow for immediate implementation of this program. Although this interim final rule is effective immediately, comments are solicited from interested members of the public on all aspects of the interim final rule, including section III below. These comments must be submitted on or before May 20, 2020. SBA will consider these comments and the need for making any revisions as a result of these comments.

III. Additional Paycheck Protection Program Eligibility Criteria and Requirements for Certain Pledges of Loans

Overview

The CARES Act was enacted to provide immediate assistance to individuals, families, and organizations affected by the COVID–19 emergency. Among the provisions contained in the CARES Act are provisions authorizing SBA to temporarily guarantee loans under the Paycheck Protection Program (PPP). Loans under the PPP will be 100 percent guaranteed by SBA, and the full principal amount of the loans and any accrued interest may qualify for loan forgiveness. Additional information about the PPP is available in the First PPP Interim Final Rule (85 FR 20811) and a second interim final rule (85 FR 20817) posted April 3, 2020.

1. Individuals With Self-Employment Income Who File a Form 1040, Schedule C

a. I have income from self-employment and file a Form 1040, Schedule C. Am I eligible for a PPP Loan?

You are eligible for a PPP loan if: (i) You were in operation on February 15, 2020; (ii) you are an individual with self-employment income (such as an independent contractor or a sole proprietor); (iii) your principal place of residence is in the United States; and (iv) you filed or will file a Form 1040 Schedule C for 2019. However, if you are a partner in a partnership, you may not submit a separate PPP loan application for yourself as a self-employed individual. Instead, the self-employment income of general active partners may be reported as a payroll cost, up to $100,000 annualized, on a PPP loan application filed by or on behalf of the partnership. Partnerships are eligible for PPP loans under the Act, and the Administrator has determined, in consultation with the Secretary of the Treasury (Secretary), that limiting a partnership and its partners (and an LLC filing taxes as a partnership) to one PPP loan is necessary to help ensure that as many eligible borrowers as possible obtain PPP loans before the statutory deadline of June 30, 2020. This limitation will allow lenders to more quickly process applications and lower the burdens of applying for partnerships/partners. The Administrator has further determined that permitting partners to apply as self-employed individuals would create unnecessary confusion regarding which entity, the partner or the partnership, applies for partner and LLC member income, and would generate loan proceeds use coordination and allocation issues. Rent, mortgage interest, utilities, and other debt service are generally incurred at the partnership level, not partner level, so it is most natural to provide the funds for these expenses to the partnership, not individual partners. In addition, you should be aware that participation in the PPP may affect your eligibility for state-administered unemployment compensation or unemployment assistance programs, including the programs authorized by Title II, Subtitle A of the CARES Act, or CARES Act Employee Retention Credits. SBA will issue additional guidance for those individuals with self-employment income who: (i) Were not in operation in 2019 but who were in operation on February 15, 2020, and (ii) will file a Form 1040 Schedule C for 2020.

b. How do I calculate the maximum amount I can borrow and what documentation is required?

How you calculate your maximum loan amount depends upon whether or not you employ other individuals. If you have no employees, the following methodology should be used to calculate your maximum loan amount:

i. Step 1: Find your 2019 IRS Form 1040 Schedule C line 31 net profit amount (if you have not yet filed a 2019 return, fill it out and compute the value). If this amount is over $100,000, reduce it to $100,000. If this amount is zero or less, you are not eligible for a PPP loan.

ii. Step 2: Calculate the average monthly net profit amount (divide the amount from Step 1 by 12).

iii. Step 3: Multiply the average monthly net profit amount from Step 2 by 2.5.

iv. Step 4: Add the outstanding amount of any Economic Injury Disaster Loan (EIDL) made between January 31, 2020 and April 3, 2020 that you seek to refinance, less the amount of any advance under an EIDL COVID–19 loan (because it does not have to be repaid).

Regardless of whether you have filed a 2019 tax return with the IRS, you must provide the 2019 Form 1040 Schedule C with your PPP loan application to substantiate the applied-for PPP loan amount and a 2019 IRS Form 1099–MISC detailing nonemployee compensation received (box 7), invoice, bank statement, or book of record that establishes you are self-employed. You must provide a 2020 invoice, bank statement, or book of record to establish you were in operation on or around February 15, 2020.

If you have employees, the following methodology should be used to calculate your maximum loan amount:

i. Step 1: Compute 2019 payroll by adding the following:

a. Your 2019 Form 1040 Schedule C line 31 net profit amount (if you have not yet filed a 2019 return, fill it out and compute the value), up to $100,000 annualized, if this amount is over $100,000, reduce it to $100,000, if this amount is less than zero, set this amount at zero;

b. 2019 gross wages and tips paid to your employees whose principal place of residence is in the United States computed using 2019 IRS Form 941 Taxable Medicare wages & tips (line 5c—column 1) from each quarter plus any pre-tax employee contributions for health insurance or other fringe benefits excluded from Taxable Medicare wages & tips; subtract any amounts paid to any individual employee in excess of $100,000 annualized and any amounts paid to any employee whose principal place of residence is outside the United States; and

c. 2019 employer health insurance contributions (health insurance component of Form 1040 Schedule C line 14), retirement contributions (Form 1040 Schedule C line 19), and state and local taxes assessed on employee compensation (primarily under state laws commonly referred to as the State Unemployment Tax Act or SUTA from state quarterly wage reporting forms).

ii. Step 2: Calculate the average monthly amount (divide the amount from Step 1 by 12).

iii. Step 3: Multiply the average monthly amount from Step 2 by 2.5.

iv. Step 4: Add the outstanding amount of any EIDL made between January 31, 2020 and April 3, 2020 that you seek to refinance, less the amount of any advance under an EIDL COVID–19 loan (because it does not have to be repaid).

You must supply your 2019 Form 1040 Schedule C, Form 941 (or other tax forms or equivalent payroll processor records containing similar information) and state quarterly wage unemployment insurance tax reporting forms from each quarter in 2019 or equivalent payroll processor records, along with evidence of any retirement and health insurance contributions, if applicable. A payroll statement or similar documentation from the pay period that covered February 15, 2020 must be provided to establish you were in operation on February 15, 2020.

d. How can PPP loans be used by individuals with income from self-employment who file a 2019 Form 1040, Schedule C?

The proceeds of a PPP loan are to be used for the following.

i. Owner compensation replacement, calculated based on 2019 net profit as described in Paragraph 1.b. above.

ii. Employee payroll costs (as defined in the First PPP Interim Final Rule) for employees whose principal place of residence is in the United States, if you have employees.

iii. Mortgage interest payments (but not mortgage prepayments or principal payments) on any business mortgage obligation on real or personal property (*e.g.,* the interest on your mortgage for the warehouse you purchased to store business equipment or the interest on an auto loan for a vehicle you use to perform your business), business rent payments (*e.g.,* the warehouse where you store business equipment or the vehicle you use to perform your business), and business utility payments (*e.g.,* the cost of electricity in the warehouse you rent or gas you use driving your business vehicle). You must have claimed or be entitled to claim a deduction for such expenses on your 2019 Form 1040 Schedule C for them to be a permissible use during the eight-week period following the first disbursement of the loan (the ''covered period''). For example, if you did not claim or are not entitled to claim utilities expenses on your 2019 Form 1040 Schedule C, you cannot use the proceeds for utilities during the covered period.

iv. Interest payments on any other debt obligations that were incurred before February 15, 2020 (such amounts are not eligible for PPP loan forgiveness).

v. Refinancing an SBA EIDL loan made between January 31, 2020 and April 3, 2020 (maturity will be reset to PPP's maturity of two years). If you received an SBA EIDL loan from January 31, 2020 through April 3, 2020, you can apply for a PPP loan. If your EIDL loan was not used for payroll costs, it does not affect your eligibility for a PPP loan. If your EIDL loan was used for payroll costs, your PPP loan must be used to refinance your EIDL loan. Proceeds from any advance up to $10,000 on the EIDL loan will be deducted from the loan forgiveness amount on the PPP loan.

The Administrator, in consultation with the Secretary, determined that it is appropriate to limit self-employed individuals' (who file a Form 1040 Schedule C) use of loan proceeds to those types of allowable uses for which the borrower made expenditures in 2019. The Administrator has determined that this limitation on self-employed individuals who file a Form 1040 Schedule C is consistent with the borrower certification required by the Act; specifically, that the PPP loan is necessary ''to support the ongoing operations'' of the borrower. The Administrator and the Secretary thus believe that this limitation is consistent with the structure of the Act to maintain existing operations and payroll and not for business expansion. This limitation on the use of PPP loan proceeds will also help to ensure that the finite appropriations available for these loans are directed toward maintaining existing operations and payroll, as each loan that is made depletes the appropriation. Finally, although the Act makes businesses in operation on February 15, 2020 eligible for PPP loans, the Administrator, in consultation with the Secretary, has determined that self-employed individuals will need to rely on their 2019 Form 1040 Schedule C, which provides verifiable documentation on expenses between January 1, 2019 and December 31, 2019.

For individuals with income from self-employment from 2019 for which they have filed or will file a 2019 Form 1040 Schedule C, expenses incurred between January 1, 2020 and February 14, 2020 may not be considered because of the lack of verifiable documentation on expenses in this period. SBA will issue additional guidance for those individuals with self-employment income who: (i) Were not in operation in 2019 but who were in operation on February 15, 2020, and (ii) will file a Form 1040 Schedule C for 2020.

e. Are there any other restrictions on how I can use PPP loan proceeds?

Yes. At least 75 percent of the PPP loan proceeds shall be used for payroll costs. For purposes of determining the percentage of use of proceeds for payroll costs (but not for forgiveness purposes), the amount of any refinanced EIDL will be included. The rationale for this 75 percent floor is contained in the First PPP Interim Final Rule.

f. What amounts shall be eligible for forgiveness?

The amount of loan forgiveness can be up to the full principal amount of the loan plus accrued interest. The actual amount of loan forgiveness will depend, in part, on the total amount spent over the covered period on:

i. Payroll costs including salary, wages, and tips, up to $100,000 of annualized pay per employee (for eight weeks, a maximum of $15,385 per individual), as well as covered benefits for employees (but not owners), including health care expenses, retirement contributions, and state taxes imposed on employee payroll paid by the employer (such as unemployment insurance premiums);

ii. owner compensation replacement, calculated based on 2019 net profit as described in Paragraph 1.b. above, with forgiveness of such amounts limited to eight weeks' worth (8/52) of 2019 net profit, but excluding any qualified sick leave equivalent amount for which a credit is claimed under section 7002 of the Families First Coronavirus Response Act (FFCRA) (Pub. L. 116–127) or qualified family leave equivalent amount for which a credit is claimed under section 7004 of FFCRA;

iii. payments of interest on mortgage obligations on real or personal property incurred before February 15, 2020, to the extent they are deductible on Form 1040 Schedule C (business mortgage payments);

iv. rent payments on lease agreements in force before February 15, 2020, to the extent they are deductible on Form 1040 Schedule C (business rent payments); and

v. utility payments under service agreements dated before February 15, 2020 to the extent they are deductible on Form 1040 Schedule C (business utility payments).

The Administrator, in consultation with the Secretary, has determined that it is appropriate to limit the forgiveness of owner compensation replacement for individuals with self-employment income who file a Schedule C to eight weeks' worth (8/52) of 2019 net profit. This is most consistent with the structure of the Act and its overarching focus on keeping workers paid, and will prevent windfalls that Congress did not intend.

Congress determined that the maximum loan amount is based on 2.5 months of the borrower's payroll during the one-year period preceding the loan.

Congress also determined that the maximum amount of loan forgiveness is based on the borrower's eligible payments—*i.e.,* the sum of payroll costs and certain overhead expenses—over the eight-week period following the date of loan disbursement. For individuals with self-employment income who file a Schedule C, the Administrator, in consultation with the Secretary, has determined that it is appropriate to limit loan forgiveness to a proportionate eight-week share of 2019 net profit, as reflected in the individual's 2019 Form 1040 Schedule C. This is because many self-employed individuals have few of the overhead expenses that qualify for forgiveness under the Act. For example, many such individuals operate out of either their homes, vehicles, or sheds and thus do not incur qualifying mortgage interest, rent, or utility payments. As a result, most of their receipts will constitute net income. Allowing such a self-employed individual to treat the full amount of a PPP loan as net income would result in a windfall. The entire amount of the PPP loan (a maximum of 2.5 times monthly payroll costs) would be forgiven even though Congress designed this program to limit forgiveness to certain eligible expenses incurred in an eight-week covered period. Limiting forgiveness to eight weeks of net profit from the owner's 2019 Form 1040 Schedule C is consistent with the structure of the Act, which provides for loan forgiveness based on eight weeks of expenditures. This limitation will also help to ensure that the finite appropriations are directed toward payroll protection, consistent with the Act's central objective. Finally, 75 percent of the amount forgiven must be attributable to payroll costs for the reasons specified in the First PPP Interim Final Rule.

g. What documentation will I be required to submit to my lender with my request for loan forgiveness?

In addition to the borrower certification required by Section 1106(e)(3) of the Act, to substantiate your request for loan forgiveness, if you have employees, you should submit Form 941 and state quarterly wage unemployment insurance tax reporting forms or equivalent payroll processor records that best correspond to the covered period (with evidence of any retirement and health insurance contributions). Whether or not you have employees, you must submit evidence of business rent, business mortgage interest payments on real or personal property, or business utility payments during the covered period if you used loan proceeds for those purposes.

The 2019 Form 1040 Schedule C that was provided at the time of the PPP loan application must be used to determine the amount of net profit allocated to the owner for the eight-week covered period. The Administrator, in consultation with the Secretary, determined that for purposes of loan forgiveness it is appropriate to require self-employed individuals to rely on the 2019 Form 1040 Schedule C to determine the amount of net profit allocated to the owner during the covered period for the reasons described in Paragraph 1.d. above.

2. Clarification Regarding Eligible Businesses

a. Are eligible businesses owned by directors or shareholders of a PPP Lender permitted to apply for a PPP Loan through the Lender with which they are associated?

The Administrator recognizes that, unlike other SBA loan programs, the financial terms for PPP Loans are uniform for all borrowers, and the standard underwriting process does not apply because no creditworthiness assessment is required for PPP Loans. Consequently, there is no meaningful risk of underwriting bias or below-market rates and terms. The Administrator also recognizes that many directors and equity holders of PPP Lenders are owners of unrelated businesses. For those reasons, the Administrator, in consultation with the Secretary, has determined that SBA regulations (including 13 CFR 120.110 and 120.140) shall not apply to prohibit an otherwise eligible business owned (in whole or part) by an outside director or holder of a less than 30 percent equity interest in a PPP Lender from obtaining a PPP loan from the PPP Lender on whose board the director serves or in which the equity owner

holds an interest, provided that the eligible business owned by the director or equity holder follows the same process as any similarly situated customer or account holder of the Lender. Favoritism by the Lender in processing time or prioritization of the director's or equity holder's PPP application is prohibited. The Administrator cautions, however, that Lenders should comply with all other applicable state and federal regulations concerning loans to associates of the Lender. Lenders should also consult their own internal policies concerning lending to individuals or entities associated with the Lender.

The foregoing paragraph does not apply to a director or owner who is also an officer or key employee of the PPP Lender. Officers and key employees of a PPP Lender may obtain a PPP Loan from a different lender, but not from the PPP Lender with which they are associated. SBA also reminds Lenders that the ''Authorized Lender Official'' for each PPP Loan is subject to the limitations described in the Lender Application Form, which states in relevant part: ''Neither the undersigned Authorized Lender Official, nor such individual's spouse or children, has a financial interest in the Applicant [Borrower].''

b. Are businesses that receive revenue from legal gaming eligible for a PPP Loan?

A business that is otherwise eligible for a PPP Loan is not rendered ineligible due to its receipt of legal gaming revenues if the existing standard in 13 CFR 120.110(g) is met or the following two conditions are satisfied: (a) The business's legal gaming revenue (net of payouts but not other expenses) did not exceed $1 million in 2019; and (b) legal gaming revenue (net of payouts but not other expenses) comprised less than 50 percent of the business's total revenue in 2019. Businesses that received illegal gaming revenue are categorically ineligible. The Administrator, in consultation with the Secretary, believes this test appropriately balances the longstanding policy reasons for limiting lending to businesses primarily and substantially engaged in gaming activity with the policy aim of making the PPP Loan available to a broad segment of U.S. businesses and their employees.

3. Requirements for Certain Pledges of PPP Loans

Do the requirements for loan pledges under 13 CFR 120.434 apply to PPP loans pledged for borrowings from a Federal Reserve Bank (FRB) or advances by a Federal Home Loan Bank (FHLB)?

No. Pursuant to SBA regulations at 13 CFR 120.435(d) and (e), a pledge of 7(a) loans to a FRB or FHLB does not require SBA's prior written consent or notice to SBA. SBA, in consultation with Treasury, has determined that for purposes of loans made under the PPP, the additional requirements set forth in 120.434 shall also not apply. This would mean, for example, that SBA would not have to approve loan documents or require a multi-party agreement among SBA, the lender, and others.

4. Additional Information

SBA may provide further guidance, if needed, through SBA notices that will be posted on SBA's website at *www.sba.gov.* Questions on the Paycheck Protection Program may be directed to the Lender Relations Specialist in the local SBA Field Office. The local SBA Field Office may be found at *https://www.sba.gov/tools/local-assistance/districtoffices.*

Compliance With Executive Orders 12866, 12988, 13132, 13563, and 13771, the Paperwork Reduction Act (44 U.S.C. Ch. 35), and the Regulatory Flexibility Act (5 U.S.C. 601–612)

Executive Orders 12866, 13563, and 13771

This interim final rule is economically significant for the purposes of Executive Orders 12866 and 13563, and is considered a major rule under the Congressional Review Act. SBA, however, is proceeding under the emergency provision at Executive Order 12866 Section 6(a)(3)(D) based on the need to move expeditiously to mitigate the current economic conditions arising from the COVID–19 emergency. This rule's designation under Executive Order 13771 will be informed by public comment.

Executive Order 12988

SBA has drafted this rule, to the extent practicable, in accordance with the standards set forth in section 3(a) and 3(b)(2) of Executive Order 12988, to minimize litigation, eliminate ambiguity, and reduce burden. The rule has no preemptive or retroactive effect.

Executive Order 13132

SBA has determined that this rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various layers of government. Therefore, SBA has determined that this rule has no federalism implications warranting preparation of a federalism assessment.

Paperwork Reduction Act, 44 U.S.C. Chapter 35

SBA has determined that this rule will not impose new or modify existing recordkeeping or reporting requirements under the Paperwork Reduction Act.

Regulatory Flexibility Act (RFA)

The Regulatory Flexibility Act (RFA) generally requires that when an agency issues a proposed rule, or a final rule pursuant to section 553(b) of the APA or another law, the agency must prepare a regulatory flexibility analysis that meets the requirements of the RFA and publish such analysis in the **Federal Register**. 5 U.S.C. 603, 604. Specifically, the RFA normally requires agencies to describe the impact of a rulemaking on small entities by providing a regulatory impact analysis. Such analysis must address the consideration of regulatory options that would lessen the economic effect of the rule on small entities. The RFA defines a ''small entity'' as (1) a proprietary firm meeting the size standards of the Small Business Administration (SBA); (2) a nonprofit organization that is not dominant in its field; or (3) a small government jurisdiction with a population of less than 50,000. 5 U.S.C. 601(3)–(6). Except for such small government jurisdictions, neither State nor local governments are ''small entities.'' Similarly, for purposes of the RFA, individual persons are not small entities. The requirement to conduct a regulatory impact analysis does not apply if the head of the agency ''certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' 5 U.S.C. 605(b). The agency must, however, publish the certification in the **Federal Register** at the time of publication of the rule, ''along with a statement providing the factual basis for such certification.'' If the agency head has not waived the requirements for a regulatory flexibility analysis in accordance with the RFA's waiver provision, and no other RFA exception applies, the agency must prepare the regulatory flexibility analysis and publish it in the **Federal Register** at the time of promulgation or, if the rule is promulgated in response to an emergency that makes timely compliance impracticable, within 180 days of publication of the final rule. 5 U.S.C. 604(a), 608(b). Rules that are exempt from notice and comment are also exempt from the RFA requirements, including conducting a regulatory flexibility analysis, when among other things the agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary

to the public interest. SBA Office of Advocacy guide: How to Comply with the Regulatory Flexibility Act. Ch.1. p.9. Accordingly, SBA is not required to conduct a regulatory flexibility analysis.

List of Subjects in 13 CFR Part 120

Community development, Environmental protection, Equal employment opportunity, Exports, Loan programs—business, Reporting and recordkeeping requirements, Small businesses.

For the reasons stated above, the Small Business Administration amends 13 CFR part 120 as set forth below.

PART 120—BUSINESS LOANS

■ 1. The authority citation for part 120 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6), (b)(7), (b)(14), (h), and note, 636(a), (h) and (m), and note, 650, 657t, and note, 657u, and note, 687(f), 696(3) and (7), and note, and 697(a) and (e), and note.

■ 2. Revise § 120.435 to read as follows:

§ 120.435 Which loan pledges do not require notice to or consent by SBA?

(a) Notwithstanding the provisions of § 120.434(e), 7(a) loans may be pledged for the following purposes without notice to or consent by SBA:

(1) Treasury tax and loan accounts;

(2) The deposit of public funds;

(3) Uninvested trust funds;

(4) Borrowings from a Federal Reserve Bank; or

(5) Advances by a Federal Home Loan Bank.

(b) For purposes of the Paycheck Protection Program (PPP), the other provisions of § 120.434 shall also not apply to PPP loans pledged under paragraph (a)(4) or (5) of this section.

Jovita Carranza,

Administrator.

[FR Doc. 2020–08257 Filed 4–17–20; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–1074; Product Identifier 2019–NM–191–AD; Amendment 39–19900; AD 2020–07–21]

RIN 2120–AA64

Airworthiness Directives; Yaborã Indústria Aeronáutica S.A. (Type Certificate Previously Held by Embraer S.A.) Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Yaborã Indústria Aeronáutica S.A. Model ERJ–170 airplanes and Model ERJ 190–100 STD, –100 LR, –100 ECJ, –100 IGW, –200 STD, –200 LR, and –200 IGW airplanes. This AD was prompted by a determination that certain main landing gear (MLG) aft pintle pins repaired using a sulphamate nickel plating have a life limit that is less than the certified life limit. This AD requires a one-time records review or a general visual inspection (GVI) of the MLG aft pintle pins to determine if certain repairs were done, and replacement of certain MLG aft pintle pins with serviceable MLG aft pintle pins, as specified in an Agência Nacional de Aviação Civil (ANAC) Brazilian AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective May 26, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 26, 2020.

ADDRESSES: For the material incorporated by reference (IBR) in this AD contact National Civil Aviation Agency, Aeronautical Products Certification Branch (GGCP), Rua Laurent Martins, n° 209, Jardim Esplanada, CEP 12242–431—São José dos Campos—SP, Brazil; telephone 55 (12) 3203–6600; email *pac@anac.gov.br;* internet *www.anac.gov.br/en/.* You may find this IBR material on the ANAC website at *https://sistemas.anac.gov.br/certificacao/DA/DAE.asp.* You may view this IBR material at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–1074.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–1074; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Krista Greer, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3221; email *krista.greer@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The ANAC, which is the aviation authority for Brazil, has issued Brazilian AD 2019–11–07, effective November 18, 2019 (''Brazilian AD 2019–11–07'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Yaborã Indústria Aeronáutica S.A. Model ERJ 170–100 LR, –100 STD, –100 SE, and –100 SU airplanes; Model ERJ 170–200 LR, –200 SU, –200 STD, and –200 LL airplanes; and Model ERJ 190–100 STD, –100 LR, –100 ECJ, –100 IGW, –100 SR, –200 STD, –200 LR, and –200 IGW airplanes. Model ERJ 190–100 SR airplanes are not certified by the FAA and are not included on the U.S. type certificate data sheet; this AD, therefore, does not include those airplanes in the applicability.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Yaborã Indústria Aeronáutica S.A. Model ERJ 170–100 LR, –100 STD, –100 SE, and –100 SU airplanes; Model ERJ 170–200 LR, –200 SU, –200 STD, and –200 LL airplanes; and Model ERJ 190–100 STD, –100 LR, –100 ECJ, –100 IGW, –200 STD, –200 LR, and –200 IGW airplanes. The NPRM published in the **Federal Register** on January 17, 2020 (85 FR 2909). The NPRM was prompted by a determination that certain MLG aft pintle pins repaired using a sulphamate

nickel plating have a life limit that is less than the certified life limit. The NPRM proposed to require a one-time records review and a GVI of the MLG aft pintle pins to determine if certain repairs were done, and replacement of certain MLG aft pintle pins with serviceable MLG aft pintle pins, as specified in a Brazilian AD.

The FAA is issuing this AD to address failure of the affected MLG aft pintle pins before reaching the certified life limit, which could result in collapse of the MLG during takeoff or landing. See the MCAI for additional background information.

Explanation of Change to Manufacturer's Name

The FAA revised references to the manufacturer's name throughout this final rule to identify the manufacturer's name published in the most recent type certificate data sheet for the affected models.

Comments

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

Support for the NPRM

The Air Line Pilots Association, International (ALPA) expressed support for the NPRM.

Request To Allow Review of Maintenance Records

Horizon Air requested that the final rule provide the option for operators to perform a records review or physical inspection and only mandate a physical inspection of the part if the repair history of the pintle pin cannot conclusively be determined from the records review. The commenter noted that paragraph (h)(3) of the proposed AD proposed to require both a one-time records review and a general visual inspection of the MLG aft pintle pins to determine if certain repairs were done. The commenter explained that as a life limited part, documentation is required by the FAA, therefore a review of airplane maintenance records should be acceptable in lieu of this inspection if the part status can be conclusively determined from that review.

The FAA agrees with the commenter's request. The FAA has revised paragraph (h)(3) of this AD to allow operators to do a review of airplane maintenance records in lieu of an inspection if the repair history can be conclusively determined from that review. The FAA has also revised the **SUMMARY** of this final rule to reflect this allowance.

Conclusion

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

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

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

Related IBR Material Under 1 CFR Part 51

Brazilian AD 2019–11–07 describes procedures for a one-time records review (for documentation of certain repairs) and a GVI of the MLG aft pintle pins to determine if certain repairs were done (by checking for certain markings and part numbers), and replacement of certain MLG aft pintle pins with serviceable MLG aft pintle pins. 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.

Costs of Compliance

The FAA estimates that this AD affects 659 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
2 work-hours × $85 per hour = $170	*$	*$170	*$112,030

*The FAA has received no definitive data that would enable the agency to provide parts cost estimates for the replacements specified in this AD.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

(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):

2020–07–21 Yaborã Indústria Aeronáutica S.A. (Type Certificate Previously Held by Embraer S.A.): Amendment 39–19900; Docket No. FAA–2019–1074; Product Identifier 2019–NM–191–AD.

(a) Effective Date

This AD is effective May 26, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the Yaborã Indústria Aeronáutica S.A. (Type Certificate Previously Held by Embraer S.A.) airplanes identified in paragraphs (c)(1) through (3), of this AD, certificated in any category, as identified in Agência Nacional de Aviação Civil (ANAC) Brazilian AD 2019–11–07, effective November 18, 2019 (''Brazilian AD 2019–11–07'').

(1) Model ERJ 170–100 LR, –100 STD, –100 SE, and –100 SU airplanes.

(2) Model ERJ 170–200 LR, –200 SU, –200 STD, and –200 LL airplanes.

(3) Model ERJ 190–100 STD, –100 LR, –100 ECJ, –100 IGW, –200 STD, –200 LR, and –200 IGW airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing gear.

(e) Reason

This AD was prompted by a determination that certain main landing gear (MLG) aft pintle pins repaired using a sulphamate nickel plating have a life limit that is less than the certified life limit. The FAA is issuing this AD to address failure of the affected MLG aft pintle pins before reaching the certified life limit, which could result in collapse of the MLG during takeoff or landing.

(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, Brazilian AD 2019–11–07.

(h) Exceptions to Brazilian AD 2019–11–07

(1) Where Brazilian AD 2019–11–07 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Alternative method of compliance (AMOC)'' section of Brazilian AD 2019–11–07 does not apply to this AD.

(3) Where paragraphs (b)(1) through (3) of Brazilian AD 2019–11–07 specify to carry out an inspection in the airplane technical documentation and a general visual inspection (GVI) on them, this AD requires a GVI of the MLG aft pintle pins to determine if certain repairs were done. A review of airplane maintenance records is acceptable in lieu of this inspection if the repair history can be conclusively determined from that review.

(4) Where paragraphs (b)(1) through (3) of Brazilian AD 2019–11–07 specify to use a ''new serviceable one,'' for this AD, use a serviceable MLG aft pintle pin as defined in Brazilian AD 2019–11–07.

(i) No Requirement for Return of Parts

Although the service information referenced in Brazilian AD 2019–11–07 specifies to return parts 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) 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 ANAC; or ANAC's authorized Designee. If approved by the ANAC Designee, the approval must include the Designee's authorized signature.

(k) Related Information

For more information about this AD, contact Krista Greer, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3221; email *krista.greer@faa.gov*.

(l) Material Incorporated by Reference

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

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

(i) Agência Nacional de Aviação (ANAC) Brazilian AD 2019–11–07, effective November 18, 2019.

(ii) [Reserved]

(3) For information about ANAC Brazilian AD 2019–11–07, contact National Civil Aviation Agency, Aeronautical Products Certification Branch (GGCP), Rua Laurent Martins, n° 209, Jardim Esplanada, CEP 12242–431—São José dos Campos—SP, Brazil; telephone 55 (12) 3203–6600; email *pac@anac.gov.br;* internet *www.anac.gov.br/en/*.

(4) You may view this material at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–1074.

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

Issued on April 10, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–08219 Filed 4–17–20; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0390; Product Identifier 2018–SW–096–AD; Amendment 39–19901; AD 2020–07–22]

RIN 2120–AA64

Airworthiness Directives; PZL Swidnik S.A. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for PZL Swidnik S.A. (PZL) Model PZL W–3A helicopters. This AD requires inspecting the main gearbox (MGB) bolts and washers to determine if they are properly locked and, depending on the inspection outcome, removing the engine, removing certain bolts from

service, and performing more in-depth inspections; and depending on the outcome of those inspections, replacing the graphite seal assembly or removing it from service. Finally, this AD prohibits installing any affected MGB on a helicopter unless it has met the requirements of this AD. This AD was prompted by reports that the bolts securing the input quill and graphite seal assembly of the MGB were not properly locked. The actions of this AD are intended to address an unsafe condition on these products.

DATES: This AD becomes effective May 5, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain document listed in this AD as of May 5, 2020.

The FAA must receive comments on this AD by June 19, 2020.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Docket:* Go to *https://www.regulations.gov.* Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments 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 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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–2020–0390; 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, the European Union Aviation Safety Agency (previously European Aviation Safety Agency) (EASA) AD, any incorporated by reference service information, any comments received, and other information. The street address for Docket Operations is listed above.

For service information identified in this final rule, contact WSK ''PZL-Świdnik'' S.A., Al. Lotników Polskich 1, 21–045 Świdnik, Poland, telephone +48 664 424 798, or at *www.pzl.swidnik.pl.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N–321, Fort Worth, TX 76177. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0390.

FOR FURTHER INFORMATION CONTACT: Rao Edupuganti, Aviation Safety Engineer, Regulations and Policy Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5110; email *rao.edupuganti@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and the FAA did not provide you with notice and an opportunity to provide your comments prior to it becoming effective. However, the FAA invites you to participate in this rulemaking by submitting written comments, data, or views. The FAA also invites comments relating to the economic, environmental, energy, or federalism impacts that resulted from adopting this AD. The most helpful comments reference a specific portion of the AD, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit them only one time. The FAA will file in the docket all comments received, as well as a report summarizing each substantive public contact with FAA personnel concerning this rulemaking during the comment period. The FAA will consider all the comments received and may conduct additional rulemaking based on those comments.

Discussion

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD No. 2018–0238, dated November 6, 2018 (EASA AD 2018–0238), to correct an unsafe condition for Wytwórnia Sprzętu Komunikacyjnego ''PZL-Świdnik'' Spółka Akcyjna (WSK ''PZL-ŚWIDNIK'' S.A.) Model PZL W–3A and PZL W–3AS helicopters.

EASA advises of occurrences of improperly locked bolts, which secure the input quill cover and graphite seal assembly of the WR–3 MGB. The bolts are locked in place through the use of locking tabs on the washer part number (P/N) 89.06.0387. According to EASA, a subsequent investigation determined that the root cause of this event was improper assembly of the MGB during manufacturing or overhaul. EASA stated this condition could lead to disconnection of the engines to the MGB mechanical link, possibly resulting in loss of helicopter control.

FAA's Determination

These helicopters have been approved by EASA and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the European Union, EASA has notified the FAA of the unsafe condition described in its AD. The FAA is issuing this AD after evaluating all information provided by EASA and determining the unsafe condition exists and is likely to exist or develop on other helicopters of the same type design.

Related Service Information Under 1 CFR Part 51

WYTWÓRNIA SPRZĘTU KOMUNIKACYJNEGO ''PZL-Świdnik'' Spólka Akcyjna has issued Mandatory Bulletin No. BO–37–18–289, dated October 23, 2018, which specifies using a fiberscope to inspect for improperly locked bolts that secure the input quill cover and graphite seal assembly of WR–3 MGBs. This service information also specifies reporting certain information to PZL and Pratt & Whitney Rzeszów S.A., removing the engine for more in-depth inspection of the bolts for signs of rubbing and deformation, inspecting the bolts for proper torque, removing the input drive quill seals, and inspecting the graphite seal 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.

AD Requirements

This AD requires, within 25 hours time-in-service, for all PZL Model PZL W–3A helicopters that have a WR–3 MGB serial number up to and including 316463007M installed, inspecting each bolt P/N 89.00.0049 for proper locking using a fiberscope. Depending on the inspection outcome, this AD requires removing the engine and inspecting each bolt head for signs of rubbing and deformation, inspecting each bolt for proper torque, removing the left-hand and right-hand input drive quill seals, and inspecting each graphite seal assembly. This AD requires removing from service any bolt with signs of rubbing or deformation on its bolt head. If necessary, this AD requires replacing the graphite seal assembly or removing it from service. This AD also prohibits installing affected MGBs that have not been inspected for improperly locked bolts.

Differences Between This AD and the EASA AD

The EASA AD applies to Model PZL W–3AS helicopters, whereas this AD does not because that model is not FAA type-certificated. The EASA AD requires reporting certain information to PZL and Pratt & Whitney Rzeszów S.A., whereas this AD does not.

Regulatory Flexibility Act

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

Costs of Compliance

There are no costs of compliance with this AD because there are no helicopters of this type certificate on the U.S. Registry.

FAA's Justification and Determination of the Effective Date

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

There are no helicopters with this type certificate on the U.S. Registry. Therefore, notice and opportunity for prior public comment are unnecessary pursuant to 5 U.S.C. 553(b)(3)(B). In addition, for the reasons stated above, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days.

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 helicopters identified in this rulemaking action.

Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2020–07–22 PZL Swidnik S.A.: Amendment 39–19901; Docket No. FAA–2020–0390; Product Identifier 2018–SW–096–AD.

(a) Applicability

This AD applies to PZL Swidnik S.A. (PZL) Model PZL W–3A helicopters, certificated in any category, with a WR–3 main gearbox (MGB) with a serial number (S/N) up to 316463007M inclusive and with a bolt part number (P/N) 89.00.0049 and washer P/N 89.06.0387, installed.

(b) Unsafe Condition

This AD defines the unsafe condition as improper locking of the bolts which secure the input quill cover and graphite seal assembly of the WR–3 MGB. This condition could result in disconnection of an engine to the MGB mechanical link and subsequent loss of control of the helicopter.

(c) Effective Date

This AD becomes effective May 5, 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

(1) Within 25 hours time-in-service (TIS), inspect each bolt to determine if it is properly locked with the washer by following Chapter II, Inspection Procedure, paragraphs 3.1.a) and 3.1.b) of WYTWÓRNIA SPRZĘTU KOMUNIKACYJNEGO ''PZL-Świdnik'' Spółka Akcyjna Mandatory Bulletin No. BO–37–18–289, dated October 23, 2018 (MB BO–37–18–289). If any bolt is not properly locked, before further flight:

(i) Remove the engine to visually inspect the bolt head for any sign of rubbing and deformation.

(ii) If there is no sign of rubbing or deformation, loosen the bolt and tighten to the correct torque value of 2.5–3.0 Nm. Lock the bolt by folding tabs of the washer up to the side surfaces of the bolt head. Photo 4 of MB BO–37–18–289 shows an example of a properly locked bolt.

(iii) If there is any sign of rubbing or deformation;

(A) Remove from service the bolt.

(B) Remove the left-hand (LH) and right-hand (RH) input drive quill seals by following paragraphs 1.1. through 1.6., Procedure—Case B. Attachment 1 to MB BO–37–18–289.

(C) Visually inspect each graphite seal assembly of the LH and RH input drive quill seals for any crack, damage, and surface deformation in the surface area identified as ''D'' of Sketch 3. Radial Seal, Attachment 1 to MB BO–37–18–289, and any crack, damage, surface deformation, cracked graphite segments and seizing of grooves in the surface area identified as ''E'' of Sketch 3. Radial Seal, Attachment 1 to MB BO–37–18–289. For purposes of this inspection, damage to the graphite seal assembly may be indicated by spalling, chipping, scratches, or dents. Also visually inspect for unsmooth freedom of radial motion of each graphite ring in the surface area identified as ''E'' of Sketch 3. Radial Seal, Attachment 1 to MB BO–37–18–289, any scratch and dent in the surface areas identified as ''A'' and ''B'' of Sketch 3. Radial Seal, Attachment 1 to MB BO–37–18–289, and seizing on the surface area identified as ''C'' of Sketch 3. Radial Seal, Attachment 1 to MB BO–37–18–289.

(*1*) If there is any crack, damage, or surface deformation in surface area ''E'' greater than an area of 1.5 mm^2 or a depth of 1mm, before further flight, remove from service the graphite seal assembly.

(*2*) If there is any spalling or chipping in surface area ''E'' that is equal to or less than an area of 1.5 mm^2 and a depth of 1 mm, or any scratch or dent in surface areas ''A'' or ''B'' or seizing in surface area ''C'' that is acceptable after blending material flashes, before further flight, replace the graphite seal assembly.

(*3*) If there is any crack, damage, or surface deformation on surface ''D'', cracked graphite

segments or seizing of grooves on surface ''E'', any scratch or dent in surface areas ''A'' or ''B'' or seizing in surface area ''C'' that is not acceptable after blending material flashes, or radial motion of graphite rings is difficult and not smooth, before further flight, remove from service the graphite seal assembly.

(2) After the effective date of this AD, do not install a WR–3 MGB with an S/N up to 316463007M inclusive and with a bolt P/N 89.00.0049 and washer P/N 89.06.0387 on any PZL Model PZL W–3A helicopter, unless it has been inspected in accordance with the requirements of this AD.

(f) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Section, Rotorcraft Standards Branch, FAA, may approve AMOCs for this AD. Send your proposal to: Rao Edupuganti, Aviation Safety Engineer, Regulations and Policy Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5110; email *9-ASW-FTW-AMOC-Requests@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) Additional Information

The subject of this AD is addressed in European Union Aviation Safety Agency (previously European Aviation Safety Agency) (EASA) AD No. 2018–0238, dated November 6, 2018. You may view the EASA AD on the internet at *https://www.regulations.gov* in Docket No. FAA–2020–0390.

(h) Subject

Joint Aircraft Service Component (JASC) Code: 6320, Main Rotor Gearbox.

(i) Material Incorporated by Reference

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

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

(i) WYTWÓRNIA SPRZĘTU KOMUNIKACYJNEGO ''PZL-Świdnik'' Spółka Akcyjna Mandatory Bulletin No. BO–37–18–289, dated October 23, 2018.

(ii) [Reserved]

(3) For service information identified in this AD, contact PZL-Świdnik S.A., A1. Lotników Polskich 1, 21–045 Świdnik, Poland; telephone +48 81 468 09 01, 751 20 71; fax +48 81 468 09 19, 751 21 73; or at *www.pzl.swidnik.pl.*

(4) You may view this service information at FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817222–5110.

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

Issued on April 15, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–08297 Filed 4–17–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0088; Product Identifier 2019–NM–195–AD; Amendment 39–19899; AD 2020–07–20]

RIN 2120–AA64

Airworthiness Directives; 328 Support Services GmbH (Type Certificate Previously Held by AvCraft Aerospace GmbH; Fairchild Dornier GmbH; Dornier Luftfahrt GmbH) Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2004–06–01, which applied to certain Dornier Model 328–100 series airplanes; and AD 2009–06–09, which applied to all Dornier Model 328–100 series airplanes. AD 2004–06–01 required replacement of the existing main landing gear (MLG) leg assembly with a modified assembly. AD 2009–06–09 required modifying the MLG main body and trailing arm bushings, and revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. This AD continues to require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations; as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective May 26, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 26, 2020.

ADDRESSES: For the material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 1000; email *ADs@easa.europa.eu*; internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this IBR material at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0088.

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–2020–0088; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3228; email *Todd.Thompson@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0270, dated October 30, 2019 (''EASA AD 2019–0270'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all 328 Support Services GmbH Model 328–100 airplanes.

EASA AD 2019–0270 also specifies that it takes over the applicable requirements of EASA AD 2006–0197, dated July 11, 2006 (which corresponds to FAA AD 2008–17–01 R1, Amendment 39–16106 (74 FR 63569, December 4, 2009) (''AD 2008–17–01 R1''); and EASA AD 2010–0054, dated March 25, 2010 (which corresponds to

FAA AD 2012–01–08, Amendment 39–16920 (77 FR 3583, January 25, 2012) (''AD 2012–01–08''). Accomplishing the existing maintenance or inspection program revision required in this AD terminates the requirements of AD 2008–17–01 R1 and AD 2012–01–08 for Model 328–100 series airplanes.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2004–06–01, Amendment 39–13527 (69 FR 13715, March 24, 2004) (''AD 2004–06–01''); and AD 2009–06–09, Amendment 39–15845 (74 FR 12249, March 24, 2009) (''AD 2009–06–09''). AD 2004–06–01 applied to certain Dornier Model 328–100 series airplanes; and AD 2009–06–09, applied to all Dornier Model 328–100 series airplanes. The NPRM published in the **Federal Register** on February 3, 2020 (85 FR 5906). The NPRM was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The NPRM proposed to require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in a EASA AD. The FAA is issuing this AD to address the potential failure of parts, which could lead to reduced control of the airplane; and to address the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

Comments

The FAA gave the public the opportunity to participate in developing this final rule. The FAA received no comments on the NPRM or on the determination of the cost to the public.

Clarification of Paragraph (i) of This AD

Once the existing maintenance or inspection program is revised as required by paragraph (g) of this AD, paragraph (i) of this AD does not allow for the later use of alternative actions or intervals unless these alternative actions or intervals are approved as specified in ''Ref. Publications'' section of EASA AD 2019–0270. Paragraph (i) of the proposed AD used the word ''except'' to describe the allowance for alternative actions or intervals. To make the language consistent with the language in the ''Ref. Publications'' section of EASA AD 2019–0270, the FAA has changed the wording to ''unless they are approved.''

Conclusion

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

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

Related IBR Material Under 1 CFR Part 51

EASA AD 2019–0270 describes, among other actions, airworthiness limitations for certification maintenance requirements that include, among other items, safe life limits and fuel tank system limitations. 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.

Costs of Compliance

The FAA estimates that this AD affects 21 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2004–06–01, Amendment 39–13527 (69 FR 13715, March 24, 2004); and AD 2009–06–09, Amendment 39–15845 (74 FR 12249, March 24, 2009); and adding the following new AD:

2020–07–20 328 Support Services GmbH (Type Certificate Previously Held by AvCraft Aerospace GmbH; Fairchild Dornier GmbH; Dornier Luftfahrt GmbH): Amendment 39–19899; Docket No. FAA–2020–0088; Product Identifier 2019–NM–195–AD.

(a) Effective Date

This AD is effective May 26, 2020.

(b) Affected ADs

(1) This AD replaces AD 2004–06–01, Amendment 39–13527 (69 FR 13715, March 24, 2004); and AD 2009–06–09, Amendment 39–15845 (74 FR 12249, March 24, 2009).

(2) This AD affects AD 2008–17–01 R1, Amendment 39–16106 (74 FR 63569, December 4, 2009) (''AD 2008–17–01 R1''); and AD 2012–01–08, Amendment 39–16920 (77 FR 3583, January 25, 2012) (''AD 2012–01–08'').

(c) Applicability

This AD applies to all 328 Support Services GmbH (Type Certificate previously held by AvCraft Aerospace GmbH; Fairchild Dornier GmbH; Dornier Luftfahrt GmbH) Model 328–100 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Reason

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address the potential failure of parts, which could lead to reduced control of the airplane; and to address the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

(f) Compliance

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

(g) Existing Maintenance or Inspection Program Revision

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2019–0270, dated October 30, 2019 (''EASA AD 2019–0270'').

(h) Exceptions to EASA AD 2019–0270

(1) The requirements specified in paragraphs (1) and (2) of EASA AD 2019–0270 do not apply to this AD.

(2) Where paragraph (3) of EASA AD 2019–0270 specifies a compliance time of ''Within 12 months'' after its effective date to ''revise the approved AMP,'' this AD requires ''revising the existing maintenance or inspection program, as applicable'' to incorporate the ''limitations, tasks and associated thresholds and intervals'' specified in paragraph (3) of EASA AD 2019–0270 within 90 days after the effective date of this AD.

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2019–0270 is at the applicable ''associated thresholds'' specified in paragraph (3) of EASA AD 2019–0270, or within 90 days after the effective date of this AD, whichever occurs later.

(4) The provisions specified in paragraphs (4) and (5) of EASA AD 2019–0270 do not apply to this AD.

(5) The ''Remarks'' section of EASA AD 2019–0270 does not apply to this AD.

(i) Provisions for Alternative Actions, Intervals, and Critical Design Configuration Control Limitations (CDCCLs)

After the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections), intervals, and CDCCLs are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2019–0270.

(j) Terminating Action for Other ADs

(1) Accomplishing the existing maintenance or inspection program revision required by paragraph (g) of this AD terminates all requirements of AD 2008–17–01 R1.

(2) Accomplishing the existing maintenance or inspection program revision required by paragraph (g) of this AD terminates all requirements of AD 2012–01–08 for Model 328–100 airplanes only.

(k) 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 (l) of this AD. Information may be emailed to: *9-NM-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 328 Support Services GmbH's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(l) Related Information

For more information about this AD, contact Todd Thompson, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3228; email *Todd.Thompson@faa.gov*.

(m) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on May 26, 2020.

(i) European Union Aviation Safety Agency (EASA) AD 2019–0270, dated October 30, 2019.

(ii) [Reserved]

(4) For information about EASA AD 2019–0270, 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*.

(5) 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–2020–0088.

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

Issued on April 9, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–08229 Filed 4–17–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0978; Product Identifier 2019–NM–163–AD; Amendment 39–19897; AD 2020–07–18]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2017–05–12, which applied to certain Airbus SAS Model A318–112 airplanes; Model A319–111, –112, –115, –132, and –133 airplanes; Model A320–214, –232, and –233 airplanes; and Model A321–211, –212, –213, –231, and –232 airplanes. AD 2017–05–12 required a one-time eddy current conductivity measurement of certain cabin, cargo compartment, and frame structural parts to determine if aluminum alloy with inadequate heat treatment was used, and replacement if necessary. This AD retains the requirements of AD 2017–05–12, and for certain airplanes, requires additional work, as specified in a European Union

Aviation Safety Agency (EASA) AD, which is incorporated by reference. This AD was prompted by a determination that aluminum alloy with inadequate heat treatment had been used for additional structural parts. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective May 26, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 26, 2020.

ADDRESSES: For the material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 1000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this IBR material at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0978.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0978; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: 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:

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0196, dated August 14, 2019 (''EASA AD 2019–0196'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus SAS Model A318–112 airplanes; Model A319–111, –112, –115, –132, and –133 airplanes; Model A320–214, –216, –232, and –233 airplanes; and Model A321–211, –212, –213, –231, and –232 airplanes.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2017–05–12, Amendment 39–18823 (82 FR 13382, March 13, 2017) (''AD 2017–05–12''), which applied to certain Airbus SAS Model A318–112 airplanes; Model A319–111, –112, –115, –132, and –133 airplanes; Model A320–214, –232, and –233 airplanes; and Model A321–211, –212, –213, –231, and –232 airplanes. The NPRM published in the **Federal Register** on December 16, 2019 (84 FR 68376). The NPRM was prompted by a determination that aluminum alloy with inadequate heat treatment had been used for additional structural parts. The NPRM proposed to retain the requirements of AD 2017–05–12, and for certain airplanes, would require additional work. The FAA is issuing this AD to address structural parts made of aluminum alloy with inadequate heat treatment, which could result in reduced structural integrity of the airplane.

Comments

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

Request To Extend Compliance Time

American Airlines (AAL) asked that the FAA extend the compliance time for the additional work required by paragraph (2) of EASA AD 2019–0196. AAL asked that the compliance time be changed from within 108 months to within 120 months (10 years) from the date of aircraft manufacture due to the nature of the work, and in order for affected airplanes to do the work at the next scheduled heavy maintenance check opportunity.

The FAA does not agree with the commenter's request to extend the compliance time. AAL did not provide information showing that the revised compliance time would provide an adequate level of safety. The FAA has determined that the 108-month compliance time in EASA AD 2019–0196 addresses the identified unsafe condition in a timely manner. In developing an appropriate compliance time, EASA considered the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the additional work. The FAA has determined that the compliance time specified in EASA AD 2019–0196 represents an appropriate interval of time for affected airplanes to continue to operate without compromising safety. However, under the provisions of paragraph (i)(1) of this AD, the FAA will consider requests for approval of an extension of the compliance time if sufficient data are submitted to substantiate that the new compliance time would provide an acceptable level of safety. The AD has not been changed in this regard.

Conclusion

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

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

Related IBR Material Under 1 CFR Part 51

EASA AD 2019–0196 describes procedures for a one-time eddy current conductivity measurement of certain cabin, cargo compartment, and frame structural parts to determine if aluminum alloy with inadequate heat treatment was used, and replacement if necessary. EASA AD 2019–0196 also describes, for certain airplanes, additional work (a one-time eddy current conductivity measurement of certain other structural parts, and replacement if necessary). 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.

Costs of Compliance

The FAA estimates that this AD affects 63 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained actions from AD 2017–05–12	6 work-hours × $85 per hour = $510	$0	$510	$32,130.
New actions	Up to 7 work-hours × $85 per hour = Up to $595.	$0	Up to $595	Up to $37,485.

The FAA has received no definitive data that enables the agency to provide cost estimates for the on-condition actions specified in this AD.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

(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 removing Airworthiness Directive (AD) 2017–05–12, Amendment 39–18823 (82 FR 13382, March 13, 2017), and adding the following new AD:

2020–07–18 Airbus SAS: Amendment 39–19897; Docket No. FAA–2019–0978; Product Identifier 2019–NM–163–AD.

(a) Effective Date

This AD is effective May 26, 2020.

(b) Affected ADs

This AD replaces AD 2017–05–12, Amendment 39–18823 (82 FR 13382, March 13, 2017) (''AD 2017–05–12'').

(c) Applicability

This AD applies to the Airbus SAS airplanes identified in paragraphs (c)(1) through (4) of this AD, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2019–0196, dated August 14, 2019 (''EASA AD 2019–0196'').

(1) Model A318–112 airplanes.

(2) Model A319–111, –112, –115, –132, and –133 airplanes.

(3) Model A320–214, –216, –232, and –233 airplanes.

(4) Model A321–211, –212, –213, –231, and –232 airplanes.

(d) Subject

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

(e) Reason

This AD was prompted by a determination that aluminum alloy with inadequate heat treatment was used for certain structural parts, including additional structural parts not addressed in AD 2017–05–12. The FAA is issuing this AD to address structural parts made of aluminum alloy with inadequate heat treatment, which could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2019–0196.

(h) Exceptions to EASA AD 2019–0196

(1) Where EASA AD 2019–0196 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2019–0196 does not apply to this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(ii) AMOCs approved previously for AD 2017–05–12 are approved as AMOCs for the corresponding provisions of EASA AD 2019–0196 that are required by paragraph (g) of this AD.

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

(3) *Required for Compliance (RC):* For any service information referenced in EASA AD 2019–0196 that contains RC procedures and tests: Except as required by paragraph (i)(2)

of this AD, RC procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Related Information

For more information about this AD, contact 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.*

(k) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on May 26, 2020.

(i) European Union Aviation Safety Agency (EASA) AD 2019–0196, dated August 14, 2019.

(ii) [Reserved]

(4) For information about EASA AD 2019–0196, 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.*

(5) You may view this material at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0978.

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

Issued on April 7, 2020.

Ross Landes,

Deputy Director for Regulatory Operations,Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–08201 Filed 4–17–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–1079; Product Identifier 2019–NM–194–AD; Amendment 39–19898; AD 2020–07–19]

RIN 2120–AA64

Airworthiness Directives; ATR—GIE Avions de Transport Régional Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain ATR—GIE Avions de Transport Régional Model ATR72 airplanes. This AD was prompted by occurrences of smoke in the flight deck and flap extension difficulties due to wire chafing on the electrical harness under a certain panel. This AD requires modifying the clamp installation of the electrical routing on a certain rib of the left- and right-hand side of the wing rear spars, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective May 26, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 26, 2020.

ADDRESSES: For the material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 1000; email *ADs@easa.europa.eu*; internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this IBR material at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–1079.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–1079; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Shahram Daneshmandi, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3220; email *Shahram.Daneshmandi@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0290, dated November 29, 2019 (''EASA AD 2019–0290'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain ATR—GIE Avions de Transport Régional Model ATR72 airplanes.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain ATR—GIE Avions de Transport Régional Model ATR72 airplanes. The NPRM published in the **Federal Register** on January 27, 2020 (85 FR 4616). The NPRM was prompted by occurrences of smoke in the flight deck and flap extension difficulties due to wire chafing on the electrical harness under a certain panel. The NPRM proposed to require modifying the clamp installation of the electrical routing on a certain rib of the left- and right-hand side of the wing rear spars, as specified in EASA AD 2019–0290.

The FAA is issuing this AD to address wire chafing, which may lead to wire failure (cut or shorted) and uncontrolled fire with potential loss of multiple systems, and could possibly result in reduced control of the airplane. See the MCAI for additional background information.

Comments

The FAA gave the public the opportunity to participate in developing this final rule. The FAA received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

The FAA reviewed the relevant data and determined that air safety and the public interest require adopting this

final rule as proposed, except for minor editorial changes. The FAA have determined that these minor changes:

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

Related IBR Material under 1 CFR Part 51

EASA AD 2019–0290 describes procedures for modifying the clamp installation of the electrical routing on rib 4 of the left- and right-hand side of the wing rear spars. 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.

Costs of Compliance

The FAA estimates that this AD affects 23 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
4 work-hours × $85 per hour = $340	$7	$347	$7,981

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2020–07–19 ATR—GIE Avions de Transport Régional: Amendment 39–19898; Docket No. FAA–2019–1079; Product Identifier 2019–NM–194–AD.

(a) Effective Date

This AD is effective May 26, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to ATR—GIE Avions de Transport Régional Model ATR72–101, –102, –201, –202, –211, –212, and –212A airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2019–0290, dated November 29, 2019 (''EASA AD 2019–0290'').

(d) Subject

Air Transport Association (ATA) of America Code 92, Electrical routing.

(e) Reason

This AD was prompted by occurrences of smoke in the flight deck and flap extension difficulties due to wire chafing on the electrical harness under panel 295CL, on rib 4 of the left-hand side of the wing rear spar. The FAA is issuing this AD to address wire chafing, which may lead to wire failure (cut or shorted) and uncontrolled fire with potential loss of multiple systems, and could possibly result in reduced control 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 2019–0290.

(h) Exceptions to EASA AD 2019–0290

(1) Where EASA AD 2019–0290 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2019–0290 does not apply to this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(3) *Required for Compliance (RC)*: For any service information referenced in EASA AD 2019–0290 that contains RC procedures and tests: Except as required by paragraph (i)(2) of this AD, RC procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are

recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Related Information

For more information about this AD, contact Shahram Daneshmandi, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3220; email *Shahram.Daneshmandi@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2019–0290, dated November 29, 2019.

(ii) [Reserved]

(3) For information about EASA AD 2019–0290, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 6017; email *ADs@easa.europa.eu*; Internet *www.easa.europa.eu* .You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

(4) You may view this material at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–1079.

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

Issued on April 9, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–08225 Filed 4–17–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–1073; Product Identifier 2019–NM–186–AD; Amendment 39–19896; AD 2020–07–17]

RIN 2120–AA64

Airworthiness Directives; Saab AB, Support and Services (Formerly Known as Saab AB, Saab Aeronautics) Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Saab AB, Support and Services Model SAAB 2000 airplanes. This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. This AD requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective May 26, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 26, 2020.

ADDRESSES: For the material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 1000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this IBR material at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–1073.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–1073; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, 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: Shahram Daneshmandi, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3220; email *Shahram.Daneshmandi@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0263, dated October 22, 2019 (''EASA AD 2019–0263'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Saab AB, Support and Services Model SAAB 2000 airplanes.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Saab AB, Support and Services Model SAAB 2000 airplanes. The NPRM published in the **Federal Register** on January 17, 2020 (85 FR 2911). The NPRM was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The NPRM proposed to require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in an EASA AD.

The FAA is issuing this AD to address, among other things, fatigue cracking of principal structural elements (PSEs) and corrosion prevention and control. This unsafe condition, if not addressed, could result in reduced structural integrity of a PSE, and lead to loss of control of the airplane. See the MCAI for additional background information.

Comments

The FAA gave the public the opportunity to participate in developing this final rule. We received no comments on the NPRM or on the determination of the cost to the public.

Clarification of Paragraph (i) of This AD

Once a maintenance or inspection program is revised as required by paragraph (g) of this AD, paragraph (i) of this AD does not allow for the later

use of alternative actions or intervals unless these alternative actions or intervals are approved as specified in the ''Ref. Publications'' section of EASA AD 2019–0288. In the NPRM, the FAA proposed language using the word ''except.'' To make the language consistent with the language in the ''Ref. Publications'' section of EASA AD 2019–0288, the FAA has changed the wording to ''unless they are approved.''

Conclusion

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

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

Related IBR Material Under 1 CFR Part 51

EASA AD 2019–0263 describes airworthiness limitations for safe life limits, structural limitation items, and fuel airworthiness items, as well as certification maintenance requirements. 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.

Costs of Compliance

The FAA estimates that this AD affects 11 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2020–07–17 Saab AB, Support and Services (Formerly Known as Saab AB, Saab Aeronautics): Amendment 39–19896; Docket No. FAA–2019–1073; Product Identifier 2019–NM–186–AD.

(a) Effective Date

This AD is effective May 26, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Saab AB, Support and Services (formerly known as Saab AB, Saab Aeronautics) Model SAAB 2000 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Reason

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address, among other things, fatigue cracking of principal structural elements (PSEs) and corrosion prevention and control. This unsafe condition, if not addressed, could result in reduced structural integrity of a PSE, and lead to loss of control of the airplane.

(f) Compliance

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

(g) New Maintenance or Inspection Program Revision

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2019–0263, dated October 22, 2019 (''EASA AD 2019–0263'').

(h) Exceptions to EASA AD 2019–0263

(1) The requirements specified in paragraphs (1) and (2) of EASA AD 2019–0263 do not apply to this AD.

(2) Paragraph (3) of EASA AD 2019–0263 specifies revising ''the approved AMP [aircraft maintenance program]'' within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, to incorporate the ''limitations, tasks and associated thresholds and intervals'' specified in paragraph (3) of EASA AD 2019–0263 within 90 days after the effective date of this AD.

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2019–0263 is at the applicable ''associated thresholds'' specified in paragraph (3) of EASA AD 2019–0263, or within 90 days after the effective date of this AD, whichever occurs later.

(4) The provisions specified in paragraphs (4) and (5) of EASA AD 2019–0263 do not apply to this AD.

(5) The ''Remarks'' section of EASA AD 2019–0263 does not apply to this AD.

(i) New Provisions for Alternative Actions, Intervals, and Critical Design Configuration Control Limitations (CDCCLs)

After the maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections), intervals, and CDCCLs are allowed unless they are approved as specified in the provisions of the

''Ref. Publications'' section of EASA AD 2019–0263.

(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) 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 Saab SB Support and Services' EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(k) Related Information

For more information about this AD, contact Shahram Daneshmandi, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3220; email *Shahram.Daneshmandi@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2019–0263, dated October 22, 2019.

(ii) [Reserved]

(3) For information about EASA AD 2019–0263, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 6017; email *ADs@easa.europa.eu;* Internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

(4) You may view this material at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–1073.

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

Issued on April 3, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–08202 Filed 4–17–20; 8:45 am]

BILLING CODE 4910–13–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1228

[Docket No. CPSC–2014–0018]

Revisions to Safety Standard for Sling Carriers

AGENCY: Consumer Product Safety Commission.

ACTION: Direct final rule.

SUMMARY: In January 2017, the U.S. Consumer Product Safety Commission (CPSC) published a consumer product safety standard for sling carriers under section 104 of the Consumer Product Safety Improvement Act of 2008 (CPSIA). The standard incorporated by reference the ASTM voluntary standard that was in effect for sling carriers at the time, with an additional requirement for warning label attachment. ASTM has since revised the voluntary standard for sling carriers. The CPSIA provides a process for when a voluntary standards organization updates a standard that the Commission incorporated by reference in a section 104 rule. Consistent with that process, this direct final rule revises the mandatory standard for sling carriers to incorporate by reference the updated version of the ASTM standard, while retaining the additional requirement for warning label attachment.

DATES: The rule is effective on July 6, 2020, unless CPSC receives a significant adverse comment by May 20, 2020. If CPSC receives such a comment, it will publish a document in the **Federal Register**, withdrawing this direct final rule before its effective date. The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as of July 6, 2020.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2014–0018, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: *https://www.regulations.gov.* Follow the instructions for submitting comments. The CPSC does not accept comments submitted by electronic mail (email), except through *https://www.regulations.gov.* The CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Mail/Hand Delivery/Courier Written Submissions: Submit comments by mail/hand delivery/courier to: Division of the Secretariat, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

Instructions: All submissions must include the agency name and docket number for this document. CPSC may post all comments without change, including any personal identifiers, contact information, or other personal information provided, to: *https://www.regulations.gov.* Do not submit electronically: Confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If you wish to submit such information, please submit it according to the instructions for written submissions.

Docket: For access to the docket to read background documents or comments received, go to: *https://www.regulations.gov,* and insert the docket number, CPSC–2014–0018, into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Keysha Walker, Compliance Officer, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–6820; email: *kwalker@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

A. Background and Statutory Authority

Section 104 of the CPSIA requires the Commission to assess the effectiveness of voluntary standards for durable infant or toddler products and adopt mandatory standards for these products. 15 U.S.C. 2056a(b)(1). The mandatory standard must be ''substantially the same as'' the voluntary standard, or may be ''more stringent than'' the voluntary standard, if the Commission determines that more stringent requirements would further reduce the risk of injury associated with the product. *Id.*

Under this authority, the Commission adopted a mandatory rule for sling carriers in 16 CFR part 1228. The rule incorporated by reference ASTM F2907–15, *Standard Consumer Safety Specification for Sling Carriers,* into 16 CFR 1228.2(a), with an additional requirement for warning label attachment in § 1228.2(b). 82 FR 8671 (Jan. 30, 2017). At the time the

Commission published the final rule, ASTM F2907–15 was the current version of the voluntary standard. ASTM has since revised the voluntary standard, adopting ASTM F2907–19.[1]

The CPSIA specifies the process for when a voluntary standards organization revises a standard that the Commission incorporated by reference in a section 104 rule. First, the voluntary standards organization must notify the Commission of the revision. Once the Commission receives this notification, the statute provides that the revised voluntary standard is considered a consumer product safety standard issued under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058), effective 180 days after the Commission received notification of the revision (or a later date specified by the Commission in the **Federal Register**). The Commission can prevent this by notifying the organization, within 90 days of receiving notice of the revision, that it has determined that the proposed revision does not improve the safety of the consumer product and that it is retaining the existing consumer product safety standard. 15 U.S.C. 2056a(b)(4)(B).

On January 8, 2020, the Commission received notification from ASTM that it had updated the sling carrier standard. As this preamble discusses, the revised standard includes revised requirements for test methods, labeling, and instructional literature, which improve the safety of sling carriers. Accordingly, the Commission is not determining that ''the proposed revision does not improve the safety of the consumer product.'' Therefore, under the CPSIA, ASTM F2907–19 will replace ASTM F2907–15 in paragraph (a) of the mandatory standard for sling carriers, effective July 6, 2020, 180 days after CPSC received ASTM's notice.

B. Revised Standard

1. Revisions to ASTM F2907

The ASTM standard for sling carriers includes performance requirements and test methods, as well as requirements for warning labels and instructional literature, to address hazards to children associated with sling carriers.

ASTM F2907–19 includes revised requirements for test methods, labeling, and instructional literature to address two considerations in the way sling carriers are marketed and used. These considerations are: (1) The use of sling carriers for two occupants (rather than one), and (2) sling carriers that are marketed to carry more than the existing test weight of 35 pounds. ASTM F2907–19 also includes several revisions to clarify existing requirements, as well as editorial revisions that do not alter the substantive requirements or affect safety.

As described below, the revisions in ASTM F2907–19 more closely reflect the conditions for which some sling carriers are marketed and used. Under these revised requirements, sling carriers must undergo testing that simulates the conditions under which they are marketed to be used and are actually used. Because testing sling carriers under their actual use conditions more accurately assesses their durability, the Commission concludes that the revised standard improves the safety of sling carriers. Because the Commission declines to determine that the revision ''does not improve the safety'' of sling carriers, the revised ASTM standard will replace F2907–15 in paragraph (a) of § 1228.2. The sections below discuss the revised portions of the ASTM standard, as well as CPSC staff's assessment of those revisions.

a. Sling Carriers for Two Occupants

ASTM F2907–15 only addresses sling carriers designed to carry one occupant. The scope of the standard, the test procedures, and the instructional requirements all reflect this.[2] However, there are sling carriers designed for two occupants, and consumers sometimes use sling carriers for two occupants, especially twins. ASTM F2907–19 modifies the scope, testing, labeling, and instructional literature requirements to address slings designed to contain up to two occupants. The following revisions in ASTM F2907–19 reflect these changes:

- In section 1.3, the scope covers sling carriers designed to contain up to two occupants;
- section 6.2 requires each restraint system to be tested, accounting for the possibility of more than one restraint system;
- section 7.1.5 requires two-occupant slings to be tested with weight in both support areas concurrently;
- In addition to the dynamic load requirements for single-occupant products in section 7.2.2, there are dynamic load requirements for two-occupant products in section 7.2.3;
- in addition to the occupant-retention test requirements for single-occupant products in section 7.5.2, there are occupant-retention test requirements for two-occupant products in section 7.5.3;
- section 8.1.4 requires labels to state the recommended child weight for each support area, accounting for the possibility of more than one occupant;
- section 8.3.4 requires pictograms of improper and proper infant positioning to include one or two occupants, depending on the product design; and
- the instructional literature requirements in section 9.3.9 retain the required language: ''never place more than one baby in the sling carrier'' for single-occupant sling carriers, but provide a modified statement for two-occupant sling carriers.

CPSC staff believes that these revisions improve the safety of sling carriers because they require sling carriers to be tested under the conditions for which they are marketed and used. Under ASTM F2907–15, two-occupant sling carriers would potentially fall outside the scope of the standard, or would be subject to test requirements that reflect the weight or presence of a single occupant only, which is less than the load they would bear during actual use. ASTM F2907–19 requires sling carriers that are marketed for two occupants to undergo the same testing as single-occupant products, but with the added conditions associated with two occupants.

Although staff is not aware of any incidents that involve multiple occupants in a single sling carrier,[3] staff believes that the revised standard provides better safety than excluding two-occupant slings from the standard or testing them under the conditions associated with a single occupant.

b. Sling Carriers with Recommended Maximum Weights Above 35 Pounds

ASTM F2907–15 uses 35-pound weights/masses in its test procedures, consistent with the typical maximum

[1] ASTM approved ASTM F2907–19 on November 1, 2019, and published it in November 2019.

[2] The scope of the standard (section 1) uses the singular (*e.g.,* ''an occupant,'' ''a child'') to refer to occupants of a sling carrier. The test procedures (section 7), require testing with a 35-pound weight, consistent with the weight of a single child occupant, referenced in the scope (section 1). Instructional literature requirements (section 9) require instructional literature to address the following: ''Never place more than one baby in the sling carrier.''

[3] Although CPSC is not aware of any incidents that involve multiple occupants in a single sling carrier, staff identified one fatality associated with simultaneous use of two sling carriers. Although this is not directly relevant to two-occupant slings, we note this incident because of its marginal relevance to the use of sling carriers with more than one child. Both of the sling carriers involved in that incident have been recalled because of hazards associated with single-occupant use; so staff cannot conclude that the use of multiple slings was a factor in the incident. Moreover, the standard does not support simultaneous use of multiple sling carriers, because both ASTM F2907–15 and –19 require instructional literature to state: ''Never use/wear more than one carrier at a time.''

weight of an occupant stated in the scope section. However, some manufacturers market sling carriers with a maximum weight above 35 pounds, to allow for a larger occupant or multiple occupants. ASTM F2907–19 addresses this by requiring test weights to be the greater of 35 pounds, or the manufacturer's recommended maximum occupant weight. The following revisions in ASTM F2907–19 reflect these changes:

- In section 1.3, the scope notes that, although the typical maximum weight of an occupant is 35 pounds, manufacturers may provide a higher weight limit;
- for the dynamic load test, the test mass/weight in section 7.2.2 is the greater of 35 pounds, or the manufacturer's recommended maximum weight; and
- for the occupant-retention test, the test mass stated in section 7.5.1.3 is the greater of 35 pounds, or the manufacturer's recommended maximum weight.

CPSC staff believes that these revisions improve the safety of sling carriers, because they require sling carriers to be tested under the conditions for which they are marketed and used. ASTM F2907–19 requires sling carriers that are marketed to carry more than 35 pounds to be tested with the marketed maximum weight. This provides better safety than testing sling carriers with 35-pound weights when they are marketed as supporting more than that.

c. Clarifications

ASTM F2907–19 also includes several modifications to clarify, simplify, and add detail to existing testing requirements. These revisions do not alter the substantive requirements in the standard.

The first clarification is in section 7.1, which includes the static load testing requirements. Section 6.1.1 of both ASTM F2907–15 and ASTM F2907–19 state that after static load testing, ''adjustable attachment systems of the sling carrier shall not slip more than 1 in. (25.44 mm) per element.'' Section 7.1 in both versions of the standard describe the static load test procedure. However, a clarification in ASTM F2907–19 directs testers to mark the sling at the beginning and end of the testing to measure slippage.

The second clarification is in section 7.2, which includes the dynamic load testing requirements. In ASTM F2907–15, this section (7.2.3) provides a calculation for determining the number of cycles of testing. In ASTM F2907–19, the number of cycles is provided in a table (Table 1). The calculation in ASTM F2907–15 yields the numbers in the table; the revision simply eliminates the need for calculations. A footnote to the table also provides details about how to determine the number of carrying positions, which is the basis for the calculation and table. This table also replaces the same calculation previously used in section 7.5, on occupant retention testing.

d. Editorial Revisions

ASTM F2907–19 also includes editorial revisions that do not affect the substantive requirements in the standard. The following revisions in ASTM F2907–19 reflect these changes:

- Section 1.8 adds environmental practices to the previous list of safety and health practices that users should consider;
- section 1.9 explains that ASTM developed the standard in accordance with principles recognized by the World Trade Organization;
- the term ''manufacturer's recommended carrying position'' replaces various terms that referred to the carrying position, for standardization;
- the term ''manufacturer's recommended maximum weight'' replaces ''manufacturer's maximum recommended weight''; and
- units are in forms consistent with ASTM Form and Style (*e.g.,* ''1 in. to 2 in.'' replaces ''1 to 2 in.'').

2. More Stringent Requirement for Label Attachment

The current mandatory standard incorporates by reference ASTM F2907–15, but includes an additional requirement for label attachment. Specifically, 16 CFR 1228.2(b) requires that ''warning labels that are attached to the fabric with seams shall remain in contact with the fabric around the entire perimeter of the label, when the sling is in all manufacturer recommended use positions.'' The Commission added this requirement to address comments expressing concerns that consumers would accidentally or intentionally remove or damage, or otherwise alter, ''free-hanging'' labels that are attached to a product at only one end of the label. The Commission explained that removing or altering these labels ''would eliminate the potential safety benefit of the label,'' and accordingly, adopted the additional attachment requirement. 82 FR 8671, 8679 (Jan. 30, 2017).

ASTM F2907–19 does not include this additional requirement. CPSC staff believes that this requirement remains appropriate. Therefore, the Commission is retaining this additional requirement in 16 CFR 1228.2(b).

C. Incorporation by Reference

Section 1228.2(a) of the direct final rule incorporates by reference ASTM F2907–19. The Office of the Federal Register (OFR) has regulations regarding incorporation by reference. 1 CFR part 51. Under these regulations, agencies must discuss, in the preamble to a final rule, ways in which the material the agency incorporates by reference is reasonably available to interested parties, and how interested parties can obtain the material. In addition, the preamble to the final rule must summarize the material. 1 CFR 51.5(b).

In accordance with the OFR regulations, *B. Revised Standard* of this preamble summarizes the major provisions of ASTM F2907–19 that the Commission incorporates by reference into 16 CFR part 1228. The standard is reasonably available to interested parties and interested parties may purchase a copy of ASTM F2907–19 from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959 USA; phone; 610–832–9585; *www.astm.org.* A copy of the standard can also be inspected at CPSC's Division of the Secretariat, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone 301–504–7923. In addition, once the rule becomes effective, a read-only copy of the standard will be available for viewing on the ASTM website at: *https://www.astm.org/READINGLIBRARY/.*

D. Certification

Section 14(a) of the Consumer Product Safety Act (CPSA; 15 U.S.C. 2051–2089) requires manufacturers of products subject to a consumer product safety rule under the CPSA, or to a similar rule, ban, standard, or regulation under any other act enforced by the Commission, to certify that the products comply with all applicable CPSC requirements. 15 U.S.C. 2063(a). Such certification must be based on a test of each product, or on a reasonable testing program, or, for children's products, on tests on a sufficient number of samples by a third party conformity assessment body accredited by CPSC to test according to the applicable requirements. As noted, standards issued under section 104(b)(1)(B) of the CPSIA are ''consumer product safety standards.'' Thus, they are subject to the testing and certification requirements of section 14 of the CPSA.

Because sling carriers are children's products, a CPSC-accepted third party

conformity assessment body must test samples of the products. These products also must comply with all other applicable CPSC requirements, such as the lead content requirements in section 101 of the CPSIA,[4] the phthalates prohibitions in section 108 of the CPSIA,[5] the tracking label requirements in section 14(a)(5) of the CPSA,[6] and the consumer registration form requirements in section 104(d) of the CPSIA.[7]

E. Notice of Requirements

In accordance with section 14(a)(3)(B)(iv) of the CPSIA, the Commission previously published a notice of requirements (NOR) for accreditation of third party conformity assessment bodies for testing sling carriers. 82 FR 8671 (Jan. 30, 2017). The NOR provided the criteria and process for CPSC to accept accreditation of third party conformity assessment bodies for testing sling carriers to 16 CFR part 1228. The NORs for all mandatory standards for durable infant or toddler products are listed in the Commission's rule, ''Requirements Pertaining to Third Party Conformity Assessment Bodies'' in 16 CFR part 1112.

Under the revised provisions in ASTM F2907–19, testing of affected products involves increased test weights and testing of more occupant positions. However, the test methodologies remain the same. Accordingly, the revisions do not significantly change the way that third party conformity assessment bodies test these products for compliance with the sling carriers standard. Laboratories will begin testing to the new standard when ASTM F2907–19 goes into effect, and the existing accreditations that the Commission has accepted for testing to this standard will cover testing to the revised standard. Therefore, the Commission considers the existing CPSC-accepted laboratories for testing to ASTM F2907–15 to be capable of testing to ASTM F2907–19 as well. Accordingly, the existing NOR for this standard will remain in place, and CPSC-accepted third party conformity assessment bodies are expected to update the scope of the testing laboratories' accreditations to reflect the revised standard in the normal course of renewing their accreditations.

F. Direct Final Rule Process

The Commission is issuing this rule as a direct final rule. Although the Administrative Procedure Act (APA; 5 U.S.C. 551–559) generally requires agencies to provide notice of a rule and an opportunity for interested parties to comment on it, section 553 of the APA provides an exception when the agency, ''for good cause finds,'' that notice and comment are ''impracticable, unnecessary, or contrary to the public interest.'' *Id.* 553(b)(B).

Under the process set out in section 104(b)(4)(B) of the CPSIA, when ASTM revises a standard that the Commission has previously incorporated by reference under section 104(b)(1)(B) of the CPSIA, that revision will become the new CPSC standard, unless the Commission determines that ASTM's revision does not improve the safety of the product. Thus, unless the Commission makes such a determination, the ASTM revision becomes CPSC's standard by operation of law. The Commission is allowing ASTM F2907–19 to become CPSC's new standard. The purpose of this direct final rule is merely to update the reference in the Code of Federal Regulations (CFR) so that it reflects accurately the version of the standard that takes effect by statute. The rule updates the reference in the CFR, but under the terms of the CPSIA, ASTM F2907–19 takes effect as the new CPSC standard for sling carriers, even if the Commission did not issue this rule. Thus, public comments would not impact the substantive changes to the standard or the effect of the revised standard as a consumer product safety standard under section 104(b) of the CPSIA. Under these circumstances, notice and comment are not necessary.

In Recommendation 95–4, the Administrative Conference of the United States (ACUS) endorses direct final rulemaking as an appropriate procedure to expedite rules that are noncontroversial and that are not expected to generate significant adverse comment. *See* 60 FR 43108 (Aug. 18, 1995). ACUS recommends that agencies use the direct final rule process when they act under the ''unnecessary'' prong of the good cause exemption in 5 U.S.C. 553(b)(B). Consistent with the ACUS recommendation, the Commission is publishing this rule as a direct final rule because CPSC does not expect any significant adverse comments.

Unless CPSC receives a significant adverse comment within 30 days of this notification, the rule will become effective on July 6, 2020. In accordance with ACUS's recommendation, the Commission considers a significant adverse comment to be ''one where the commenter explains why the rule would be inappropriate,'' including an assertion challenging ''the rule's underlying premise or approach,'' or a claim that the rule ''would be ineffective or unacceptable without change.'' 60 FR 43108, 43111. As noted, this rule merely updates a reference in the CFR to reflect a change that occurs by statute.

If the Commission receives a significant adverse comment, the Commission would withdraw this direct final rule. Depending on the comment and other circumstances, the Commission may then incorporate the adverse comment into a subsequent direct final rule or publish a notice of proposed rulemaking, providing an opportunity for public comment.

G. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA; 5 U.S.C. 601–612) generally requires agencies to review proposed and final rules for their potential economic impact on small entities, including small businesses, and prepare regulatory flexibility analyses. 5 U.S.C. 603, 604. The RFA applies to any rule that is subject to notice and comment procedures under section 553 of the APA. *Id.* As discussed in *F. Direct Final Rule Process* of this preamble, the Commission has determined that notice and the opportunity to comment are unnecessary for this rule. Therefore, the RFA does not apply. CPSC also notes the limited nature of this document, which merely updates the incorporation by reference to reflect the mandatory CPSC standard that takes effect under section 104 of the CPSIA.

H. Paperwork Reduction Act

The current mandatory standard for sling carriers includes requirements for marking, labeling, and instructional literature that constitute a ''collection of information,'' as defined in the Paperwork Reduction Act (PRA; 44 U.S.C. 3501–3521). The revised mandatory standard does not alter these requirements. The Commission took the steps required by the PRA for information collections when it adopted 16 CFR part 1228, including obtaining approval and a control number. Because the information collection is unchanged, the revision does not affect the information collection requirements or approval related to the standard.

I. Environmental Considerations

The Commission's regulations provide a categorical exclusion for the Commission's rules from any requirement to prepare an environmental assessment or an environmental impact statement where they ''have little or no potential for affecting the human environment.'' 16

[4] 15 U.S.C. 1278a.

[5] 15 U.S.C. 2057c.

[6] 15 U.S.C. 2063(a)(5).

[7] 15 U.S.C. 2056a(d).

CFR 1021.5(c)(2). This rule falls within the categorical exclusion, so no environmental assessment or environmental impact statement is required.

J. Preemption

Section 26(a) of the CPSA provides that where a consumer product safety standard is in effect and applies to a product, no state or political subdivision of a state may either establish or continue in effect a requirement dealing with the same risk of injury unless the state requirement is identical to the Federal standard. 15 U.S.C. 2075(a). Section 26(c) of the CPSA also provides that states or political subdivisions of states may apply to CPSC for an exemption from this preemption under certain circumstances. Section 104(b) of the CPSIA deems rules issued under that provision ''consumer product safety standards.'' Therefore, once a rule issued under section 104 of the CPSIA takes effect, it will preempt in accordance with section 26(a) of the CPSA.

K. Effective Date

Under the procedure set forth in section 104(b)(4)(B) of the CPSIA, when a voluntary standard organization revises a standard that the Commission adopted as a mandatory standard, the revision becomes the CPSC standard within 180 days of notification to the Commission, unless the Commission determines that the revision does not improve the safety of the product, or the Commission sets a later date in the **Federal Register**. 15 U.S.C. 2056a(b)(4)(B). The Commission is taking neither of those actions with respect to the standard for sling carriers. Therefore, ASTM F2907–19 automatically will take effect as the new mandatory standard for sling carriers on July 6, 2020, 180 days after the Commission received notice of the revision on January 8, 2020. As a direct final rule, unless the Commission receives a significant adverse comment within 30 days of this notification, the rule will become effective on July 6, 2020.

L. Congressional Review Act

The Congressional Review Act (CRA; 5 U.S.C. 801–808) states that, before a rule may take effect, the agency issuing the rule must submit the rule, and certain related information, to each House of Congress and the Comptroller General. 5 U.S.C. 801(a)(1). The submission must indicate whether the rule is a ''major rule.'' The CRA states that the Office of Information and Regulatory Affairs (OIRA) determines whether a rule qualifies as a ''major rule.''

Pursuant to the CRA, this rule does not qualify as a ''major rule,'' as defined in 5 U.S.C. 804(2). To comply with the CRA, the Office of the General Counsel will submit the required information to each House of Congress and the Comptroller General.

List of Subjects in 16 CFR Part 1228

Consumer protection, Imports, Incorporation by reference, Infants and children, Labeling, Law enforcement, Toys.

For the reasons discussed in the preamble, the Commission amends 16 CFR chapter II as follows:

PART 1228—SAFETY STANDARD FOR SLING CARRIERS

■ 1. Revise the authority citation for part 1228 to read as follows:

Authority: Sec. 104, Pub. L. 110–314, 122 Stat. 3016 (15 U.S.C. 2056a).

■ 2. Revise § 1228.2 to read as follows:

§ 1228.2 Requirements for sling carriers.

(a) Except as provided in paragraph (b) of this section, each sling carrier must comply with all applicable provisions of ASTM F2907–19, *Standard Consumer Safety Specification for Sling Carriers,* approved on November 1, 2019. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy of this ASTM standard from ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428–2959; *www.astm.org.* A read-only copy of the standard is available for viewing on the ASTM website at *https://www.astm.org/READINGLIBRARY/.* You may inspect a copy at the Division of the Secretariat, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone 301–504–7923, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fedreg.legal@nara.gov,* or go to: *www.archives.gov/federal-register/cfr/ibr-locations.html.*

(b) In addition to complying with section 5.7.2 of ASTM F2907–19, comply with the following:

(1) 5.7.3 Warning labels that are attached to the fabric with seams shall remain in contact with the fabric around the entire perimeter of the label, when the sling is in all manufacturer recommended use positions.

(2) [Reserved]

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2020–07522 Filed 4–17–20; 8:45 am]

BILLING CODE 6355–01–P

FEDERAL MEDIATION AND CONCILIATION SERVICE

29 CFR Part 1473

RIN 3076–AA15

Administrative Guidance

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Final rule.

SUMMARY: This final rule sets forth the Service's procedures governing the issuance of guidance documents as required by the Executive order titled ''Promoting the Rule of Law Through Improved Agency Guidance Documents''.

DATES: Effective on May 20, 2020.

FOR FURTHER INFORMATION CONTACT: Sarah Cudahy, Office of the General Counsel, 202–606–8090, *scudahy@fmcs.gov.*

SUPPLEMENTARY INFORMATION: This final rule, which adds to the Code of Federal Regulations at 49 part 1473, is adopted pursuant to Executive Order 13891, titled: ''Promoting the Rule of Law Through Improved Agency Guidance Documents'' (October 9, 2019). In that Executive order, Federal agencies are required to finalize regulations, or amend existing regulations as necessary, to set forth processes and procedures for issuing guidance documents.

Administrative Procedure

Under the Administrative Procedure Act, an agency may waive the normal notice and comment procedures if the action is a rule of agency organization, procedure, or practice. See 5 U.S.C. 553(b)(3)(A). As this final rule merely codifies procedures applicable to the Service's administrative procedures into the Code of Federal Regulations, notice and comment are not necessary.

Rulemaking Analyses and Notices

A. Executive Order 12866

The Office of Management and Budget has determined that this rulemaking is not a significant regulatory action under Executive Order 12866. The Service does not anticipate that this rulemaking will have an economic impact on regulated entities. This is a rule of agency procedure and practice. The

final rule describes the Service's procedures for processing of guidance documents. The Service has adopted these internal procedures as required by Executive Order 13891, and has not incurred any additional resource costs in doing so. The adoption of these practices has been accomplished through the use of existing agency resources, and it is anticipated that the public will benefit from the resulting increase in efficiency in delivery of government services.

B. Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs)

This rule is not an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866.

C. Regulatory Flexibility Act

Since notice and comment rulemaking is not necessary for this rule, the provisions of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612) do not apply.

D. Executive Order 13132 (Federalism)

Executive Order 13132 requires agencies to ensure meaningful and timely input by State and local officials in the development of regulatory policies that may 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. This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 (August 4, 1999), and the Service has determined that this action will not have a substantial direct effect or federalism implications on the States and would not preempt any State law or regulation or affect the States' ability to discharge traditional State governmental functions. Therefore, consultation with the States is not necessary.

E. Executive Order 13175

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Because this rulemaking does not significantly or uniquely affect the communities of the Indian tribal governments or impose substantial direct compliance costs on them, the funding and consultation requirements of Executive Order 13175 do not apply.

F. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*) requires that FMCS consider the impact of paperwork and other information collection burdens imposed on the public and, under the provisions of PRA section 3507(d), obtain approval from the Office of Management and Budget (OMB) for each collection of information it conducts, sponsors, or requires through regulations. The Service has determined there are no new information collection requirements associated with this final rule.

G. National Environmental Policy Act

The agency has analyzed the environmental impacts of this action pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) and has determined that it does not apply. The purpose of this rulemaking is to formalize the Service's administrative procedures for guidance documents. The agency does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this rulemaking.

Regulation Identifier Number

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in the spring and fall of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 29 CFR Part 1473

Administrative practice and procedure, Guidance documents.

Issued in Washington, DC on April 6, 2020.

Gregory Goldstein,

Acting Director.

■ In consideration of the foregoing, the Federal Mediation and Conciliation Service adds 29 CFR part 1473 to read as follows:

PART 1473—ADMINISTRATIVE GUIDANCE

Subpart A—Guidance Documents

Sec.
1473.1 Purpose and scope.
1473.2 Definition of guidance document.
1473.3 Review and clearance by the Office of the General Counsel.
1473.4 Requirements for clearance.
1473.5 Public access to guidance documents.
1473.6 Waiver of publication of guidance documents.
1473.7 Good faith cost estimates.
1473.8 Definition of significant guidance document.
1473.9 Procedure for guidance documents identified as ''significant''.
1473.10 Notice-and-comment procedures.
1473.11 Petitions to withdraw or modify guidance.
1473.12 Rescinded guidance.
1473.13 Exigent circumstances.
1473.14 Reports to Congress and the Government Accountability Office (GAO).
1473.15 No judicial review or enforceable rights.

Subpart B—[Reserved]

Authority: 29 U.S.C. 172 and 29 U.S.C. 173, *et seq.*

Subpart A—Guidance Documents

§ 1473.1 Purpose and scope.

(a) This subpart prescribes general procedures that apply to guidance documents of the Federal Mediation and Conciliation Service.

(b) This subpart governs all Federal Mediation and Conciliation Service employees and contractors involved with all phases of issuing Service guidance documents.

(c) This subpart applies to all guidance documents by the Service in effect on or after February 28, 2020.

§ 1473.2 Definition of guidance document.

(a) For purposes of this subpart, the term *guidance document* means an agency statement of general applicability, intended to have future effect on the behavior of regulated parties, that sets forth a policy on a statutory, regulatory, or technical issue, or an interpretation of a statute or regulation and is not otherwise required by statute to satisfy the rulemaking procedures specified in 5 U.S.C. 553 or 5 U.S.C. 556.

(b) This subpart does not apply to:

(1) Rules exempt from rulemaking requirements under 5 U.S.C. 553(a);

(2) Rules of agency organization, procedure, or practice;

(3) Decisions of agency adjudications under 5 U.S.C. 554 or similar statutory provisions;

(4) Internal executive branch legal advice or legal advisory opinions addressed to executive branch officials;

(5) Agency statements of specific applicability, including advisory or legal opinions directed to particular parties about circumstance-specific questions (*e.g.,* case or investigatory letters responding to complaints, warning letters), notices regarding particular locations or facilities (*e.g.,* guidance pertaining to the use, operation, or control of a Government facility or property), and

correspondence with individual persons or entities (*e.g.,* congressional correspondence), except documents ostensibly directed to a particular party but designed to guide the conduct of the broader regulated public;

(6) Legal briefs, other court filings, or positions taken in litigation or enforcement actions;

(7) Agency statements that do not set forth a policy on a statutory, regulatory, or technical issue or an interpretation of a statute or regulation, including speeches and individual presentations, editorials, media interviews, press materials, or congressional testimony that do not set forth for the first time a new regulatory policy;

(8) Guidance pertaining to military or foreign affairs functions;

(9) Grant solicitations and awards;

(10) Contract solicitations and awards; or

(11) Purely internal agency policies or guidance directed solely to Service employees or contractors or to other Federal agencies that are not intended to have substantial future effect on the behavior of regulated parties.

§ 1473.3 Review and clearance by the Office of the General Counsel.

All Federal Mediation and Conciliation Service guidance documents, as defined in § 1473.2, require review and clearance in accordance with this subpart. All guidance proposed to be issued by the Service must be reviewed and cleared by the Office of General Counsel.

§ 1473.4 Requirements for clearance.

The Service's review and clearance of guidance shall ensure that each guidance document proposed to be issued by the Federal Mediation and Conciliation Service satisfies the following requirements:

(a) The guidance document complies with all relevant statutes and regulation (including any statutory deadlines for agency action);

(b) The guidance document identifies or includes:

(1) The term ''guidance'' or its functional equivalent;

(2) A concise name for the guidance document;

(3) The issuing department;

(4) A unique identifier, including, at a minimum, the date of issuance, title of the document, and a number assigned by the Office of General Counsel (or, in the case of a significant guidance document, the Z–RIN (regulation identifier number));

(5) The general topic addressed by the guidance document;

(6) Citations to applicable statutes and regulations;

(7) A statement noting whether the guidance is intended to revise or replace any previously issued guidance and, if so, sufficient information to identify the previously issued guidance; and

(8) A concise summary of the guidance document's content;

(c) The guidance document avoids using mandatory language, such as ''shall,'' ''must,'' ''required,'' or ''requirement,'' unless the language is describing an established statutory or regulatory requirement or is addressed to Service staff and will not foreclose the Service's consideration of positions advanced by affected private parties;

(d) The guidance document is written in plain and understandable English; and

(e) All guidance documents include the following disclaimer prominently: ''The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.'' When an agency's guidance document is binding because guidance is authorized by law or because the guidance is incorporated into a contract, the agency should modify this disclaimer to reflect either of those facts.

§ 1473.5 Public access to guidance documents.

The Office of General Counsel shall:

(a) Oversee the creation of a guidance portal on the agency's website;

(b) Ensure all effective guidance documents, identified by a unique identifier as described in § 1473.4(b)(4), are on the guidance portal in a single, searchable, indexed database, and available to the public;

(c) Note on the agency's guidance portal that guidance documents lack the force and effect of law, except as authorized by law or as incorporated into a contract;

(d) Maintain and publish on the Service's guidance portal a means for the public to comment electronically on any guidance documents that are subject to the notice-and-comment procedures, and to submit requests electronically for issuance, reconsideration, modification, or rescission of guidance documents in accordance with § 1473.11;

(e) Include on the agency's guidance portal the date on which all guidance documents were posted to the website, and a hyperlink to all the guidance documents;

(f) Receive and address complaints from the public that the Service is not following the requirements of the Office of Management and Budget's (OMB) Good Guidance Bulletin, or that the Service is improperly treating a guidance document as a binding requirement;

(g) Note on the agency's guidance portal that any guidance document not posted on the guidance portal is rescinded, and that neither the agency nor a party may cite, use, or rely on any guidance document that is not posted on the guidance portal, except to establish historical facts; and

(h) Include on the agency's guidance portal a link to this subpart.

§ 1473.6 Waiver of publication of guidance documents.

(a) Section 1473.5(b) and (e) does not apply to guidance documents for which a waiver has been applied from the OMB Director pursuant to Subsection 3(c) of E.O. 13891.

(b) Requests for waivers must be written and signed by a senior policy official at the agency.

§ 1473.7 Good faith cost estimates.

Even though not legally binding, some agency guidance may result in a substantial economic impact. For example, the issuance of agency guidance may induce private parties to alter their conduct to conform to recommended standards or practices, thereby incurring costs beyond the costs of complying with existing statutes and regulations. While it may be difficult to predict with precision the economic impact of voluntary guidance, the Federal Mediation and Conciliation Service (FMCS) shall, to the extent practicable, make a good faith effort to estimate the likely economic cost impact of the guidance document to determine whether the document might be significant. When FMCS is assessing or explaining whether it believes a guidance document is significant, it shall, at a minimum, provide the same level of analysis that is required for a major determination under the Congressional Review Act.[1] When FMCS, in consultation with OMB's Office of Information and Regulatory Affairs (OIRA), determines that a guidance document will be economically significant, FMCS will conduct and publish a Regulatory Impact Analysis of the sort that would accompany an economically significant rulemaking, to the extent reasonably possible.

[1] See OMB Memorandum M–19–14, Guidance on Compliance with the Congressional Review Act (April 11, 2019).

§ 1473.8 Definition of significant guidance document.

(a) The term *significant guidance document* means a guidance document that will be disseminated to regulated entities or the general public and that may reasonably be anticipated:

(1) To lead to an annual effect on the economy of $100 million or more or adversely affect in a material way the U.S. economy, a sector of the U.S. economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) To create serious inconsistency or otherwise interfere with an action taken or planned by another Federal agency;

(3) To alter materially the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) To raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in E.O. 12866, as further amended.

(b) The term *significant guidance document* does not include the categories of documents excluded by § 1473.2 or any other category of guidance documents exempted in writing by the Office of General Counsel in consultation with OIRA.

§ 1473.9 Procedure for guidance documents identified as ''significant''.

(a) FMCS will make an initial, preliminary determination about a guidance document's significance. Thereafter, FMCS must consult with OIRA to determine whether guidance is significant guidance, unless the guidance is otherwise exempted from such a determination by the Administrator of OIRA.

(b) Significant guidance documents, as determined by the Administrator of OIRA, must be reviewed by OIRA under E.O. 12866 before issuance; and must demonstrate compliance with the applicable requirements for regulations or rules, including significant regulatory actions, set forth in E.O. 12866, E.O. 13563, E.O. 13609, E.O. 13771, and E.O. 13777.

(c) Significant guidance documents must be signed by the Director.

§ 1473.10 Notice-and-comment procedures.

(a) Except as provided in paragraph (b) of this section, all proposed Federal Mediation and Conciliation Service guidance documents determined to be a ''significant guidance document'' within the meaning of § 1473.8 shall be subject to the following informal notice-and-comment procedures. The Office of General Counsel shall publish a notice in the **Federal Register** announcing that a draft of the proposed guidance document is publicly available, shall post the draft guidance document on its website, shall invite public comment on the draft document for a minimum of 30 days, and shall prepare and post a public response to major concerns raised in the comments, as appropriate, on its guidance portal, either before or when the guidance document is finalized and issued.

(b) The requirements of paragraph (a) of this section will not apply to any significant guidance document or categories of significant guidance documents for which the Office of General Counsel finds, in consultation with OIRA, the proposing department, and the Director, good cause that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest (and incorporates the finding of good cause and a brief statement of reasons therefor in the guidance issued).

(c) Where appropriate, the Office of General Counsel or the proposing department may recommend to the Director that a particular guidance document that is otherwise of importance to the Service's interests shall also be subject to the informal notice-and-comment procedures described in paragraph (a) of this section.

§ 1473.11 Petitions to withdraw or modify guidance.

(a) Any person may petition the Office of General Counsel to withdraw or modify a particular guidance document as specified by § 1473.5(d).

(b) The Office of General Counsel should respond to all requests in a timely manner, but no later than 90 days after receipt of the request.

§ 1473.12 Rescinded guidance.

(a) The Office of General Counsel, in consultation with the Director and the issuing department, shall determine whether to rescind a guidance document.

(b) Once rescinded, the hyperlink to the guidance document will be removed. The name, title, unique identifier, and date of rescission will be listed on the guidance portal for at least one year after rescission.

(c) No party or employee of the Federal Mediation and Conciliation Service may cite, use, or rely on rescinded guidance documents, except to establish historical facts.

§ 1473.13 Exigent circumstances.

In emergency situations or when the Federal Mediation and Conciliation Service is required by statutory deadline or court order to act more quickly than normal review procedures allow, the issuing department shall coordinate with the Office of General Counsel to notify OIRA as soon as possible and, to the extent practicable, shall comply with the requirements of this subpart at the earliest opportunity. Wherever practicable, the Office of General Counsel should schedule its proceedings to permit sufficient time to comply with the procedures set forth in this subpart.

§ 1473.14 Reports to Congress and the Government Accountability Office (GAO).

Unless otherwise determined in writing by the Office of General Counsel, it is the policy of the Service that upon issuing a guidance document determined to be ''significant'' within the meaning of § 1473.8, the Director will submit a report to Congress and GAO in accordance with the procedures described in 5 U.S.C. 801 (the ''Congressional Review Act'').

§ 1473.15 No judicial review or enforceable rights.

This subpart is intended to improve the internal management of the Federal Mediation and Conciliation Service. As such, it is for the use of Federal Mediation and Conciliation Service personnel only and 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 agencies or other entities, its officers or employees, or any other person.

Subpart B—[Reserved]

[FR Doc. 2020–07523 Filed 4–17–20; 8:45 am]

BILLING CODE 6732–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[Docket Number USCG–2016–0989]

RIN 1625–AA01

Anchorage Regulations; Passagassawakeag River, Belfast, ME; Corrections

AGENCY: Coast Guard, DHS.

ACTION: Correcting amendments.

SUMMARY: On July 8, 2019, the Coast Guard published a final rule that established two special anchorage areas in the Passagassawakeag River in the

vicinity of Belfast, ME, effective August 7, 2019. That rule contained errors in the coordinates describing the boundaries of these special anchorage areas, causing parts of them to extend into the navigable channel. This document corrects those errors.

DATES: Effective April 20, 2020.

FOR FURTHER INFORMATION CONTACT: If you have questions about this document, call or email Mr. Craig D. Lapiejko, Coast Guard First District Waterways Management Branch, telephone 617–223–8351, email *Craig.D.Lapiejko@uscg.mil.*

SUPPLEMENTARY INFORMATION: On July 8, 2019, the Coast Guard published a final rule titled ''Anchorage Regulations; Passagassawakeag River, Belfast, ME'' (84 FR 32269). Effective August 7, 2019, it established Special Anchorage Area A and Special Anchorage Area B in the Passagassawakeag River, Belfast Bay, Belfast, Maine.

On August 15, 2019, the Coast Guard was made aware of a discrepancy between the boundaries of the Belfast special anchorage areas and the navigable channel by a cartographer from the National Oceanic and Atmospheric Administration (NOAA). We have reviewed the information provided by NOAA's cartographic production team and agree that there is a discrepancy between the boundaries of the Belfast special anchorage areas and the navigable channel.

In the notice of proposed rulemaking we published to start the process of designating these special anchorage areas, we made it clear that they are intended to reduce the risk of vessel collisions and to promote safe and efficient travel in the navigable channel of the Passagassawakeag River to the mouth of Belfast Bay (82 FR 46004, October 3, 2017). The potential of vessels anchoring in the navigable channel is contrary to waterway safety and coordinates identifying any portion of either special anchorage area in the navigable channel are errors that must be corrected promptly to reduce the risk of vessel collisions in the navigable channel. As we stated in the final rule, we made no changes from the proposed rule (84 FR 32269, 32270, July 8, 2019). This document corrects the coordinates in 33 CFR 110.4(b) that place any of the boundaries of Special Anchorage Area A and Special Anchorage Area B in the navigable channel of the Pessagassawakeag River.

We find good cause under 5 U.S.C. 553(d) to make this correction effective on its date of publication. Delaying its effective date would continue the risk of vessel collisions in the navigable channel based on errors in the coordinates describing the special anchorage areas.

List of Subjects in 33 CFR Part 110

Anchorage Regulations.

Accordingly, 33 CFR part 110 is corrected by making the following correcting amendments:

PART 110—ANCHORAGE REGULATIONS

■ 1. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 2071; 46 U.S.C. 70034; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1

■ 2. In § 110.4, revise paragraphs (d)(1) and (2) to read as follows:

§ 110.4 Penobscot Bay, Maine.

* * * * *

(d) * * *

(1) *Special anchorage area A.* All of the waters enclosed by a line beginning at latitude 44°25′47.2458″ N, longitude 069°00′7.5943″ W; thence to latitude 44°25′48″ N, longitude 068°59′57″ W; thence to latitude 44°25′39″ N, longitude 068°59′17″ W; thence to latitude 44°25′33″ N, longitude 068°59′15″ W; thence to latitude 44°25′30″ N, longitude 068°58′48″ W; thence to latitude 44°25′23.9162″ N, longitude 069°58′54.0838″ W; thence to latitude 44°25′42.7050″ N, longitude 069°59′55.2686″ W thence to the point of beginning.

(2) *Special anchorage area B.* All of the waters enclosed by a line beginning at latitude 44°25′45.3309″ N, longitude 069°00′09.0265″ W; thence to latitude 44°25′41.1720″ N, longitude 068°59′58.2017″ W; thence to latitude 44°25′27.7645″ N, longitude 068°59′23.3130″ W; thence to latitude 44°25′18.2707″ N, longitude 068° 58′58.6083″ W; thence to latitude 44°24′56″ N, longitude 068°59′23″ W; thence to latitude 44°25′ 21.0416″ N, longitude 068°59′37.5019″ W; thence to latitude 44°25′35.5413″ N, longitude 068°59′58.1933″ W; thence to the point of beginning.

* * * * *

Dated: April 3, 2020.

A. J. Tiongson,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 2020–07618 Filed 4–17–20; 8:45 am]

BILLING CODE 9110–04–P

POSTAL SERVICE

39 CFR Part 501

Authorization To Manufacture and Distribute Postage Evidencing Systems

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The Postal Service is amending its Postage Evidencing Systems regulations. These changes set forth the current procedure (which may be updated based upon changes to postal regulations) to become an authorized Postage Evidencing System (PES) provider. The changes also update or create new definitions, update all references of the Office of Payment Technology to the Office of Commercial Payment, and reorganize or reword certain provisions currently in the regulations for clarity.

DATES: Effective May 20, 2020.

FOR FURTHER INFORMATION CONTACT: Lisa H Arcari, Director, Commercial Payment, *lisa.h.arcari@usps.gov,* 202–268–4270.

SUPPLEMENTARY INFORMATION: The Postal Service issued proposed revisions to 39 CFR part 501, set forth in the **Federal Register** on February 6, 2020 (85 FR 6838). The proposal made several changes: (1) It introduced a PES Provider Applicant Guide, (2) it cleaned up some grammatical and formatting issues, and (3) it updated the contact information for the office of Commercial Payment, the successor organization to Payment Technology.

One set of comments was received in response to the **Federal Register** Notice. The comments raised and the Postal Service's responses are summarized below.

Industry comment: The final rule should clarify that modifications to the underlying substantive standards referenced in the Guide will continue to be made via publication in the **Federal Register**, including notice and opportunity for comment by affected stakeholders. The Intelligent Mail® Indicia Performance Criteria (IMIPC) will be controlled and distributed by the Commercial Payment group. The Guide should be updated in accordance with updates to other Postal Regulations, but substantive changes in requirements should not be communicated in the Guide.

USPS response: The Postal Service agrees that the Guide, although it sets forth the methodology for a PES provider applicant to be approved as a PES provider, is not a replacement for regulations governing application. The

Guide will be updated to reflect changes in postal regulations, which changes are made by publication in the **Federal Register**.

Industry comment: The final rule should clarify that the Guide only applies to new applicants; current PES providers do not need to reapply.

USPS response: The Postal Service disagrees with this comment, to an extent. The Domestic Mail Manual (DMM) contains a list of authorized PES Providers. The final rule states that the new Guide only applies to 'Any person or entity seeking authorization.' Since the current authorized PES Providers already have authorization, it is clear they do not need to reapply at this time. However, should their existing authorization expire or be terminated, any new or renewal application would be subject to the Guide.

Industry comment: The final rule should clarify that the final approval authority to become a PES provider is the Vice President of Mail Entry and Payment Technology (MEPT).

USPS response: The Postal Service believes that the final rule already communicates this clearly. No changes were made to the final rule in response to this comment.

Industry comment: The final rule and the Guide should be revised to require that access to the IMIPC is conditioned on a Non-disclosure agreement with the Postal Service.

USPS response: The Postal Service agrees that to the extent that a PES provider applicant seeks to obtain access to the IMIPC, such access should only be granted after the applicant enters into a Non-disclosure agreement with the Postal Service permitting such access and the usage thereof.

Industry comment: The definition of Postal terms for Postage meter and PC Postage products should be updated.

USPS response: The Postal Service agrees; both definitions have been updated in the final rule.

Industry comment: Section 501.14(8) has an inadvertent typo with an extra semicolon between 'postage' and 'printing dies'. The reference to printing dies can be removed entirely given the current digital form of printing technology.

USPS response: The Postal Service agrees; reference to 'printing dies' has been removed in the final rule.

List of Subjects in 39 CFR Part 501

Administrative practice and procedure, Postal Service.

For the reasons stated in the preamble, the Postal Service amends 39 CFR part 501 as follows:

PART 501—AUTHORIZATION TO MANUFACTURE AND DISTRIBUTE POSTAGE EVIDENCING SYSTEMS

■ 1. The authority citation for part 501 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 410, 2601, 2605; Inspector General Act of 1978, as amended (Pub. L. 95–452, as amended); 5 U.S.C. App. 3.

■ 2. Amend § 501.1 by revising paragraphs (a), (b) and (c) and by adding paragraph (h) to read as follows:

§ 501.1 Definitions.

(a) *Postage Evidencing Systems* regulated by part 501 produce evidence of prepayment of postage by any method other than postage stamps and permit imprints. A Postage Evidencing System is a device or system of components that a customer uses to generate and print evidence that postage required for mailing has been paid. Postage Evidencing Systems print indicia, such as information-based indicia or intelligent mail indicia to indicate postage payment. They include but are not limited to postage meters and PC Postage systems.

(b) A *postage meter* is a USPS-approved Postage Evidencing System that uses a postage security device (PSD) to account for postage purchased and generates evidence of such purchased postage in the form of an indicium, where the PSD is co-located with the printing of the indicium. The term *meter* as used in this part refers to a postage meter.

(c) *PC Postage products* are USPS-approved Postage Evidencing Systems that use a computer, tablet, or similar device as a user interface. PC Postage products may use the internet to download postage to the computer, tablet or similar device. PC Postage products use a mechanism to account for postage that is remote from the printing of the indicium.

* * * * *

(h) *Postal Requirements* include the Code of Federal Regulations, title 39 part 501, the Domestic Mail Manual (DMM), the International Mail Manual (IMM), and the Intelligent Mail Indicia Performance Criteria (IMIPC).

■ 3. Revise § 501.2 to read as follows:

§ 501.2 Postage Evidencing System provider authorization.

(a) The Postal Service considers Postage Evidencing Systems and their respective infrastructure to be essential to the exercise of its specific powers to prescribe postage and provide evidence of payment of postage under 39 U.S.C. 404(a)(2) and (4).

(b) Due to the potential for adverse impact upon Postal Service revenue, the following activities may not be engaged in by any person or entity without prior, written approval of the Postal Service. Persons or entities that perform these activities are referred to collectively as Postage Evidencing System (PES) Providers in this section.

(1) Manufacturing and/or distributing any Postage Evidencing System that generates or produces U.S. postage.

(2) Repairing, refurbishing, remanufacturing, modifying, or destroying any component of a Postage Evidencing System that accounts for or authorizes the printing of U.S. postage.

(3) Owning or operating an infrastructure that maintains operating data for the production of U.S. postage, or accounts for U.S. postage purchased for distribution through a Postage Evidencing System.

(4) Owning or operating an infrastructure that maintains operating data that is used to facilitate registration with the Postal Service of customers of a Postage Evidencing System.

(c) Approval to become a Postage Evidencing System Provider:

(1) Any person or entity seeking authorization to become a PES Provider must submit a request to the Postal Service in writing to the Office of Commercial Payment. Once the request is received, the Office of Commercial Payment will provide the applicant the PES Provider Applicant Guide and the Intelligent Mail Indicia Performance Criteria (IMIPC), the IMIPC setting forth PES and indicia specification and requirements. The contact information for Commercial Payment can be found in § 501.2(f).

(2) The PES Provider Applicant Guide sets forth the process for applicants seeking to become a PES Provider. An applicant is subject to the rules in both that Guide and the IMIPC, while they are attempting to gain approval to become a PES Provider. Although the Guide sets forth the methodology for a PES provider applicant to be approved as a PES provider, it is not a replacement for postal regulations; such regulations govern the process. As such, the Guide will be updated to reflect changes in postal regulations.

(3) An applicant applying for approval to become a PES Provider must undergo three (3) primary phases which are laid out in the PES Provider Applicant Guide: Applicant Introduction and Letter of Intent; Applicant Qualification and Registration; and PES Evaluation. Each phase includes prerequisites to enter the phase, deliverables expected during that phase, and a requirement of written

approval by the Office of Commercial Payment to allow the process to continue to the next phase. Please note that, to the extent that a PES provider applicant seeks to obtain access to the IMIPC, such access should only be granted after the applicant enters into a Non-disclosure agreement with the Postal Service permitting such access and the usage thereof.

(4) To the extent that an applicant reaches the PES Evaluation phase, then the applicant is governed by Postal Requirements, the IMIPC, and the PES Provider Applicant Guide even though not yet an authorized PES Provider.

(5) The Postal Service, in its sole discretion, may approve an applicant. In reaching its approval determination, the Postal Service may review factors and make determinations including, but not limited to, satisfactory evidence of the applicant's integrity and financial responsibility, commitment to comply with the Postal Requirements, and a determination that disclosure to the applicant of Postal Service customer, financial, or other data of a commercial nature necessary to perform the function for which approval is sought would be appropriate and consistent with good business practices within the meaning of 39 U.S.C. 410(c)(2).

(6) No applicant is considered a PES Provider until the Postal Service issues a final written decision. This is accomplished by the provision of a final approval of the applicant's status as an authorized PES Provider in writing from the Vice President of Mail Entry & Payment Technology (or successor). The applicant is approved in writing to engage in the function(s) for which authorization was sought and approved.

(d) To the extent that any person or entity is approved to be a PES Provider, such PES Provider must adhere to the Postal Requirements.

(e) As a condition of obtaining authorization under this section, the PES Provider's facilities used for the manufacture, distribution, storage, resetting, repair, refurbishment, remanufacturing, modifying, or destruction of a Postage Evidencing System and all facilities housing infrastructure supporting Postage Evidencing Systems will be subject to unannounced inspection by representatives of the Postal Service. If such facilities are outside the continental United States, the PES Provider will be responsible for all reasonable and necessary travel-related costs incurred by the Postal Service to conduct the inspections. Travel-related costs are determined in accordance with Postal Service Handbook F–15, Travel and Relocation. At its discretion, the Postal Service may continue to fund routine inspections outside the continental United States as it has in the past, provided the costs are not associated with particular security issues related to a PES Provider's Postage Evidencing System or supporting infrastructure, or with the start-up or implementation of a new plant or of a new or substantially changed manufacturing process.

(1) When conducting an inspection outside the continental United States, the Postal Service will make every effort to combine the inspection with other inspections in the same general geographic area in order to enable affected PES Providers to share the costs. The Postal Service team conducting such inspections will be limited to the minimum number necessary to conduct the inspection. All air travel will be contracted for at the rates for official government business, when available, under such rules respecting class of travel as apply to those Postal Service representatives inspecting the facility at the time the travel occurs.

(2) If political or other impediments prevent the Postal Service from conducting security evaluations of Postage Evidencing System facilities in foreign countries, Postal Service approval of the activities conducted in such facilities may be suspended until such time as satisfactory inspections may be conducted.

(f) The Postal Service office responsible for administration of this part is the Office of Commercial Payment or successor organization. All submissions to the Postal Service required or invited by this part are to be made to this office in person or via mail to 475 L'Enfant Plaza SW, Room 3500, Washington, DC 20260–0004.

■ 4. Amend § 501.3 by
■ a. Removing paragraph (c);
■ b. Redesignating paragraphs (d) and (e) as paragraphs (c) and (d), respectively; and
■ c. Revising newly redesignated paragraph (c).

The revision reads as follows:

§ 501.3 Postage Evidencing System provider qualification.

* * * * *

(c) Protect customer information by not causing or permitting the data to be released other than for the operation of a third-party location. The provider bears the ultimate responsibility to ensure customer information will not be compromised at any domestic or off shore locations (including third-party locations), and bears the responsibility to ensure its agents or contractors operating domestic or off shore locations do not compromise this information. The provider shall notify its customer that data relating to its systems is being housed at a third-party location, and shall provide a copy thereof to the Postal Service of such notice to its customers. To the extent that any unauthorized release takes place, the provider shall notify the Postal Service immediately upon discovery of any unauthorized use or disclosure of data or any other breach or improper disclosure of data of this agreement by the provider (as well as its agent operating the third-party location) and will cooperate with the Postal Service in every reasonable way to help the Postal Service regain possession of the data and prevent its further unauthorized use or disclosure. In the event that the Postal Service cannot regain possession of the data or prevent its further unauthorized use or disclosure, the provider shall indemnify the Postal Service from damages resulting from its (or such third-party) actions.

* * * * *

■ 5. Amend § 501.6 by revising paragraphs (c)(1), (2), and (3) and (e) to read as follows:

§ 501.6 Suspension and revocation of authorization.

* * * * *

(c) * * *

(1) Upon determination by the Postal Service that a provider is in violation of provisions of this part, or that its Postage Evidencing System poses an unreasonable risk to postal revenue, Commercial Payment, acting on behalf of the Postal Service, shall issue a written notice of proposed suspension citing the specific conditions or deficiencies for which suspension of authorization to manufacture and/or distribute a specific Postage Evidencing System or class of Postage Evidencing Systems may be imposed. Except in cases of willful violation, the provider shall be given an opportunity to correct deficiencies and achieve compliance with all requirements within a time limit corresponding to the potential risk to postal revenue.

(2) In cases of willful violation, or if the Postal Service determines that the provider has failed to correct cited deficiencies within the specified time limit, Commercial Payment shall issue a written notice of suspension setting forth the facts and reasons for the decision to suspend, and the effective date if a written defense is not presented as provided in paragraph (d) of this section.

(3) The notice shall also advise the provider of its right to file a response under paragraph (d) of this section. If a written response is not presented in a timely manner the suspension may go into effect. The suspension shall remain in effect for ninety (90) calendar days unless revoked or modified by Commercial Payment.

* * * * *

(e) After receipt and consideration of the defense, Commercial Payment shall advise the provider of its decision, and the facts and reasons for it. The decision shall be effective upon receipt unless it provides otherwise. The decision shall also advise the provider that it may be appealed within thirty (30) calendar days of receipt (unless a shorter time frame is deemed necessary). If an appeal is not filed in a timely manner, the decision of Commercial Payment shall become a final decision of the Postal Service. The appeal may be filed with the Chief Information Officer of the Postal Service and must include all supporting evidence and state with specificity the reasons the provider believes that the decision is erroneous. The decision of the Chief Information Officer shall constitute a final decision of the Postal Service.

* * * * *

■ 6. Amend § 501.7 by revising paragraph (a) to read as follows:

§ 501.7 Postage Evidencing System requirements.

(a) A Postage Evidencing System submitted to the Postal Service for approval must meet the requirements of the Intelligent Mail Indicia Performance Criteria (IMIPC) published by Commercial Payment. Copies of the current IMIPC may be requested via mail to the address in § 501.2(f).

* * * * *

■ 7. Amend § 501.8 by revising paragraph (a) to read as follows:

§ 501.8 Postage Evidencing System test and approval.

(a) To receive Postal Service approval, each Postage Evidencing System must be submitted by the provider and evaluated by the Postal Service in accordance with the Intelligent Mail Indicia Performance Criteria (IMIPC) published by Commercial Payment. Copies of the current IMIPC may be requested via mail to the address in § 501.2(f). These procedures apply to all proposed Postage Evidencing Systems regardless of whether the provider is currently authorized by the Postal Service to distribute Postage Evidencing Systems. All testing required by the Postal Service will be an expense of the provider.

* * * * *

■ 8. Amend § 501.10.by revising paragraphs (a) introductory text and (b) to read as follows:

§ 501.10 Postage Evidencing System modifications.

(a) An authorized provider must receive prior written approval from the director, Commercial Payment, of any and all changes made to a previously approved Postage Evidencing System. The notification must include a summary of all changes made and the provider's assessment as to the impact of those changes on the security of the Postage Evidencing System and postage funds. Upon receipt of the notification, Commercial Payment will review the summary of changes and make a decision regarding the need for the following:

* * * * *

(b) Upon receipt and review of additional documentation and/or test results, Commercial Payment will issue a written acknowledgement and/or approval of the change to the provider.

■ 9. Amend § 501.14 by revising paragraphs (c) introductory text, (c)(8), and (d) introductory text to read as follows:

§ 501.14 Postage Evidencing System inventory control processes.

* * * * *

(c) To ensure adequate control over Postage Evidencing Systems, plans for the following subjects must be submitted for prior approval, in writing, to the Office of Commercial Payment.

* * * * *

(8) *Postage meter destruction*—when required, the postage meter must be rendered completely inoperable by the destruction process, and associated components must be destroyed. Manufacturers or distributors of meters must submit the proposed destruction method; a schedule listing the postage meters to be destroyed, by serial number and model; and the proposed time and place of destruction to Commercial Payment for approval prior to any meter destruction. Providers must record and retain the serial numbers of the meters to be destroyed and provide a list of such serial numbers in electronic form in accordance with Postal Service requirements for meter accounting and tracking systems. Providers must give sufficient advance notice of the destruction to allow Commercial Payment to schedule observation by its designated representative who shall verify that the destruction is performed in accordance with a Postal Service-approved method or process. To the extent that the Postal Service elects not to observe a particular destruction, the provider must submit a certification of destruction, including the serial number(s), to the Postal Service within 5 calendar days of destruction. These requirements for meter destruction apply to all postage meters, Postage Evidencing Systems, and postal security devices included as a component of a Postage Evidencing System.

(d) If the provider uses a third party to perform functions that may have an impact upon a Postage Evidencing System (especially its security), including, but not limited to, business relationships, repair, maintenance, and disposal of Postage Evidencing Systems, Commercial Payment must be advised in advance of all aspects of the relationship, as they relate to the custody and control of Postage Evidencing Systems and must specifically authorize in writing the proposed arrangement between the parties.

* * * * *

Joshua J. Hofer,

Attorney, Federal Compliance.

[FR Doc. 2020–07573 Filed 4–17–20; 8:45 am]

BILLING CODE P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2019–0381; FRL–10007–01-Region9]

Air Plan Approval; California; Placer County Air Pollution Control District; Stationary Source Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing a limited approval and limited disapproval of a revision to the Placer County Air Pollution Control District (PCAPCD or ''District'') portion of the California State Implementation Plan (SIP). This revision concerns the District's New Source Review (NSR) permitting program for new and modified sources of air pollution under section 110(a)(2)(C) of the Clean Air Act (CAA or ''Act''). This action updates the PCAPCD's applicable SIP with current administrative requirements for the issuance of permits.

DATES: This rule will be effective on May 20, 2020.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2019–0381. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (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 availability information.

FOR FURTHER INFORMATION CONTACT: Laura Yannayon, EPA Region IX, Air–3–1, 75 Hawthorne St., San Francisco, CA 94105, (415) 972–3534, *yannayon.laura@epa.gov.*

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

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I. Proposed Action

On October 24, 2019 (84 FR 56959), the EPA proposed a limited approval and limited disapproval of the following rule that was submitted for incorporation into the PCAPCD portion of the California SIP.

TABLE 1—SUBMITTED RULE

Rule No.	Rule title	Adopted or amended	Submitted
501	General Permit Requirements	8/12/10	12/7/10

We proposed limited approval of this rule because, with a few noted exceptions, we determined that the rule meets the statutory requirements for SIP revisions as specified in section 110(l) of the CAA, as well as the substantive statutory and regulatory requirements found in CAA sections 110(a)(2)(C) and 40 CFR 51.160–51.164. We proposed limited disapproval of the rule because we identified the following four deficiencies:

1. Rule 501, Section 303.1 does not specifically require the Air Pollution Control Officer (APCO) to determine and deny a permit if a proposed project will (1) cause a violation of the SIP or (2) interfere with attainment or maintenance of a National Ambient Air Quality Standard. It also only requires the APCO to evaluate whether an emission unit will be operated in compliance with all applicable requirements as of the application completeness date, rather than as of the date of permit issuance.
2. The District's minor NSR program does not contain any public notice requirements for new or modified emission units located in the Lake Tahoe Air Basin portion of Placer County.
3. Rule 501 does not contain any provisions that address stack height procedures as required by 40 CFR 51.164.
4. Rule 501, Section 200—*Definitions,* references and relies on the definitions contained in Rule 504, ''Emission Reduction Credits,'' which is not SIP-approved.

II. Public Comment and EPA Response

The EPA's proposed action provided a 30-day public comment period. During this period, we received the following anonymous comment regarding our proposed action on Rule 501:

> The EPA should immediately start sanctions on the district based on this limited approval and limited disapproval. The EPA has already identified several deficiencies in their technical support document that reveal how far away the District is from a plan that meets the law. The EPA should impose sanctions because that is what the law requires and it will help push the District to submit a plan that meets the law and not allow polluters to desecrate our land and air.

The EPA disagrees with the commenter that we are required to apply sanctions to the District because of deficiencies identified in the limited disapproval portion of the proposed action. Section 179(a) of the CAA indicates that sanctions apply to a state's failure to submit, or the EPA's final disapproval of, a SIP submission that is required either under Part D of the act or in response to a SIP call issued under CAA section 110(k)(5). Pertinent here, section 179(a)(2) further states that sanctions apply when the EPA disapproves a state's submission based on its failure to meet one or more required elements applicable to a nonattainment area. 42 U.S.C. 7509(a)(2). Sanctions do not apply to the EPA's limited disapproval of Rule 501 because the rule addresses provisions that are not required elements applicable to nonattainment areas under Part D of title I of the CAA. Rather, Rule 501 addresses the requirements of regulations contained in 40 CFR 51.160–51.164, which implement the applicable statutory requirements for a general NSR permit program contained in CAA section 110(a)(2)(C) in Part A of title I of the Act. Thus, because the EPA's limited disapproval applies only to the state's minor NSR program, sanctions are not triggered. The EPA disagrees with the commenter that sanctions are required to apply to the limited disapproval of Rule 501 for the deficiencies identified in the state's minor NSR program. We further note that even if the sanctions provisions in section 179(a) of the CAA were triggered, sanctions would not apply immediately; rather, the first sanctions would apply 18 months following the EPA's final limited disapproval if the state did not resolve the identified deficiencies, or the EPA did not approve the new SIP submittal. *See* 40 CFR 52.31(d).

In our proposed action, we found that, with the exception of the four identified deficiencies, the rule generally satisfies all applicable statutory and regulatory requirements for a general NSR permit program required by CAA section 110(a)(2)(C) as implemented in 40 CFR 51.160–51.164. Notwithstanding the four identified deficiencies, all of which are found in the current SIP for at least one of the District's three air basins, our limited approval and limited disapproval of Rule 501 will strengthen the SIP by updating outdated provisions, clarifying requirements, and harmonizing the applicable minor source permit program for all three air basins.

III. EPA Action

We received one adverse comment regarding our proposed limited approval and limited disapproval of Rule 501. As described above in Section II, we disagree with this comment. Accordingly, for the reasons set forth in our proposed action and above in Section II, and as authorized in section 110(k)(3) and 301(a) of the Act, we our finalizing our proposed limited

approval of Rule 501 into the PCAPCD portion of the California SIP, including those provisions identified as deficient.

As authorized under section 110(k)(3) and 301(a), the EPA is simultaneously finalizing a limited disapproval of Rule 501. As a result, the EPA must promulgate a federal implementation plan under section 110(c) of the CAA unless we approve subsequent SIP revisions that correct the rule deficiencies within 24 months. Sanctions will not be imposed under CAA section 179(b) because a minor source NSR program is not a required element of a nonattainment plan under Part D of title I of the Act.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the PCAPCD rule listed in Table 1 of this document. The EPA has made, and will continue to make, this document available electronically through *https://www.regulations.gov* and in hard copy at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the 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, including limited approvals, are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 19, 2020. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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

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

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

Dated: April 3, 2020.

John Busterud,

Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart F—California

■ 2. Section 52.220 is amended by:
■ a. Adding paragraphs (b)(2)(v) and (vi), (c)(6)(xxvii), (c)(26)(xvii)(H), (c)(41)(x)(K), (c)(52)(xiii)(H), (c)(80)(i)(H), (I), and (J), and (c)(168)(i)(C)(*4*);
■ b. Adding a heading for paragraph (c)(389)(i)(B); and
■ c. Adding paragraph (c)(389)(i)(B)(*1*).

The additions read as follows:

§ 52.220 Identification of plan—in part.

* * * * *

(b) * * *

(2) * * *

(v) Previously approved on May 31, 1972 in paragraph (b) of this section and now deleted with replacement in paragraph (c)(389)(i)(B)(*1*) of this section: Article 2, Sections 11 and 16.

(vi) Previously approved on May 31, 1972 in paragraph (b) of this section and now deleted with replacement in paragraph (c)(389)(i)(B)(*1*) of this section for implementation in the Mountain Counties and Sacramento Valley Air Basins: Article 2, Section 15.

* * * * *

(c) * * *

(6) * * *

(xxvii) Placer County Air Pollution Control District.

(A) Previously approved on September 22, 1972 in paragraph (c)(6) of this section and now deleted with replacement in paragraph (c)(389)(i)(B)(*1*) of this section: Article 2, Section 10 (paragraph (a)).

(B) Previously approved on September 22, 1972 in paragraph (c)(6) of this section and now deleted with replacement in paragraph (c)(389)(i)(B)(*1*) of this section for implementation in the Lake Tahoe Air Basin: Article 2, Section 10 (paragraph (b)).

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(26) * * *

(xvii) * * *

(H) Previously approved on June 14, 1978 in paragraph (c)(26)(xvii)(A) of this section and now deleted with replacement in paragraph (c)(389)(i)(B)(*1*) of this section: Rule 403.

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(41) * * *

(x) * * *

(K) Previously approved on November 15, 1978 in paragraph (c)(41)(x)(A) of this section and now deleted with replacement in paragraph (c)(389)(i)(B)(*1*) of this section for implementation in the Mountain Counties and Sacramento Valley Air Basins: Rule 507.

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(52) * * *

(xiii) * * *

(H) Previously approved on June 18, 1982 in paragraph (c)(52)(xiii)(D) of this section and now deleted with replacement in paragraph (c)(389)(i)(B)(*1*) of this section for implementation in the Mountain Counties and Sacramento Valley Air Basins: Rules 501(B) and 502.

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(80) * * *

(i) * * *

(H) Previously approved on April 23, 1982 in paragraph (c)(80)(i)(B) of this section and now deleted with replacement in paragraph (c)(389)(i)(B)(*1*) of this section: Rule 507.

(I) Previously approved on June 18, 1982 in paragraphs (c)(80)(i)(C) of this section and now deleted with replacement in paragraph (c)(389)(i)(B)(*1*) of this section: Rules 502, 503 and 505.

(J) Previously approved on June 23, 1982 in paragraph (c)(80)(i)(E) of this section and now deleted with replacement in paragraph (c)(389)(i)(B)(*1*) of this section: Rule 514.

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(168) * * *

(i) * * *

(C) * * *

(*4*) Previously approved on February 3, 1987 in paragraph (c)(168)(i)(C)(*1*) of this section and now deleted with replacement in paragraph (c)(389)(i)(B)(*1*) of this section for implementation in the Mountain Counties and Sacramento Valley Air Basins: Rules 505 and 507.

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(389) * * *

(i) * * *

(B) Placer County Air Pollution Control District.

(*1*) Rule 501, ''General Permit Requirements,'' adopted on August 12, 2010.

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[FR Doc. 2020–07521 Filed 4–17–20; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 24

RIN 0991–AC12

Silvio O. Conte Senior Biomedical Research and Biomedical Product Assessment Service

AGENCY: Public Health Service, Assistant Secretary for Administration, Office of the Secretary, HHS.

ACTION: Final rule.

SUMMARY: The U.S. Department of Health and Human Services (HHS) is issuing this final rule to amend regulations for the Senior Biomedical Research Service, a component of the Public Health Service. These amendments are necessary to ensure consistency with amendments made to the 21st Century Cures Act to improve scientific expertise and outreach within the Service

DATES: The rule is effective on April 20, 2020.

FOR FURTHER INFORMATION CONTACT: Policy and Accountability Division, Office of Human Resources, Assistant Secretary for Administration, Department of Health and Human Services, Hubert H. Humphrey Building, 200 Independence Avenue SW, Suite 801, Washington, DC 20201.

SUPPLEMENTARY INFORMATION: The U.S. Department of Health and Human Services (HHS) is issuing this final rule to amend regulations under 42 CFR part 24 for the Senior Biomedical Research Service, a component of the Public Health Service. These amendments are necessary to ensure consistency with amendments made to section 228 of the Public Health Service Act (codified at 42 U.S.C. Sec. 237) by section 3071 of the 21st Century Cures Act to improve scientific expertise and outreach within the Service. HHS is publishing this final rule without previously publishing a proposed rule because HHS has determined that the rule qualifies for exemption from notice-and-comment rulemaking under section 4 of the Administrative Procedure Act, 5 U.S.C. 553 (Pub. L. 79–404, enacted June 11, 1946) (APA), both because it is a ''matter relating to agency management'' under section 553(a)(2) [1] and a ''rule of agency organization, procedure or practice'' under section 553(b)(3)(A).

The Senior Biomedical Research Service (Service) was originally established in the Public Health Service by Section 304 of Public Law 101–509, adding section 228 to the Public Health Service Act (PHS Act). HHS promulgated regulations at 42 CFR part 24 to implement section 228 of the PHS Act.

The purpose of the Service is to help recruit and retain individuals outstanding in the fields of biomedical research, clinical research evaluation, and biomedical product assessment without regard to the provisions of Title 5 of the U.S. Code concerning appointments. Section 228 of the PHS Act originally limited appointments to the Service to up to 500 members who are actively engaged in peerreviewed original biomedical research and clinical research evaluation. Section 3071 of the 21st Century Cures Act, Public Law 114–255 amended section 228 of the PHS Act, 42 U.S.C. Sec. 237, to revise the requirements of the Service. The purpose of those statutory amendments was to further enhance the Department's capacity to recruit and retain outstanding and qualified scientific and technical experts for the Service. Specific statutory changes affect matters such as: (1) Renaming of the Service to be called the Senior Biomedical Research and Biomedical Product Assessment Service (SBRBPAS); (2) increasing the number of members to up to 2,000; (3) extending eligibility requirements for appointments to include the field of

[1] Although HHS's predecessor agency, the U.S. Department of Health, Education, and Welfare (HEW), waived the APA's exemption to the requirement for notice and comment rulemaking for ''public property, loans, grants, benefits, or contracts'' in section 553(a)(2), see ''Public Participation in Rule Making,'' 36 FR 2532 (Feb. 5, 1971), HEW did not waive the exemption in section 553(a)(2) for ''matter[s] relating to agency management or personnel.''

biomedical product assessment, in addition to clinical research evaluation, and biomedical product assessment and expanding academic qualifications to include a doctoral or master's level degree in engineering, bioinformatics, or related or emerging fields, in addition to a doctoral-level degree in biomedicine or a related field; (4) increasing the maximum pay of members not to exceed the amount of annual compensation (excluding expenses) specified in 3 U.S.C. 102 and removing the requirement for presidential approval of certain pay rates; and (5) terminating the Secretary's discretion to make contributions to a retirement system of an institution of higher education on a member's behalf. This final rule updates the implementing regulations at 42 CFR part 24 to incorporate these statutory amendments along with other minor technical changes to clarify language of the existing regulations. The regulations may be supplemented by HHS personnel instructions.

Collection of Information Requirements

This final rule does not impose information collection requirements, that is, reporting, recordkeeping, or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*).

Regulatory Impact Analysis

HHS has examined the impact of this rule as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (January 18, 2011), the Regulatory Flexibility Act (Pub. L. 96–354, enacted September 19, 1980) (RFA), section 1102(b) of the Social Security Act, section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, enacted March 22, 1995), Executive Order 13132 on Federalism (August 4, 1999), the Congressional Review Act (5 U.S.C. 804(2)), and Executive Order 13771 on Reducing Regulation and Controlling Regulatory Costs. Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis must be prepared for major rules with economically significant effects ($100 million or more in any one year).

This final rule is not ''economically significant'' within the meaning of section 3(f)(1) of Executive Order 12866 because it is unlikely to have an annual effect of $100 million in any single year. In addition, for the reasons noted in this final rule, HHS does not believe that this final rule is a major rule under the Congressional Review Act.

The RFA requires agencies to analyze options for regulatory relief of small businesses. This rule would not have a significant impact on small businesses.

In addition, section 1102(b) of the Social Security Act requires HHS to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This rule would not have a significant impact on small rural hospitals because the amendments contained in this final rule do not pertain to hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule that may result in expenditure in any 1 year by state, local, or tribal governments, in the aggregate, or by the private sector, of $100 million in 1995 dollars, updated annually for inflation. In 2018, that threshold is approximately $150 million. HHS anticipates this rule would not impact state governments or the private sector.

Executive Order 13132 establishes certain requirements that an agency must meet when it issues a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on state and local governments, preempts state law, or otherwise has federalism implications. HHS does not anticipate this rule would impose direct requirement costs on state or local governments, preempt state law, or otherwise have federalism implications.

Executive Order 13771 establishes certain requirements that an agency must meet when it promulgates new regulations. Pursuant to the Executive Order these implementing regulations are designated as ''exempt.'' They are specifically exempt under the terms of the Executive Order because they are administrative in nature, namely because they relate to agency organization, management, or personnel issues. In this case the regulations implement statutory changes made to the authority to hire into the Senior Biomedical Research and Biomedical Product Assessment Service.

List of Subjects in 42 CFR part 24

Administrative practice and procedure, Employment, Public health, Scientists, Research.

■ For the reasons set forth in the preamble, the Public Health Service is revising part 24 of title 42 of the Code of Federal Regulations to read as follows.

PART 24—SENIOR BIOMEDICAL RESEARCH AND BIOMEDICAL PRODUCT ASSESSMENT SERVICE

Sec.
24.1 Establishment, number of members, and purpose.
24.2 Allocation.
24.3 Policy board.
24.4 Eligibility.
24.5 Pay and compensation.
24.6 Performance appraisal system.
24.7 Inapplicability of provisions regarding appointments.
24.8 Removal from the Service.
24.9 Reporting.

Authority: 42 U.S.C. 237; Pub. L. 114–255, div. A, title Ill, sec. 3071, Dec. 19, 2016, 130 Stat. 1133; Section 228 of the Public Health Service Act; 5 U.S.C. 301.

§ 24.1 Establishment, number of members, and purpose.

(a) There is established in the Public Health Service the Silvio O. Conte Senior Biomedical Research and Biomedical Product Assessment Service (SBRBPAS or Service) consisting of members the maximum number of which is prescribed by law. The purpose of the Service is to recruit and retain outstanding and qualified scientific and technical experts in the fields of biomedical research, clinical research evaluation, and biomedical product assessment.

(b) The Secretary may not use the authority in paragraph (a) of this section to reduce the number of employees serving in any other employment system to offset the number of members within the Service.

§ 24.2 Allocation.

(a) The Secretary shall determine the number of SBRBPAS slots to be allocated to each participating operating division, taking into account the need for such expertise within the operating division.

(b) The SBRBPAS Policy Board may advise the Secretary regarding adjustments to the allocation of slots at any time.

(c) SBRBPAS appointments shall be made judiciously in supporting the recruitment and retention of outstanding and qualified scientific and technical experts in the fields of biomedical research, clinical research evaluation, and biomedical product assessment.

(d) The Secretary will ensure that SBRBPAS assignments are used primarily in support of high priority

programs authorized by Congress and which directly support the goals and priorities of the Department in the areas of biomedical research, clinical research evaluation or biomedical product assessment.

§ 24.3 Policy Board.

The Secretary, or designee, may establish an SBRBPAS Policy Board to serve in an advisory capacity, recommending allocation of SBRBPAS slots among the participating operating divisions; assessing the administration of the SBRBPAS and ensuring consistent application of regulations, policies, and procedural guidelines; and recommending to the Secretary, or designee, changes to the Service as warranted. Membership will include representatives from the Office of the Assistant Secretary for Administration and representatives from the operating divisions which use the Service. The Secretary, or designee, shall determine the number of Board members; select the individual members, including the chairperson; and decide the length of service of each Board position.

§ 24.4 Eligibility.

(a) No individual may be appointed to the SBRBPAS unless such individual:

(1) Has earned a doctoral level degree in biomedicine or a related field, or a doctoral or master's level degree in engineering, bioinformatics, or a related or emerging field; and

(2) Meets the qualification standards prescribed by the Office of Personnel Management for appointment to a position at GS–15 of the General Schedule.

(b) Individuals eligible under paragraph (a) of this section shall be experts outstanding in the field of biomedical research, clinical research evaluation, or biomedical product assessment. The criteria in paragraphs (c) through (e) of this section are indicators that the individual is considered an expert outstanding in their respective field.

(c) An individual will be considered an expert outstanding in biomedical research when the individual is actively engaged in original biomedical research, including behavioral research, and whose work in this area is considered by recognized experts or peers to be outstanding. One or more of the following achievements will indicate the individual has been recognized by experts or peers as outstanding:

(1) Conducted original research that has been published in peer-reviewed journals of high stature;

(2) Received major prizes and awards (such as visiting professorships and named lectureships) in recognition of original contributions to research;

(3) Received invitations to speak at or to chair major national or international meetings or symposia;

(4) Been elected to membership in professional societies of high stature; or

(5) Meet other criteria demonstrating sufficient rigor or accomplishment in a field that is relevant and necessary to the accomplishment of the agency's mission.

(d) An individual will be considered an expert outstanding in Clinical Research Evaluation when the individual is actively engaged in clinical research evaluation and is considered by recognized experts or peers to be outstanding. One or more of the following achievements will indicate the individual has been recognized by experts or peers as outstanding:

(1) Significant experience dealing with complex, precedent-setting evaluation issues, including those arising during product development, that involved significant scientific controversy, had far reaching implications for clinical research or resulted in a widespread economic effect in the health-care delivery system;

(2) Taken an active role in the development of significant scientific or regulatory guidelines for clinical research evaluation;

(3) Been the recipient of invitations to speak at or to chair major national or international meetings and symposia; or

(4) Meet other criteria demonstrating sufficient rigor or accomplishment in a field that is relevant and necessary to the accomplishment of the agency's mission.

(e) An individual will be considered an expert outstanding in biomedical product assessment when an individual is actively engaged in the development or assessment of biomedical products and whose work in this area is considered by recognized experts or peers to be outstanding. One or more of the following achievements will indicate the individual has been recognized by experts or peers as outstanding.

(1) Significant experience dealing with complex, precedent-setting evaluation, scientific policies or development issues (*e.g.,* those associated with novel biomedical products, novel approaches to biomedical product-manufacturing, or use of novel evaluation methods);

(2) Demonstrated cutting-edge expertise in a scientific or technical discipline critical to design, development, manufacturing, clinical performance assessment, or other technical aspects of effective oversight of biomedical products;

(3) Played a leadership role in planning and conducting public meetings to seek public input and communicate regulatory scientific policies;

(4) Been the recipient of invitations to speak at or to chair major national or international meetings and symposia; or

(5) Meet other criteria demonstrating sufficient rigor or accomplishment in an activity or field that is relevant and necessary to the accomplishment of the agency's mission.

§ 24.5 Pay and compensation.

The Service is an ungraded system, with a single flexible pay range to include all members.

(a) Pay of SBRBPAS members is determined by the Secretary. A member's pay shall not be less than the minimum rate payable for GS–15 of the General Schedule and shall not exceed the amount of annual compensation (excluding expenses) specified in section 102 of title 3 of the U.S. Code. Although the full pay range will be implemented, pay at the higher end of the range will be used only as needed to recognize individual scientific value and expertise as is necessary to recruit and retain exceptionally well-qualified scientists and technical experts.

(b) The following factors will be used in setting pay for individual members:

(1) Impact of the individual on the field of biomedical research, clinical research evaluation, or biomedical product assessment;

(2) Recognition of the individual by his or her peers in the respective field;

(3) Originality of the individual's ideas or work products;

(4) Specific clinical or highly technical skills of the individuals which are of benefit to the agency and which are in addition to requirements of the basic scientific assignment;

(5) The individual's earnings and monetary benefits; and

(6) Other relevant factors.

(c) Annual adjustments to pay rates may be made effective on the first day of the first pay period on or after January 1 of each calendar year. The rate of such adjustments will be at the discretion of the Secretary, or designee, except that the minimum rate payable in the SBRBPAS will be increased to the amount of the minimum rate of the GS–15 of the General Schedule.

(d) Other pay adjustments may be made by the Secretary or designee on an individual basis.

(e) New appointees to the SBRBPAS, who are not covered by the Civil Service Retirement System, will be covered by

the Federal Employees Retirement System.

§ 24.6 Performance appraisal system.

The members of the Service shall be subject to a performance appraisal system that is designed to encourage excellence in performance and shall provide for periodic and systematic assessment of the performance of members.

§ 24.7 Inapplicability of provisions regarding appointments.

(a) Appointments to the Service shall be made without regard to the provisions of title 5 of the U.S. Code regarding appointments.

(b) Members of the Service shall not be covered by the following provisions of title 5 of the U.S. Code:

(1) Subchapter I of chapter 35 (relating to retention preference in the event of reduction in force);

(2) Chapter 43 (relating to performance appraisal and performance-based actions);

(3) Chapter 51 (relating to classification);

(4) Subchapter III of chapter 53 (relating to General Schedule pay rates); and

(5) Chapter 75 (relating to adverse actions).

§ 24. 8 Removal from the Service.

(a) A member of the Service may be subject to disciplinary action, including removal from the Service, for substandard performance of duty as a member of the service, for misconduct, for reasons of national security or for other reasons as determined by the Secretary.

(b) A member for whom disciplinary action is proposed is entitled to:

(1) Written notice of the proposed action and the basis therefor;

(2) A reasonable opportunity to answer the notice of proposed action both orally and in writing;

(3) The right to be represented by an attorney or other representative in making such answer; and

(4) A written decision on the proposal.

(c) The decision may be made by an official with delegated authority to take such action, but in no case may the official be at a level below the head of the Operating Division where the member is assigned.

(d) A member who is separated from the Service involuntarily and without cause and who, immediately prior to his appointment to the Service, was a career appointee in the civil service or the Senior Executive Service, may be appointed to a position in the competitive civil service at grade GS–15 of the General Schedule. Such an appointment may be made by the Secretary or his/her designee without regard to the provisions of title 5, U.S. Code regarding appointments in the civil service.

(e) A member who is separated from the Service involuntarily and without cause and who, immediately prior to appointment to the Service, was not a career appointee in the civil service or the Senior Executive Service may be appointed to a position in the excepted civil service at grade GS–15 of the General Schedule for a period not to exceed two years.

(f) There shall be no right to further review of the final decision on a disciplinary action. At his/her discretion, the Secretary may review an action taken under this section and may reduce, suspend, or overrule the action taken.

(g) A member of the Service may be removed from the Service for such other reasons as may be prescribed by the Secretary.

§ 24.9 Reporting.

(a) No later than May 1, 2020, and annually thereafter, each participating operating division shall submit to the Secretary a report of its implementation of the SBRBPAS authority in accordance with the Agency's policy requirements.

(b) At his or her discretion, the Secretary may use the information provided in the report under paragraph (a) of this section to inform the work of the Policy Board, including allocation of SBRBPAS slots.

Scott W. Rowell,

Assistant Secretary for Administration.

Approved: April 2, 2020.

Alex M. Azar II,

Secretary, Department of Health and Human Services.

[FR Doc. 2020–07367 Filed 4–17–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2020–0005; Internal Agency Docket No. FEMA–8625]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date. Also, information identifying the current participation status of a community can be obtained from FEMA's Community Status Book (CSB). The CSB is available at *https://www.fema.gov/national-flood-insurance-program-community-status-book.*

DATES: *Effective Dates:* The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact Adrienne L. Sheldon, PE, CFM, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 400 C Street SW, Washington, DC 20472, (202) 212–3966.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase Federal flood insurance that is not otherwise generally available from private insurers. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits the sale of NFIP flood insurance unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. We recognize that some of these communities may adopt and submit the required documentation of

legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue to be eligible for the sale of NFIP flood insurance. A notice withdrawing the suspension of such communities will be published in the **Federal Register**.

In addition, FEMA publishes a Flood Insurance Rate Map (FIRM) that identifies the Special Flood Hazard Areas (SFHAs) in these communities. The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year on FEMA's initial FIRM for the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment procedures under 5 U.S.C. 553(b), are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. FEMA has determined that the community suspension(s) included in this rule is a non-discretionary action and therefore the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) does not apply.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, Section 1315, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain federal assistance no longer available in SFHAs
Region II				
New Jersey:				
Haledon, Borough of, Passaic County	340399	May 13, 1975, Emerg; March 16, 1981, Reg; April 17, 2020, Susp.	April 17, 2020	April 17, 2020.
Little Falls, Township of, Passaic County	340401	July 6, 1973, Emerg; August 17, 1981, Reg; April 17, 2020, Susp.	.....do*	Do.
Pompton Lakes, Borough of, Passaic County	345528	June 5, 1970, Emerg; September 4, 1970, Reg; April 17, 2020, Susp.	.....do	Do.
Totowa, Borough of, Passaic County	340408	May 23, 1975, Emerg; August 5, 1985, Reg; April 17, 2020, Susp.	.....do	Do.
Region VII				
Iowa:				
Emerson, City of, Mills County	190202	July 28, 1975, Emerg; April 3, 1984, Reg; April 17, 2020, Susp.	.....do	Do.
Glenwood, City of, Mills County	190203	December 5, 1974, Emerg; May 17, 1982, Reg; April 17, 2020, Susp.	.....do	Do.
Hastings, City of, Mills County	190204	October 14, 1982, Emerg; October 14, 1982, Reg; April 17, 2020, Susp.	.....do	Do.
Malvern, City of, Mills County	190205	August 4, 1975, Emerg; September 16, 1982, Reg; April 17, 2020, Susp.	.....do	Do.
Mills County, Unincorporated Areas	190891	October 14, 1982, Emerg; October 14, 1982, Reg; April 17, 2020, Susp.	.....do	Do.
Pacific Junction, City of, Mills County	190206	December 23, 1974, Emerg; April 4, 1983, Reg; April 17, 2020, Susp.	.....do	Do.
Silver City, City of, Mills County	190207	January 2, 1976, Emerg; September 4, 1985, Reg; April 17, 2020, Susp.	.....do	Do.
Nebraska:				
Dodge County, Unincorporated Areas	310068	April 18, 1975, Emerg; August 17, 1981, Reg; April 17, 2020, Susp.	.....do	Do.

*-do- =Ditto.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Katherine B. Fox,

Assistant Administrator for Mitigation, Federal Insurance and Mitigation Administration—FEMA Resilience, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2020–07579 Filed 4–15–20; 4:15 pm]

BILLING CODE 9110–12–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[EB Docket No. 20–22; FCC 20–34; FRS 16617]

Implementing the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission adopts final rules, as required by the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act), to establish a registration process for the registration of a single consortium that conducts private-led efforts to trace back the origin of suspected unlawful robocalls.

DATES: Effective May 20, 2020.

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact Daniel Stepanicich of the Telecommunications Consumers Division, Enforcement Bureau, at *Daniel.Stepanicich@fcc.gov* or (202) 418–7451.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, FCC 20–34, EB Docket No. 20–22, adopted on March 27, 2020 and released on March 27, 2020, which is the subject of this rulemaking. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, 445 12th Street SW, Room CY–A257, Washington, DC 20554, or online at *https://docs.fcc.gov/public/attachments/FCC–20–34A1.pdf.* To request this document in accessible formats for people with disabilities (*e.g.,* Braille, large print, electronic files, audio format, etc.) or to request reasonable accommodations (*e.g.,* accessible format documents, sign language interpreters, CART, etc.), send an email to *fcc504@fcc.gov* or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

1. In this Report and Order, the Federal Communications Commission adopts final rules to implement section 13(d) of the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act) to establish a registration process for the registration of a single consortium that conducts private-led efforts to trace back the origin of suspected unlawful robocalls. Unlawful prerecorded or artificial voice message calls—robocalls—plague the American public. Despite the Commission's efforts to combat unlawful robocalls, which includes efforts to trace unlawful spoofed robocalls to their origination—a process known as traceback—these calls persist. Congress recognized the continued problem and enacted the TRACED Act to further aid the Commission's efforts. Congress acknowledged the beneficial collaboration between the Commission and the private sector on traceback issues and, in section 13(d) of the TRACED Act, required the Commission to issue rules for the registration of a single consortium that conducts private-led efforts to trace back the origin of suspected unlawful robocalls.

2. The Commission released a Notice of Proposed Rulemaking (NPRM) on February 6, 2020, at 85 FR 8531, proposing to establish a process to designate a registered consortium as contemplated by section 13(d) of the TRACED Act. ACA International, INCOMPAS, NCTA-The internet & Television Association (NCTA), USTelecom-The Broadband Association (USTelecom), and ZipDX, LLC (ZipDX) filed comments, and Cloud Communications Alliance (CCA), NCTA, and USTelecom filed reply comments in this proceeding.

3. In this Report and Order, we amend our rules to establish a process to register a single consortium under section 13(d) of the TRACED Act. We generally adopt our rules as proposed, with limited modifications to ensure that we satisfy the statutory requirements and to address commenters' concerns.

Registration Process

4. We revise our rules to require the Enforcement Bureau (Bureau) to issue, no later than April 28th of each year, an annual public notice seeking registration of a single consortium that conducts private-led efforts to trace back the origin of suspected unlawful robocalls. This is consistent with the statute and our proposed rule. The notice will set forth a deadline by which an entity that plans to register as the consortium for private-led traceback efforts must submit in the docket a letter of notice of its intent to conduct private-led traceback efforts and its intent to register as a single consortium.

5. Letter of Intent. We require an entity that plans to register as the consortium for private-led traceback efforts to submit a Letter of Intent as directed by the Bureau's public notice. Consistent with the statute, we proposed that the Letter of Intent include the name of the entity and a statement of its intent to conduct private-led traceback efforts and its intent to register with the Commission as the single consortium that conducts private-led efforts to trace back the origin of suspected unlawful robocalls. We adopt this proposal.

6. In its Letter of Intent, the entity must satisfy the statutory requirements by:

(a) Demonstrating that the consortium is a neutral third party competent to manage the private-led effort to trace back the origin of suspected unlawful robocalls;

(b) Including a copy of the consortium's written best practices, with an explanation thereof, regarding management of its traceback efforts and regarding providers of voice services' participation in the consortium's efforts to trace back the origin of suspected unlawful robocalls;

(c) Certifying that, consistent with section 222(d)(2) of the Communications Act, the consortium's efforts will focus on fraudulent, abusive, or unlawful traffic; and

(d) Certifying that the consortium has notified the Commission that it intends to conduct traceback efforts of suspected unlawful robocalls in advance of registration as the single consortium.

7. We direct the Bureau to review the Letters of Intent and to select the single registered consortium no later than 90 days after the deadline for the submission of Letters of Intent. As we proposed, we will not require the incumbent registered consortium to submit a Letter of Intent after its initial selection as the registered consortium. Instead, the certifications contained in the registered consortium's initial Letter of Intent will continue in effect for each subsequent year the incumbent registered consortium serves unless the incumbent consortium notifies the Commission otherwise in writing on or before the date for the filing of such letters set forth in the annual public notice. This approach will allow us to fulfill our statutory mandate while minimizing the burdens of the registration process. In the event of any

delays in our annual selection process, the incumbent consortium is authorized to continue its traceback efforts until the effective date of the selection of any new registered consortium.

8. In order to ensure that the incumbent registered consortium continues to perform its duties in compliance with the statute and to address commenters' concerns about Commission oversight, we also add certain requirements to help the Commission verify that the registered consortium continues to comply with the statute. Specifically, in the Letter of Intent, an entity seeking registration must certify that it will (1) remain in compliance throughout the time period that it is the registered consortium; (2) conduct an annual review to ensure its compliance with the statutory requirements; and (3) promptly notify the Commission of any changes that reasonably bear on its certification, including, for example, material changes to its best practices. We reserve the right to revisit these requirements or impose additional commitments if necessary.

9. 2020 Registration Process. Because this is a new process, we direct the Bureau to provide an opportunity for public comment on any Letter of Intent in response to the first annual notice. We also direct the Bureau to set the filing date for Letters of Intent no sooner than 30 days after the rules are published in the **Federal Register**. We will not impose additional process requirements, but the Bureau shall have appropriate flexibility to determine what, if any, additional processes may be necessary to ensure that it receives sufficient information to select the registered consortium, including providing an opportunity for public comment on any Letters of Intent in future years.

Selection of the Registered Consortium

10. An entity that seeks to become the registered consortium must sufficiently and meaningfully fulfill the statutory requirements. Based on our experience, we expect the traceback process to evolve in response to new unlawful robocalling schemes, new technologies, and the needs of interested parties, such as the Commission, the Department of Justice, state Attorneys General, and other agencies. Accordingly, we wish to encourage, not hinder, a responsive, dynamic traceback process. We must, however, ensure that the registered consortium is accountable for compliance with the statutory requirements. We will set forth a set of principles, rather than prescriptive directives, for the Bureau to use to select the registered consortium and ensure that it complies with section 13(d)(1)(A) through (D) of the TRACED Act. This approach will ensure a reasonable balance between ensuring statutory compliance with the need for a nimble and dynamic traceback process.

11. *First,* the registered consortium must be a neutral third party. As we stated in the NPRM, openness is indicative of the level of neutrality we would expect in order to accept a consortium's registration. We find that a neutral third party, at a minimum, must demonstrate its openness by explaining how it will allow voice service providers to participate in an unbiased, non-discriminatory, and technology-neutral manner. Commenters generally recognize that openness is an indicator of neutrality, and we find that objective criteria of openness will encourage broad voice service provider participation. Broad participation and cooperation are necessary to fulfill the fundamental purpose of traceback—timely and successfully finding the origin of suspected unlawful robocalls that traverse multiple voice service providers' networks.

12. We also agree with USTelecom that, so long as participation criteria are objectively neutral as we describe, the consortium should have flexibility to control participation when appropriate. For example, a voice service provider that carries voluminous suspected unlawful robocalls might attempt to join the consortium to gain insight into ways to evade traceback efforts. Allowing such an entity access to the consortium could undermine or even defeat the consortium's traceback efforts—and defeat Congress's purpose in enacting the statute. Thus, we interpret the statutory requirement that the consortium be neutral to mean that it must allow voice service providers' participation in an unbiased, non-discriminatory, and technology-neutral manner, thereby prohibiting bias in favor or against any industry segment. It does not require that the consortium permit indiscriminate participation by any entity, nor prohibit the consortium from denying or restricting participation where there is a valid reason to do so. We encourage any entity that believes that the designated consortium has unfairly discriminated against any entity regarding participation to alert the Bureau promptly of such concerns.

13. In order to ensure that the registered consortium fulfills the statutory obligation of neutrality, applicants will need to demonstrate in their Letters of Intent that they meet that requirement. Consistent with the openness principle, consortia should provide information to demonstrate that their internal structural, procedural, and administrative mechanisms, as well as other operational criteria do not result in an overall lack of neutrality. The Bureau must fully consider and evaluate each Letter of Intent to ensure that it meets the neutrality requirements, consistent with our objective openness principle, as well as the other statutory requirements. The Bureau will select as the registered consortium the entity that best meets these requirements. As we have stated, however, we are willing to entertain public input regarding the consortium's neutrality, and we will evaluate each such Letter of Intent in light of a consortium's showings of compliance with the neutrality and other requirements of section 13(d).

14. Both NCTA and INCOMPAS propose that the Commission mandate specific neutrality requirements, such as requiring the registered consortium to establish and maintain an executive committee, or something comparable, comprised of different industry sectors with an equal voice in the management of the consortium, or requiring structural separation from any advocacy entity. We acknowledge that, in other instances, we have adopted more detailed neutrality criteria, such as in the context of number administration. The primary purpose of entities like the North American Numbering Plan Administrator, however, is to oversee resources for the communications industry, which may have competing goals. Here, in contrast, there is a shared goal among the vast majority of participants to curtail unlawful robocalling and spoofing. Although NCTA and INCOMPAS's proposals provide examples of what a consortium could include to demonstrate its openness, we decline to mandate these specific requirements. The statute does not require, and we do not find it necessary to impose, a single, specific structure or administrative methodology to ensure neutrality.

15. INCOMPAS also suggests that the Industry Traceback Group is the Commission's predetermined registered consortium, and expresses concern about that group's neutrality. We acknowledge our experience with the Industry Traceback Group, but the Commission has not reached a determination as to which entity may be selected as the registered consortium. Moreover, the statute contemplates an annual evaluation process by the Bureau to ensure that the registered consortium continues to (or in the case of a new applicant, shall) fulfill the statutory obligation for neutrality. Accordingly, we are open to receiving comments now

and in future application cycles to ensure that the registered consortium, throughout its tenure, performs its traceback activities in a fair and neutral manner. We note that specific examples have the most probative value.

16. Second, the registered consortium must be a competent manager of the private-led efforts to trace back the origin of suspected unlawful robocalls. We find that a competent manager of the private-led traceback efforts must be able to effectively and efficiently manage a traceback process of suspected unlawful robocalls for the benefit of those who use the traceback information and ultimately, consumers. An effective and efficient traceback process includes timely and successfully finding the origin of suspected unlawful robocalls that traverse multiple voice service providers' networks. Competent management requires that the consortium work cooperatively and collaboratively across the industry and provide prompt and comprehensive information to the Bureau and others who have a legitimate need for, and a legal right to, the information. The registered consortium also must be aware of and conform to applicable legal requirements, such as requirements regarding confidentiality and legal processes.

17. Congress specifically afforded the Commission discretion to determine a consortium's competence to manage private-led traceback efforts, ''in the judgement of the Commission.'' Evidence of expertise and success in managing and improving traceback processes address a consortium's competence, and therefore, is rooted in statutory authority. As we state in the NPRM, it is reasonable to weigh that expertise and success when selecting between or among consortia to ensure that private-led efforts result in effective traceback. We note, however, that while a consortium's expertise in managing traceback processes is particularly relevant, such experience is not a prerequisite.

18. We disagree with INCOMPAS's assertion that we are foreclosed from weighting a consortium's expertise and success in managing and improving traceback processes. Giving weight to expertise and success in managing and improving traceback processes does not foreclose consortia that develop innovative traceback processes, and we encourage all qualified interested entities to apply.

19. Third, the registered consortium must maintain, and conform its actions to, written best practices regarding the management of private-led efforts to trace back the origin of suspected unlawful robocalls and regarding providers of voice services' participation in such efforts. We find that written best practices, at a minimum, would address the consortium's compliance with statutory requirements, consistent with the principles we set forth in this Order. We also find that the registered consortium's written best practices must establish processes and criteria for determining how providers of voice services will participate in traceback efforts, and those processes and criteria must be fair and reasonable.

20. By their nature, best practices evolve over time to reflect empirical knowledge and practical experience. This is particularly true for technology-dependent activities such as combatting caller ID spoofing. Therefore, we decline to mandate specific best practices that would necessarily be based on our experience today and might not accurately encompass concerns or reflect best practices that may develop in the future. It is incumbent upon a consortium, however, to explain how its written policy demonstrates best practices. For example, written best practices that address the openness of the consortium and the competency of the consortium would likely include a number of commenters' specific suggestions, *e.g.,* provisions governing (a) voice service providers' participation in private-led traceback efforts, (b) how specific calls are selected for traceback, (c) traceback information sharing, (d) consortium governance, and (e) budget transparency, including voice service provider participation fees or costs. Our evaluation of consortium proposals will also include a review of such explanations.

21. Fourth, consistent with section 222(d)(2), the registered consortium's private-led traceback of suspected unlawful robocalls must focus on fraudulent, abusive, or unlawful traffic. Commenters offered no specific suggestions for interpreting this particular provision. Based on our experience regarding unlawful robocalls, a traceback process that, at a minimum, considers scope, scale, and harm, should lead to a focus on fraudulent, abusive, and unlawful traffic. For example, large scale unlawful robocalling and/or unlawful spoofing campaigns may be abusive because they add unauthorized burdens to telecommunications networks and potentially threaten the integrity of the nation's telecommunications infrastructure. A consortium could demonstrate compliance by adopting criteria, consistent with the considerations enumerated here, that govern how calls are selected for traceback.

22. CCA suggests that the definition of suspected unlawful robocalls that trigger a traceback request should be limited to calls that seek to perpetrate fraud or result in massive unlawful activity, such as mass calling to numbers on the do not call registry. We find that a written best practice that uses CCA's proposed interpretation of the definition of suspected unlawful robocalls that trigger a traceback request to be too narrow. Suspected unlawful robocalls are defined, for example, to include calls that the Commission or a voice service provider reasonably believes to be unlawful spoofed calls; not all unlawful spoofed calls seek to perpetrate fraud or result in massive unlawful activity. Indeed, fraud is only one of three elements in the statute that determines whether the act of spoofing violates the law.

23. In the event that more than one consortium submits a Letter of Intent, meets the statutory requirements of section 13(d)(1)(A) through (D), and fulfills the rules that we adopt today, the Bureau must select only one. The Bureau should fully evaluate each applicant to determine which most fully satisfies the statutory requirements and the principles that the Commission has identified.

24. ACA International suggests that, if more than one consortium seeks to be the registered consortium, the Bureau should heavily weight applicants whose members include a representative sampling of lawful legitimate callers and applicants whose procedures and policies seek to minimize the likelihood of false positives that would negatively impact lawful, legitimate calls. Other commenters assert that ACA International's comments arise from concerns about voice service providers' call blocking and are better addressed through other FCC proceedings that specifically address the call blocking issue. We agree that protecting legitimate calls is better addressed through call blocking proceedings rather than the selection of the consortium selected to conduct tracebacks. Our openness principle for demonstrating neutrality focuses on allowing voice service providers to participate but does not exclude a consortium from addressing ACA International's concern.

25. Paperwork Reduction Act of 1995 Analysis. The Report and Order does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, the Report and Order does not contain any new or modified information collection burden

for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

26. Congressional Review Act. The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs that this rule is non-major under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of the Report and Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

27. Final Regulatory Flexibility Certification. The Regulatory Flexibility Act, as amended (RFA), requires a regulatory flexibility analysis be prepared for notice-and-comment rule making proceedings, unless the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

28. An Initial Regulatory Flexibility Certification (IRFC) was incorporated in the Notice of Proposed Rulemaking (Notice) in this proceeding. The proceeding was established to fulfill the Commission's statutory obligation under the TRACED Act, no later than March 29, 2020, to issue rules to establish a registration process for the registration of a single consortium that conducts private-led efforts to trace back the origin of suspected unlawful robocalls. The scope of the proposals in the Notice were limited to the creation of a registration with the Commission of a single consortium that conducts private-led efforts to trace back the origin of suspected unlawful robocalls as required by section 13 of the TRACED Act. As such the Commission did not anticipate that there would be a significant economic impact on a substantial number of small entities because very few entities would likely apply to serve as the consortium and only a single entity will be chosen. Moreover, the Commission believed that for any entity that has the resources to perform the private-led traceback efforts, both the registration burdens and the economic impact of the proposals in the Notice would be negligible.

29. In the Report and Order, the Commission generally adopts the rules as proposed in the February 6, 2020 rulemaking, subject to a few modifications to ensure that we satisfy statutory requirements and address concerns raised in comments filed in the proceeding. Based on our experience, the Commission continues to reasonably expect that no more than a few entities, and perhaps only one, will apply to serve as the consortium, and the rules we adopt herein impose minimal registration burdens such that they will have no more than a de minimis economic impact on any entity that has the resources to perform the private-led traceback efforts. Accordingly, we make this Final Regulatory Flexibility Certification certifying that the rules adopted in the Report and Order will not have a significant economic impact on a substantial number of small entities.

30. Accordingly, *it is ordered,* pursuant to sections 4(i) and 4(j), of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 154(j), and section 13(d) of the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act, Public Law 116–105, 133 Stat. 3274, this Report and Order *is adopted.*

31. *It is further ordered* that parts 0 and 64 of the Commission's rules *are amended* as set forth in Appendix A.

32. *It is further ordered,* that, pursuant to sections 1.4(b)(1) and 1.103(a) of the Commission's rules, 47 CFR 1.4(b)(1), 1.103(a), this Report and Order and the amendments to parts 0 and 64 of the Commission's rules, as set forth in Appendix A, *shall be effective* 30 days after publication in the **Federal Register**.

33. *It is further ordered,* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Report and Order, including the Final Regulatory Flexibility Certification, in a report to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

34. *It is further ordered,* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall* send a copy of this Report and Order, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration and be published in the **Federal Register**.

List of Subjects in Parts 0 and 64

Telecommunications.

Federal Communications Commission.

Cecilia Sigmund,

Federal Register Liaison Officer.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 0 and 64 as follows:

PART 0—COMMISSION ORGANIZATION

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

Authority: 47 U.S.C. 155, 225, unless otherwise noted.

■ 2. Amend § 0.111 by redesignating paragraph (i) as paragraph (j) and adding a new paragraph (i) to read as follows::

§ 0.111 —Functions of the Bureau.

* * * * *

(i) Conduct the annual registration and select a single consortium to conduct private-led efforts to trace back the origin of suspected unlawful robocalls, under section 13(d) of the TRACED Act, 133 Stat. at 3287, and § 64.1203 of this chapter, consistent with FCC No. 20–34.

* * * * *

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

■ 3. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 154, 201, 202, 217, 218, 220, 225, 226, 227, 228, 251(e), 254(k), 262, 403(b), (2)(B), (c), 616, 620, 1401–1473, unless otherwise noted. sec. 503, Pub. L. 115–141, 132 Stat. 348.

■ 4. Add § 64.1203 to read as follows:

§ 64.1203 —Consortium registration process.

(a) The Enforcement Bureau shall issue a public notice no later than April 28 annually seeking registration of a single consortium that conducts private-led efforts to trace back the origin of suspected unlawful robocalls.

(b) Except as provided in paragraph (c) of this section, an entity that seeks to register as the single consortium that conducts private-led efforts to trace back the origin of suspected unlawful robocalls must submit a letter and associated documentation in response to the public notice issued pursuant to paragraph (a) of this section. In the letter, the entity must:

(1) Demonstrate that the consortium is a neutral third party competent to manage the private-led effort to trace back the origin of suspected unlawful robocalls;

(2) Include a copy of the consortium's written best practices, with an explanation thereof, regarding the management of its traceback efforts and regarding voice service providers' participation in the consortium's efforts to trace back the origin of suspected unlawful robocalls;

(3) Certify that, consistent with section 222(d)(2) of the Communications Act of 1934, as amended, the consortium's efforts will focus on fraudulent, abusive, or unlawful traffic;

(4) Certify that the consortium has notified the Commission that it intends to conduct traceback efforts of suspected unlawful robocalls in advance of registration as the single consortium; and

(5) Certify that, if selected to be the registered consortium, it will:

(i) Remain in compliance with the requirements of paragraphs (b)(1) through (4) of this section;

(ii) Conduct an annual review to ensure compliance with the requirements set forth in paragraphs (b)(1) through (4) of this section; and

(iii) Promptly notify the Commission of any changes that reasonably bear on its certification.

(c) The entity selected to be the registered consortium will not be required to file the letter mandated in paragraph (b) of this section in subsequent years after the consortium's initial registration. The registered consortium's initial certifications, required by paragraph (b) of this section, will continue for the duration of each subsequent year unless the registered consortium notifies the Commission otherwise in writing on or before the date for filing letters set forth in the annual public notice issued pursuant to paragraph (a) of this section.

(d) The current registered consortium shall continue its traceback efforts until the effective date of the selection of any new registered consortium.

[FR Doc. 2020–07212 Filed 4–17–20; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 180117042–8884–02; RTID 0648–XA071]

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

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

ACTION: Temporary rule.

SUMMARY: NMFS closes the Angling category Gulf of Mexico area incidental trophy fishery for large medium and giant (''trophy'' (*i.e.,* measuring 73 inches curved fork length or greater)) Atlantic bluefin tuna (BFT). This action is being taken to prevent further overharvest of the Angling category Gulf of Mexico incidental trophy BFT subquota.

DATES: Effective 11:30 p.m., local time, April 16, 2020, through December 31, 2020.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin, 978–281–9260, Larry Redd, 301–427–8503, or Nicholas Velseboer 978–675–2168.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) among the various domestic fishing categories, per the allocations established in the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan (2006 Consolidated HMS FMP) (71 FR 58058, October 2, 2006) and amendments.

Under § 635.28(a)(1), NMFS publishes a closure notice in the **Federal Register** when a BFT quota is reached or is projected to be reached. Retaining, possessing, or landing BFT under a quota category is prohibited on or after the effective date and time of a closure notice for that category until the opening of the relevant subsequent quota period or until such date as specified.

Angling Category Large Medium and Giant Gulf of Mexico ''Trophy'' Fishery Closure

The 2020 BFT fishing year, which is managed on a calendar-year basis and subject to an annual calendar-year quota, began January 1, 2020. The Angling category season opened January 1, 2020, and continues through December 31, 2020. The currently codified Angling category quota is 232.4 metric tons (mt), of which 5.3 mt is allocated for the harvest of large medium and giant (trophy) BFT by vessels fishing under the Angling category quota, with 1.8 mt allocated for each of the following areas: North of 39°18′ N lat. (off Great Egg Inlet, NJ); south of 39°18′ N lat. and outside the Gulf of Mexico (the ''southern area''); and in the Gulf of Mexico. Trophy BFT measure 73 inches (185 cm) curved fork length or greater.

Based on reported landings from the NMFS Automated Catch Reporting, NMFS has determined that the codified Angling category Gulf of Mexico trophy BFT subquota of 1.8 mt has been reached and exceeded and that a closure of the Gulf of Mexico incidental trophy BFT fishery is warranted. Therefore, retaining, possessing, or landing large medium or giant BFT in the Gulf of Mexico by persons aboard vessels permitted in the HMS Angling category and the HMS Charter/Headboat category (when fishing recreationally) must cease at 11:30 p.m. local time on April 16, 2020. This closure will remain effective through December 31, 2020. This action is intended to prevent further overharvest of the Angling category Gulf of Mexico incidental trophy BFT subquota, and is taken consistent with the regulations at § 635.28(a)(1). NMFS previously closed the 2020 trophy BFT fishery in the southern area on February 20, 2020 (85 FR 10341, February 24, 2020).

If needed, subsequent Angling category adjustments will be published in the **Federal Register**. Information regarding the Angling category fishery for Atlantic tunas, including daily retention limits for BFT measuring 27 inches (68.5 cm) to less than 73 inches and any further Angling category adjustments, is available at *hmspermits.noaa.gov* or by calling (978) 281–9260. HMS Angling and HMS Charter/Headboat category permit holders may catch and release (or tag and release) BFT of all sizes, subject to the requirements of the catch-and-release and tag-and-release programs at § 635.26. Anglers are also reminded that all BFT that are released must be handled in a manner that will maximize

survival, and without removing the fish from the water, consistent with requirements at § 635.21(a)(1). For additional information on safe handling, see the ''Careful Catch and Release'' brochure available at *https://www.fisheries.noaa.gov/resource/outreach-and-education/careful-catch-and-release-brochure.*

HMS Charter/Headboat and Angling category vessel owners are required to report the catch of all BFT retained or discarded dead, within 24 hours of the landing(s) or end of each trip, by accessing *hmspermits.noaa.gov,* using the HMS Catch Reporting app, or calling (888) 872–8862 (Monday through Friday from 8 a.m. until 4:30 p.m.).

Classification

The Assistant Administrator for NMFS (AA) finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons:

The regulations implementing the 2006 Consolidated HMS FMP and amendments provide for inseason retention limit adjustments and fishery closures to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery. The closure of the Angling category Gulf of Mexico incidental trophy fishery is necessary to prevent any further overharvest of the Gulf of Mexico incidental trophy subquota. NMFS provides notification of closures by publishing the notice in the **Federal Register**, emailing individuals who have subscribed to the Atlantic HMS News electronic newsletter, and updating the information posted on the Atlantic Tunas Information Line and on *hmspermits.noaa.gov.*

These fisheries are currently underway, and delaying this action would be contrary to the public interest as it could result in excessive trophy BFT landings that may result in future potential quota reductions for the Angling category, depending on the magnitude of a potential Angling category overharvest. NMFS must close the Gulf of Mexico incidental trophy BFT fishery before additional landings of these sizes of BFT occur. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. For all of the above reasons, there is good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

This action is being taken under 50 CFR 635.28(a)(1), and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: April 15, 2020.

Hélène M.N. Scalliet,

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

[FR Doc. 2020–08324 Filed 4–15–20; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 85, No. 76
Monday, April 20, 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–2020–0333; Product Identifier 2020–NM–015–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all The Boeing Company Model 737–8 and 737–9 airplanes. This proposed AD was prompted by a report that, after the removal of a spring door opening system (SDOS) actuator with a certain part number, the actuator came apart, injuring one of the maintenance personnel. A design that obscures the SDOS actuator safety marker when the fan cowls are opened contributed to this incident. This proposed AD would require replacing each affected SDOS actuator with a new SDOS actuator and verifying that new safety markers are installed in the proper locations. 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 4, 2020.

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

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

For service information identified in this NPRM, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0333.

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–2020–0333; 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: Christopher Baker, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3552; email: *christopher.r.baker@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–2020–0333; Product Identifier 2020–NM–015–AD'' at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. The FAA will consider all comments received by the closing date and may amend this NPRM because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *https://www.regulations.gov,* including any personal information you provide. The FAA will also post a report summarizing each substantive verbal contact received about this proposed AD.

Confidential Business Information

Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Christopher Baker, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198, phone and fax: 206–231–3552, email: *christopher.r.baker@faa.gov.* 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 SDOS actuator is a telescopic, spring-loaded actuator that assists the mechanic in raising the engine fan cowl. Even when the actuator is extended (uncompressed), it retains energy in the spring (preload).

The FAA received a report indicating that, after the removal of an SDOS actuator with part number BOE–2001–901F, a part separation occurred at the joint between the actuator's inner tube and its related ''back end'' bracket, and the actuator came apart with spring-propelled force, injuring one of the maintenance personnel. The SDOS actuator uses two roll pins and epoxy at

this joint. The FAA has determined that this design, together with spring preload, caused these parts to break. In addition, the current design of the actuator obscures the safety marker when the fan cowls are opened. The design of the SDOS actuator, along with obscured safety markers, if not addressed, could, during maintenance, result in injury to maintenance personnel or damage to the airplane.

The manufacturer of the SDOS actuator, General Aerospace, changed the design to have a stronger inner tube to ''back end'' bracket joint that uses blind rivets rather than pins, together with an improved shape of the ''catching'' bracket. With this design change, the SDOS actuator became part number BOE–2001–901H. General Aerospace has since modified part number BOE–2001–901H to include more detailed safety markers in new locations that display the warnings more clearly to maintenance personnel. As part of this modification, the SDOS actuator part number was changed from BOE–2001–901H to BOE–2001–901J.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing Special Attention Requirements Bulletin 737–71–1911 RB, dated November 26, 2019. This service information describes procedures for replacing each affected SDOS actuator with a new SDOS actuator and verifying that safety markers are installed. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would require accomplishment of the actions identified in Boeing Special Attention Requirements Bulletin 737–71–1911 RB, dated November 26, 2019, described previously, except as discussed under ''Differences Between this Proposed AD and the Service Information,'' and except for any differences identified as exceptions in the regulatory text of this proposed AD.

For information on the procedures and compliance times, see this service information at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0333.

Explanation of Requirements Bulletin

The FAA worked in conjunction with industry, under the Airworthiness Directive Implementation Aviation Rulemaking Committee (AD ARC), to enhance the AD system. One enhancement is a process for annotating which steps in the service information are ''required for compliance'' (RC) with an AD. Boeing has implemented this RC concept into Boeing service bulletins.

In an effort to further improve the quality of ADs and AD-related Boeing service information, a joint process improvement initiative was worked between the FAA and Boeing. The initiative resulted in the development of a new process in which the service information more clearly identifies the actions needed to address the unsafe condition in the ''Accomplishment Instructions.'' The new process results in a Boeing Requirements Bulletin, which contains only the actions needed to address the unsafe condition (*i.e.,* only the RC actions).

Differences Between This Proposed AD and the Service Information

The effectivity of Boeing Special Attention Requirements Bulletin 737–71–1911 RB, dated November 26, 2019, is limited to certain Boeing Model 737–8 and 737–9 airplanes. However, the applicability of this proposed AD includes all Boeing Model 737–8 and 737–9 airplanes. Because the affected parts are rotable parts, the FAA has determined that these parts could later be installed on airplanes that were initially delivered with acceptable parts, thereby subjecting those airplanes to the unsafe condition.

Costs of Compliance

The FAA estimates that This proposed AD affects 160 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replace SDOS actuator	5 work-hours × $85 per hour = $13,600	$ *	$13,600 *	$2,176,000 *

* The FAA has received no definitive data that would enable the agency to provide parts cost estimates for the actions specified in this proposed AD.

The FAA has included all known costs in its cost estimate. According to the manufacturer, however, some or all of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected persons.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2020–0333; Product Identifier 2020–NM–015–AD.

(a) Comments Due Date

The FAA must receive comments by June 4, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model 737–8 and 737–9 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 71, Powerplant.

(e) Unsafe Condition

This AD was prompted by a report that, after the removal of a spring door opening system (SDOS) actuator with a certain part number, a part separation occurred at a certain location, which caused an injury to one of the maintenance personnel. A design that obscures the SDOS actuator safety marker when the fan cowls are opened contributed to this incident. The FAA is issuing this AD to address possible separation of the SDOS actuator at the joint between the inner tube and the ''back end'' bracket, and visual obstruction of the SDOS actuator safety marker, which, during maintenance, can cause injury to maintenance personnel or damage to the airplane.

(f) Compliance

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

(g) Required Actions

For airplanes identified in Boeing Special Attention Requirements Bulletin 737–71–1911 RB, dated November 26, 2019, except as specified by paragraph (h) of this AD: At the applicable times specified in the ''Compliance'' paragraph of Boeing Special Attention Requirements Bulletin 737–71–1911 RB, dated November 26, 2019, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Special Attention Requirements Bulletin 737–71–1911 RB, dated November 26, 2019.

Note 1 to paragraph (g): Guidance for accomplishing the actions required by this AD can be found in Boeing Special Attention Service Bulletin 737–71–1911, dated November 26, 2019, which is referred to in Boeing Special Attention Requirements Bulletin 737–71–1911 RB, dated November 26, 2019.

(h) Exception to Service Information Specifications

Where Boeing Special Attention Requirements Bulletin 737–71–1911 RB, dated November 26, 2019, uses the phrase ''the original issue date of Requirements Bulletin 737–71–1911 RB,'' this AD requires using ''the effective date of this AD.''

(i) Parts Installation Prohibition

As of the effective date of this AD, no person may install an SDOS actuator, having part numbers BOE–2001–901F or BOE–2001–901H, on any airplane.

(j) Alternative Methods of Compliance (AMOCs)

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

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(k) Related Information

(1) For more information about this AD, contact Christopher Baker, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3552; email: *christopher.r.baker@faa.gov.*

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued on April 10, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–08406 Filed 4–16–20; 2:00 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–0192; Airspace Docket No. 20–AEA–3]

RIN 2120–AA66

Proposed Amendment of Class E Airspace; Glens Falls, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E surface airspace, and Class E airspace extending upward from 700 feet above the surface at Floyd Bennett Memorial Airport, (previously Warren County Airport), Glens Falls, NY due to the decommissioning of the Glens Falls VORTAC, and cancellation of associated approaches. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations in the area. This action also would update the airport's name.

DATES: Comments must be received on or before June 4, 2020.

ADDRESSES: Send comments on this proposal to: The U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; Telephone: (800) 647–5527, or (202) 366–9826. You must identify the Docket No. FAA–2020–0192; Airspace Docket No. 20–AEA–3, at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

FAA Order 7400.11D, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the

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

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class E airspace at Floyd Bennett Memorial Airport, Glens Falls, NY to support IFR operations in the area.

Comments Invited

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

Communications should identify both docket numbers (Docket No. FAA–2020–0192 and Airspace Docket No. 20–AEA–3) and be submitted in triplicate to DOT Docket Operations (see **ADDRESSES** section for the address and phone number.) You may also submit comments through the internet at *https://www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2020–0192; Airspace Docket No. 20–AEA–3.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this document may be changed in light of the comments received. All comments submitted will be available for examination in the public docket both before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *https://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays at the office of the Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Avenue, College Park, GA 30337.

Availability and Summary of Documents for Incorporation by Reference

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

The Proposal

The FAA proposes an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 to amend Class E surface airspace and Class E airspace extending upward from 700 feet above the surface at Floyd Bennett Memorial Airport, Glens Falls, NY. In addition, the FAA proposes to update the airport's name.

Class E airspace designations are published in Paragraphs 6002, and 6005, respectively of FAA Order 7400.11D, dated August 8, 2019, and effective September 15, 2019, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

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

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6002 Class E Surface Airspace

* * * * *

AEA NY E2 Glens Falls, NY [Amended]

Floyd Bennett Memorial Airport, NY
(Lat. 43°20′28″ N, long. 73°36′37″ W)

That airspace extending upward from the surface within a 4-mile radius of the Floyd Bennett Memorial Airport extending clockwise from a 357° bearing to a 275° bearing from the airport and within a 9.6-mile radius of the Floyd Bennett Memorial Airport extending clockwise from a 275° bearing to a 307° bearing from the airport and within a 6.6-mile radius of the Floyd Bennett Memorial Airport extending clockwise from a 307° bearing to a 357° bearing fr124om the airport, and within 2 miles each side of a 121° bearing extending from the airport to 10-miles southeast of the airport.

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

* * * * *

AEA NY E5 Glens Falls, NY [Amended]

Floyd Bennett Memorial Airport, NY
(Lat. 43°20′28″ N, long. 73°36′37″ W)

That airspace extending upward from 700 feet above the surface within a 12.3-mile radius of Floyd Bennett Memorial Airport extending clockwise from a 050° bearing to a 220° bearing from the airport and within a 16.1-mile radius of the airport extending clockwise from a 220° bearing to a 050° bearing from the airport.

Issued in College Park, Georgia, on April 2, 2020,

Ryan Almasy,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2020–08175 Filed 4–17–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 130

[Docket No. FDA–1995–N–0062]

Food Standards; General Principles and Food Standards Modernization; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA or we) is extending the comment period for the proposed rule that appeared in the **Federal Register** of May 20, 2005. The proposed rule, entitled ''Food Standards; General Principles and Food Standards Modernization,'' would establish a set of general principles for food standards for FDA to use when considering whether to establish, revise, or eliminate a food standard. The proposed rule was issued jointly with the U.S. Department of Agriculture (USDA) and, while FDA will continue to engage with USDA regarding the proposed rule, we are extending the comment period to allow interested persons additional time to submit comments.

DATES: We are extending the comment period on the proposed rule that published in the **Federal Register** of May 20, 2005 (70 FR 29214). Submit either electronic or written comments by July 20, 2020.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before July 20, 2020. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of July 20, 2020. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–1995–N–0062 for ''General Principles and Food Standards Modernization; Reopening of the Comment Period.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' We will review this copy, including the claimed confidential information, in our consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://*

www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.

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

FOR FURTHER INFORMATION CONTACT: Rumana Yasmeen, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–6060.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 20, 2005 (70 FR 29214), FDA and USDA jointly issued a proposed rule entitled ''Food Standards; General Principles and Food Standards Modernization,'' as a first step in instituting a process to modernize FDA definitions and standards of identity (and standards of quality and fill of container) consistent with section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), and USDA's definitions and standards of identity or composition under the Federal Meat Inspection Act and the Poultry Products Inspection Act (21 U.S.C. 607(c) and 457(b)) (and standards of fill of container). The proposed rule, if finalized, would establish general principles that FDA and USDA would consider when determining whether to establish, revise, or eliminate a food standard.

Interested persons were originally given until August 18, 2005, to comment on the proposed rule. In the **Federal Register** of February 21, 2020 (85 FR 10107), we announced that we were reopening the comment period for an additional 60 days so that we could receive new data, information, or further comments only on FDA-specific aspects of the proposed rule, including 13 general principles which we would consider when establishing, revising, or eliminating a food standard. The reopened comment period was scheduled to end on April 21, 2020.

We have received requests for an extension of the comment period for the proposed rule, which conveyed concern that the current 60-day comment period does not allow sufficient time to develop a meaningful or thoughtful response to the proposed rule.

FDA has considered the requests and is extending the comment period for the proposed rule for 90 days, until July 20, 2020. We believe that a 90-day extension allows adequate time for interested persons to submit comments without significantly delaying rulemaking on these important issues.

Dated: April 14, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–08182 Filed 4–17–20; 8:45 am]

BILLING CODE 4164–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2020–0132; FRL–10007–96–Region1]

Air Plan Approval and Air Quality Designation; Connecticut; Determination of Clean Data for the 2008 8-Hour Ozone Standard for the Greater Connecticut Area; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; correction.

SUMMARY: This document corrects information displayed in a Table within the proposed rule published in the **Federal Register** on March 27, 2020. The Environmental Protection Agency (EPA) published a proposed rule determining that the Greater Connecticut Serious 8-hour ozone nonattainment area had attained the 2008 8-hour National Ambient Air Quality Standard (NAAQS) for ozone.

DATES: April 20, 2020.

FOR FURTHER INFORMATION CONTACT: Elizabeth Townsend, Air Quality Branch, U.S. Environmental Protection Agency, EPA Region 1, 5 Post Office Square, Suite 100 (Mail code: 05–2), Boston, MA 02109–3912, telephone number: (617) 918–1614, email *townsend.elizabeth@epa.gov.*

SUPPLEMENTARY INFORMATION: The EPA issued a proposed rule in the **Federal Register** on March 27, 2020 (85 FR 17301). There was an error in ''Table 1'' contained within section ''II. Analysis of Air Quality Data'' of the March 27, 2020 proposed rule. The table erroneously listed three data points in the ''2016'' column for Abington, Cornwall, and East Hartford. Table 1 should have listed the fourth-high 8-hour ozone average concentration in 2016 for Abington as 0.067, Cornwall as 0.074, and East Hartford as 0.072. The corrected data reflects EPA's concurrence on Connecticut's exceptional event demonstrations from the 2016 Fort McMurray wildfire that caused elevated ozone levels throughout Connecticut. The fourth-high 8-hour ozone average concentrations exceeded the 2008 8-hour NAAQS at the Cornwall monitoring station, and elevated ozone concentrations at the Abington and East Hartford stations. This corrective action does not affect the calculated design values in Table 2, which determine if an area is meeting the NAAQS. This correction notice does not otherwise change the remaining portions of the March 27, 2020 notice of proposed rulemaking.

Correction

In FR Doc. 2020–06273 appearing on pages 17301–17303 in the **Federal Register** of Friday, March 27, 2020, the following correction is made:

On page 17302, in Table 1, under the heading entitled ''2016'' remove the text ''0.074'' associated with Abington and replace the text with ''0.067'', remove the text ''0.078'' associated with Cornwall and replace the text with ''0.074'', and remove the text ''0.075'' associated with East Hartford and replace the text with ''0.072''. The complete corrected table is below:

TABLE 1—FOURTH-HIGH 8-HOUR OZONE AVERAGE CONCENTRATIONS (PARTS PER MILLION, PPM) IN THE GREATER CONNECTICUT AREA

Location	AQS site ID	2016	2017	2018	2019
Abington	90159991	0.067	0.075	0.072	0.066
Cornwall	90050005	0.074	0.067	0.071	0.062
East Hartford	90031003	0.072	0.070	0.067	0.072
Groton	90110008	0.075	0.078	0.074	0.075
Stafford	90131001	0.072	0.070	0.071	0.073

List of Subjects in 40 CFR Part 52

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

Dated: April 6, 2020.

Dennis Deziel,

Regional Administrator, EPA Region 1.

[FR Doc. 2020–07599 Filed 4–17–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R05–OAR–2020–0125; FRL–10007–91–Region 5]

Air Plan Approval; Indiana; Lake and Porter Counties Redesignation to Attainment of the 2008 Ozone Standard and Section 182(f) NO_X RACT Waiver

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 approve a request from the Indiana Department of Environmental Management (IDEM or Indiana) to redesignate the Indiana portion of the Chicago area to attainment for the 2008 ozone NAAQS because the request meets the statutory requirements for redesignation under the Clean Air Act (CAA). The Indiana portion of the Chicago 2008 ozone area consists of Lake and Porter Counties in Northwest Indiana. Indiana submitted this request on February 27, 2020. EPA is also proposing to approve, as a revision to the Indiana State Implementation Plan (SIP), the State's plan for maintaining the 2008 ozone NAAQS through 2030 in the Chicago area. EPA is also proposing to approve a waiver, for the Indiana portion of the Chicago area (Lake and Porter Counties), from the oxides of nitrogen (NO_X) requirements of section 182(f) of the CAA. Finally, EPA finds adequate and is proposing to approve Indiana's 2025 and 2030 volatile organic compound (VOC) and oxides of nitrogen (NO_X) Motor Vehicle Emission Budgets (MVEBs) for the Indiana portion of the Chicago area (Lake and Porter Counties).

DATES: Comments must be received on or before May 20, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2020–0125 at *http://www.regulations.gov* or via email to *aburano.douglas@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: Katie Mullen, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–3490, *Mullen.Kathleen@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 Indiana's redesignation request?
V. Has the state adopted approvable motor vehicle emission budgets?
VI. Section 182(f) NO_X Exemption
VII. Proposed Actions
VIII. 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-Naperville, IL–IN–WI area (Chicago Area) is attaining the 2008 ozone NAAQS, based on quality-assured and certified monitoring data for 2017–2019 and that the Indiana portion of the Chicago area (Lake and Porter Counties) has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA is proposing to change the legal designation of the Indiana portion of the Chicago area from nonattainment to attainment for the 2008 ozone NAAQS. EPA is also proposing to approve, as a revision to the Indiana SIP, the state's maintenance plan (such approval being one of the CAA criteria for redesignation to attainment status) for the area. The maintenance plan is designed to keep the Chicago area 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 Indiana portion of the Chicago area (Lake and Porter Counties).

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 of the ozone monitoring sites in the area. *See* 40 CFR 50.15 and appendix P 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 3 years of quality assured ozone monitoring data. The Chicago area was originally designated as a marginal nonattainment area for the 2008 ozone NAAQS on May 31, 2012 (77 FR 34221), effective July 20, 2012. EPA reclassified the Chicago area from marginal to moderate nonattainment on April 11, 2016 (81 FR 26697), effective June 3, 2016. The Chicago area was again reclassified to serious on August 7, 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 Indiana's redesignation request?

A. Has the Chicago area attained the 2008 ozone NAAQS?

For redesignation of a nonattainment area to attainment, the CAA requires EPA to determine that the entire Chicago-Naperville, IL–IN–WI 2008 ozone area has attained the applicable NAAQS (CAA section 107(d)(3)(E)(i)). An area is attaining the 2008 ozone NAAQS if it meets the 2008 ozone NAAQS, as determined in accordance with 40 CFR 50.15 and appendix U of part 50, based on 3 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-Naperville, IL–IN–WI 2008 ozone 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 HIGH DAILY MAXIMUM 8-HOUR OZONE CONCENTRATIONS AND 3-YEAR AVERAGE OF THE FOURTH HIGH 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	0.063	0.073
Illinois					
17–031–0001	Cook	0.078	0.079	0.070	0.075
17–031–0032	Cook	0.074	0.076	0.071	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

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

TABLE 1—ANNUAL FOURTH HIGH DAILY MAXIMUM 8-HOUR OZONE CONCENTRATIONS AND 3-YEAR AVERAGE OF THE FOURTH HIGH DAILY MAXIMUM 8-HOUR OZONE CONCENTRATIONS FOR THE CHICAGO-NAPERVILLE, IL–IN–WI 2008 OZONE AREA—Continued

[ppm]

Site	County	Year			Average
		2017	2018	2019	2017–2019
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	0.070	0.070
17–089–0005	Kane	0.069	0.072	0.071	0.070
17–097–1007	Lake	0.074	0.074	0.066	0.071
17–111–0001	McHenry	0.070	0.074	0.070	0.071
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 this 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 Indiana 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, Indiana has committed to continue monitoring ozone in this area to verify maintenance of the 2008 ozone NAAQS.

B. Has Indiana met all applicable requirements of section 110 and part D of the CAA for the Indiana portion of the Chicago area, and does Indiana have a fully approved SIP for the area 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). In addition, with the exception of the section 182(f) NO_X exemption, 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 Indiana 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, EPA finds that all applicable requirements of the Indiana SIP for the area have been fully approved under section 110(k) of the CAA. In making these determinations, EPA ascertained which CAA requirements are applicable to the Indiana portion of the Chicago area, if applicable, whether the required Indiana 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 currently applicable requirements of the CAA.

The September 4, 1992 Calcagni memorandum 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).

1. Indiana Has Met All Applicable Requirements of Section 110 and Part D of the CAA Applicable to the Indiana Portion of the Chicago Area 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

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

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, 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 with 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-Lorain, 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 Indiana'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 section 182(a), (b), and (c) (marginal, moderate, and serious nonattainment area requirements). A thorough discussion of the requirements contained in sections 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 3 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 reasonably available control measures (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 reasonably available control technology (RACT) on existing sources, for a nonattainment area and adopt and implement such measures as are reasonably available in the area as components of the area's attainment demonstration. EPA approved Indiana's VOC RACT plan on February 13, 2019 (84 FR 3711). 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 reasonable further progress (RFP) requirement under section 172(c)(2) is the progress that must be made toward attainment. EPA approved Indiana's RFP plan and RFP contingency measures on February 13, 2019 (84 FR 3711).

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 Indiana's nonattainment NSR program on February 13, 2019 (84 FR 3711). Nonetheless, 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.'' Indiana has demonstrated that the Indiana portion of the Chicago area 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). Indiana's PSD program will become effective in the Indiana portion of the Chicago area upon redesignation to attainment. EPA approved Indiana's PSD program on May 20, 2004 (69 FR 29071).

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 Indiana SIP meets the

[3] EPA has previously approved provisions of the Indiana SIP addressing section 110 elements under the 2008 ozone NAAQS; 80 FR 23713. 84 FR 46889.

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 Indiana's contingency measures for purposes of RFP on February 13, 2019 (84 FR 3711). 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 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, Indiana has an approved conformity SIP for the Indiana portion of the Chicago area. *See* 84 FR 3711 (February 13, 2019).

[4] CAA section 176(c)(4)(E) requires states to submit revisions to their SIPs to reflect certain Federal criteria and procedures for determining transportation conformity. Transportation conformity SIPs are different from SIPs requiring the development of Motor Vehicle Emission Budgets (MVEBs), such as control strategy SIPs and maintenance plans.

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 Indiana's base year emissions inventory for the Indiana portion of the Chicago area on April 7, 2017 (82 FR 16934) and February 13, 2019 (84 FR 3711).

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 Indiana portion of the Chicago area 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 Indiana complied with this requirement for the Indiana portion of the Chicago area under the prior 1-hour ozone NAAQS. See 57 FR 8082 (March 6, 1992).

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 Indiana's redesignation request for this standard, the Indiana portion of the Chicago area 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 Indiana complied with this requirement for the Indiana portion of the Chicago area under the prior 1-hour ozone NAAQS.

Section 182(a)(3)(B) requires the submission of an emission statement SIP. EPA approved Indiana's emission statement SIP for the Indiana portion of the Chicago area for the 2008 ozone NAAQS on April 7, 2017 (82 FR 16934) and on February 13, 2019 (84 FR 3711).

Section 182(b)(1) requires the submission of an attainment demonstration and RFP plan. Indiana submitted an attainment demonstration and RFP plan for the Indiana portion of the Chicago 2008 ozone NAAQS moderate nonattainment area on February 13, 2019 (84 FR 3711).

EPA approved Indiana's RFP plan and RFP contingency measures for the Indiana portion of the Chicago area for the 2008 ozone NAAQS on February 13, 2019 (84 FR 3711). 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 Indiana.

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. If no major non-CTG sources of VOC emissions or no sources in a CTG category exist in an applicable nonattainment area, a state may submit a negative declaration for that category. Indiana has adopted and submitted VOC RACT rules and negative source declarations to cover all applicable CTGs, and major non-CTG sources. EPA approved Indiana's Negative Declaration for the Oil and Gas CTG for the Indiana portion of the Chicago area for the 2008 ozone NAAQS on December 13, 2019 (84 FR 68050). In a final rulemaking published on February 13, 2019 (84 FR 3711), we concluded that Indiana has complied with all section 182(b)(2) RACT requirements for 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.

The requirements for an I/M program for a moderate ozone nonattainment area are found in Section 182(b)(4). EPA approved Indiana's I/M program certification for the Indiana portion of the Chicago area for the 2008 ozone NAAQS on February 13, 2019 (84 FR 3711).

Regarding the new source permitting and offset requirements of sections 182(a)(2)(C), 182(a)(4), and 182(b)(5), Indiana currently has a fully-approved part D NSR program in place. EPA approved Indiana's NSR SIP on February 13, 2019 (84 FR 3711). EPA approved Indiana's PSD program on May 20, 2004 (69 FR 29071). The state's PSD program will become effective in the Indiana portion of the Chicago area if EPA approves the state's redesignation request.

Section 182(f) establishes NO_X requirements for ozone nonattainment areas. However, it provides that these requirements do not apply to an area if the Administrator determines that NO_X reductions would not contribute to attainment. As discussed in section VI. below, we are proposing such a determination for the Indiana portion of the Chicago area as requested by Indiana. If the NO_X waiver is approved as a final rule, Indiana need not have fully approved NO_X control measures under section 182(f) for the Chicago-Naperville, IL–IN–WI area to be redesignated to attainment.

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 as the due date for serious area SIP revisions. No requirements under section 182(c) became due prior to Indiana's submission of the complete redesignation request for the Indiana portion of the Chicago area, and, therefore, none are applicable to the area for purposes of redesignation.

Thus, as discussed above, if EPA approves the section 182(f) NO_X exemption, the Indiana portion of the Chicago area will satisfy all applicable requirements for purposes of redesignation under section 110 and part D of title I of the CAA.

2. The Indiana Portion of the Chicago area (Lake and Porter Counties) has a Fully Approved SIP for Purposes of Redesignation Under Section 110(k) of the CAA

At various times, Indiana has adopted and submitted, and EPA has approved, provisions addressing the various SIP elements applicable for the ozone NAAQS. As discussed above, if EPA finalizes the section 182(f) NO_X exemption, EPA will have fully approved the Indiana SIP for the Chicago-Naperville, IL–IN–WI nonattainment area 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), plus any additional measures it may approve 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 Indiana has demonstrated that that the observed ozone air quality improvement in the Indiana portion of 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 a number of regulatory control measures that the Indiana portion of the Chicago area and other portions of the area have implemented in recent years. In addition, Indiana 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 Indiana 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 Indiana, 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. Through Federal Implementation Plans (FIPs), CSAPR required electric generating units (EGUs) in eastern states, including Indiana, to meet annual and ozone season NO_X budgets and annual SO_2 budgets implemented through new trading programs. 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 Indiana, 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.

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 approximately 76 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 Indiana portion of the Chicago area, 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 reduces both tailpipe and evaporative emissions and to further reduce the sulfur content in fuels. The rule will be 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 lowers 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 Indiana portion of the Chicago area, 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 ppm 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 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 Indiana portion of the Chicago area, 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 are phased in for 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 Indiana portion of the Chicago area, 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 are 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 Indiana portion of the Chicago area, 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, and 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 Indiana portion of the Chicago area, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period.

2. Emission Reductions

Indiana is using a 2011 emissions inventory as the nonattainment year. This is appropriate because it was one of the years used to designate the area as nonattainment. Indiana 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.

Area and non-road mobile emissions were collected from data available on EPA's Air Emissions Modeling website.[5] For the 2017 attainment year, area and non-road source emissions inventory estimates were based on the data interpolation between 2016 base year

[5] *https://www.epa.gov/air-emissions-modeling/2016v1-platform.*

and the 2023 and 2028 projection years of EPA's 2016 version 1 Emissions Modeling Platform.

IDEM compiled 2011 and 2017 actual point source and EGU-point source emissions from state inventory databases.

On-road mobile source emissions were developed in conjunction with the Northwestern Indiana Regional Planning Commission (NIRPC), the Metropolitan Planning Organization for the area that includes Lake, Porter, and LaPorte Counties. NIRPC maintains a travel demand forecast model that is used to identify where travel capacity will be needed and to determine the infrastructure requirements necessary to meet that need. The travel demand forecast model predicts the total daily vehicle miles traveled.

Indiana 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, which include detailed transportation data (*e.g.,* vehicle-miles of travel by vehicle class, road class and hour of day, and average speed distributions), were provided by NIRPC.

On-road mobile source emissions were then calculated from emissions factors produced by EPA's Motor Vehicle Emission Simulator model, MOVES2b, and data extracted from the region's travel-demand forecast model.

The annual emissions provided by this inventory are then used to calculate average summer day emissions using EPA guidance on how the model estimates daily emissions. The monthly profile percentages for June, July, and August were added together and then divided by the number of days in the season (92). This is applied at the process level using the profiles that are specified for each source classification code (SCC) that is assigned to the process.

Emissions for Illinois and Wisconsin 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.

Using the inventories described above, Indiana's submittal documents changes in VOC and NO_X emissions from 2011 to 2017 for the Indiana portion of the Chicago area. 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	Emission reductions
Illinois			
EGU Point	67.41	29.23	38.18
Point	52.57	47.59	4.98
Area	27.14	33.60	−6.46
Non-Road	188.34	142.64	45.70
On-road	296.38	177.66	118.72
Total	631.84	430.72	201.12
Indiana			
EGU Point	30.15	3.73	26.42
Point	66.46	55.42	11.04
Area	9.69	8.06	1.63
Non-road	12.69	6.73	5.96
On-road	24.70	12.85	11.85
Total	143.69	86.79	56.90
Wisconsin			
EGU Point	8.71	8.55	0.16
Point	0.11	0.13	−0.02
Area	1.09	1.02	0.07
Non-Road	2.08	1.67	0.41
On-road	5.35	2.81	2.54
Total	17.34	14.18	3.16
Chicago-Naperville, IL–IN–WI 2008 ozone area			
Illinois	631.84	430.72	201.12
Indiana	143.69	86.79	56.90
Wisconsin	17.34	14.18	3.16
Total	792.87	531.69	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	Emission reductions
Illinois			
EGU Point	0.62	0.78	−0.16
Point	47.63	44.53	3.10
Area	210.04	226.69	−16.65
Non-Road	169.58	80.56	89.02
On-road	91.04	81.49	9.55
Total	518.91	434.05	84.86
Indiana			
EGU Point	0.63	0.20	0.43
Point	17.07	10.16	6.91
Area	18.07	19.56	−1.49
Non-Road	14.19	4.06	10.13
On-road	9.58	6.07	3.51
Total	59.54	40.05	19.49
Wisconsin			
EGU Point	0.38	0.32	0.06
Point	0.18	0.07	0.11
Area	3.76	3.49	0.27
Non-Road	1.13	0.74	0.39
On-road	2.53	1.42	1.11
Total	7.98	6.04	1.94
Chicago-Naperville, IL–IN–WI 2008 ozone area			
Illinois	518.91	434.05	84.86
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 Indiana portion of the Chicago area declined by 56.90 tons/day and 19.49 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

To further support IDEM's demonstration that the improvement in air quality between the year violations occurred and the year attainment was achieved is due to permanent and enforceable emission reductions and not unusually favorable meteorology, an analysis was performed by the Lake Michigan Air Directors Consortium (LADCO). A classification and regression tree (CART) analysis was conducted with 2005 through 2018 data from nine Chicago-area ozone sites. The goal of the analysis was to determine the meteorological and air quality conditions associated with ozone episodes, and construct trends for the days identified as sharing similar meteorological conditions.

Regression trees were developed for the nine monitors to classify each summer day by its ozone concentration and associated meteorological conditions. By grouping days with similar meteorology, the influence of meteorological variability on the underlying trend in ozone concentrations is partially removed and the remaining trend is presumed to be due to trends in precursor emissions or other non-meteorological influences. The CART analysis showed that, reducing the impact of meteorology, the resulting trends in ozone concentrations declined over the period examined, supported the conclusion that the improvement in air quality was not due to unusually favorable meteorology.

D. Does Indiana have a fully approvable ozone maintenance plan for the Chicago area?

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 Indiana portion of the Chicago area to attainment for the 2008 ozone NAAQS, IDEM 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 Indiana's ozone maintenance plan includes the necessary components and approve the maintenance plan as a revision of the Indiana SIP.

1. Attainment Inventory

EPA is proposing to determine that the Indiana portion of the Chicago area has attained the 2008 ozone NAAQS based on monitoring data for the period of 2017–2019. IDEM 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 Indiana portion of the Chicago area that are sufficient to attain the 2008 ozone NAAQS. The derivation of the attainment year emissions was 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 Indiana portion of the Chicago area (Lake and Porter Counties)?

Indiana has demonstrated maintenance of the 2008 ozone NAAQS through 2030 by assuring that current and future emissions of VOC and NO_X for the Indiana portion of the Chicago area 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).

Indiana 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.

Area and non-road mobile emissions were collected from data available on EPA's Air Emissions Modeling website. Using Emissions Modeling platform 2016v1, IDEM collected data for the 2023 and 2028 projected inventories.

Indiana's 2025 area, point, EGU-point, and non-road source emissions were estimated primarily by interpolating between EPA's 2023 and 2028 modeling inventories. 2030 emissions for point, area, and non-road source sectors were derived by extrapolating using the TREND function in Excel. If the trend function resulted in a negative value, the emissions were assumed not to change. EGU-point emissions for 2030 were estimated from the Eastern Regional Technical Advisory Committee (ERTAC) model. Summer day inventories were derived for these sectors using the methodology described in section IV.V.2. above.

On-road mobile source emissions were developed through the combined effort of IDEM and the NIRPC and were calculated from emission factors produced by EPA's MOVES2014b model and data extracted from the region's travel-demand model. The on-road 2025 and 2030 emission estimates are based on the actual travel demand model network runs generating estimated emissions to exist for those years under the Northwest Indiana 2050 Transportation Plan.

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	Difference 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
Total	86.79	78.77	76.16	10.63
Wisconsin				
EGU Point	8.55	0.00	0.00	8.55
Non-EGU	0.13	0.16	0.16	−0.03
Area	1.02	1.00	0.99	0.03

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	Difference 2017–2030
On-Road	2.81	1.47	1.14	1.67
Non-road	1.67	1.24	1.15	0.52
Total	14.18	3.87	3.44	10.74
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	14.18	3.87	3.44	10.74
Total	531.69	413.58	395.44	136.25

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	Difference 2017–2030
Illinois				
EGU Point	0.78	2.12	2.64	−1.86
Non-EGU	44.53	43.67	43.57	0.96
Area	226.69	221.71	221.40	5.29
On-Road	81.49	52.85	42.64	38.85
Non-road	80.56	79.07	82.27	−1.71
Total	434.05	399.42	392.52	41.53
Indiana				
EGU Point	0.20	0.07	0.06	0.14
Non-EGU	10.16	11.7	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	0.64	0.62	0.12
Total	6.04	5.22	5.00	1.04
Chicago-Naperville, IL–IN–WI 2008 ozone area				
Illinois	434.05	399.42	392.52	41.53
Indiana	40.05	40.02	38.64	1.41
Wisconsin	6.04	5.22	5.00	1.04
Total	480.14	444.66	436.16	43.98

In summary, Indiana's maintenance demonstration for the Indiana portion of the Chicago area 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. Tables 4 and 5 show NO_X and VOC emissions in the Chicago area are projected to decrease by 136.25 tons/day and 43.98 tons/day, respectively, between 2017 and 2030. Emissions in the Indiana portion of the Chicago area are projected to decrease by 10.63 tons/day and 1.41 tons/day, respectively, between 2017 and 2030.

Although EPA's redesignation guidance does not require modeling for

ozone nonattainment areas, IDEM is providing its most recent photochemical modeling, which was performed for the Interstate Transport ''Good Neighbor'' Provision for the 2015 8-hour ozone NAAQS of 0.070 ppm. While this modeling was conducted under a more stringent 8-hour ozone NAAQS, it shows the monitors in the nonattainment area are projected to have 2023 ozone design values below both the 2008 and 2015 ozone NAAQS. Paired with current monitoring data, this analysis demonstrates the area has attained and will continue to maintain compliance with the 2008 8-hour ozone NAAQS well into the future with an increased margin of safety over time.

3. Continued Air Quality Monitoring

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

4. Verification of Continued Attainment

Indiana has confirmed that it has the legal authority to enforce and implement the requirements of the maintenance plan for the Indiana portion of the Chicago area. 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. IDEM will continue to operate the current ozone monitors located in the Indiana portion of the Chicago area. 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, Indiana will continue to develop and submit to EPA updated emission inventories for all source categories at least once every 3 years, consistent with the requirements of 40 CFR part 51, subpart A, and in 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 (AERR) on December 17, 2008 (73 FR 76539). The most recent triennial inventory for Indiana was compiled for 2014, and 2017 is in progress. Point source facilities covered by Indiana's emissions statements rule, 326 IAC 2–6–1, will continue to submit VOC and NO_X emissions on an annual basis.

5. What is the contingency plan for the Indiana portion of the Chicago area (Lake and Porter Counties)?

Section 175A of the CAA requires that the state must 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, Indiana has adopted a contingency plan for the Indiana portion of the Chicago area to address possible future ozone air quality problems. The contingency plan adopted by Indiana has two levels of response, a warning level response and an action level response.

In Indiana's plan, a warning level response will be triggered when an annual (1-year) fourth high monitored value of 0.079 ppm occurs in a single ozone season or when a two-year average fourth high monitored value of 0.076 ppm or higher occurs within the maintenance area. A warning level response will consist of Indiana conducting a study to determine whether the ozone value indicates a trend toward higher ozone values or whether emissions appear to be increasing. 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. Implementation of necessary controls in response to a warning level response trigger will take place within 12 months from the conclusion of the most recent ozone season.

In Indiana's plan, an action level response is triggered when a three-year average fourth high value of 0.076 ppm or greater is monitored within the maintenance area. When an action level response is triggered, Indiana, 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. IDEM 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.

Indiana included the following list of potential contingency measures in its maintenance plan:

1. Enhancements to the vehicle emissions testing program (increased weight limit, addition of diesel vehicles, etc.)
2. Asphalt paving (lower VOC formulation)
3. Diesel exhaust retrofits
4. Traffic flow improvements
5. Idle reduction programs
6. Portable fuel container regulation (statewide)
7. Park and ride facilities
8. Rideshare/carpool program
9. VOC cap/trade program for major stationary sources
10. NO_X Reasonably Available Control Technology

However, Indiana is not limited to the contingency measures listed above. To qualify as a contingency measure, emissions reductions from that measure must not be factored into the emissions projections used in the maintenance plan. Indiana 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 Indiana'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, Indiana has committed to submit to EPA an updated ozone maintenance plan eight years after redesignation of the Indiana portion of the Chicago area to cover an additional ten years beyond the

initial 10-year maintenance period. Thus, EPA finds that the maintenance plan SIP revision submitted by IDEM for the Indiana portion of the Chicago area meets the requirements of section 175A of the CAA and EPA proposes to approve it as a revision to the Indiana 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 2015 ozone NAAQS in EPA's December 6, 2018 implementation rule (83 FR 62998). These control strategy SIPs (including RFP plans and attainment plans) and maintenance plans must include MVEBs for criteria pollutants, including ozone, and their precursor pollutants (VOC and NO_X for ozone) 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.

B. What is the status of EPA's adequacy determination for the proposed VOC and NO_X MVEBs for the Indiana portion of the Chicago area (Lake and Porter Counties)?

When reviewing submitted control strategy SIPs or maintenance plans containing MVEBs, EPA must affirmatively find that the MVEBs contained therein are adequate for use in determining transportation conformity. Once EPA affirmatively finds that the submitted MVEBs are adequate for transportation purposes, the MVEBs must be used by state and Federal agencies in determining whether proposed transportation projects conform to the SIP as required by section 176(c) of the CAA.

EPA's substantive criteria for determining adequacy of a MVEB are set out in 40 CFR 93.118(e)(4). The process for determining adequacy consists of three basic steps: Public notification of a SIP submission; provision for a public comment period; and EPA's adequacy determination. This process for determining the adequacy of submitted MVEBs for transportation conformity purposes was initially outlined in EPA's May 14, 1999 guidance, ''Conformity Guidance on Implementation of March 2, 1999, Conformity Court Decision.'' EPA adopted regulations to codify the adequacy process in the Transportation Conformity Rule Amendments for the ''New 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas; Transportation Conformity Rule Amendments—Response to Court Decision and Additional Rule Change,'' on July 1, 2004 (69 FR 40004). Additional information on the adequacy process for transportation conformity purposes is available in the proposed rule titled, ''Transportation Conformity Rule Amendments: Response to Court Decision and Additional Rule Changes,'' 68 FR 38974, 38984 (June 30, 2003).

As discussed earlier, Indiana's maintenance plan includes NO_X and VOC MVEBs for the Indiana portion of the Chicago area for 2030 and 2025, the last year of the maintenance period and an interim year, respectively. EPA has reviewed Indiana's VOC and NO_X MVEBs for the Indiana portion of the Chicago area and, in this action, is proposing to find them adequate for approval into the Indiana SIP. Indiana's February 27, 2020 maintenance plan SIP submission, including the VOC and NO_X MVEBs for the Chicago area, is open for public comment via this proposed rulemaking. The submitted maintenance plan, which includes the MVEBs, was endorsed by the Governor's designee and was subject to a state public hearing. 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 6—MVEBS FOR THE INDIANA PORTION OF THE CHICAGO AREA 2008 OZONE MAINTENANCE PLAN

[Tons/year]

	Attainment year 2017 on-road emissions	2025 Estimated on-road emissions	2025 Mobile safety margin allocation (percent)	2025 MVEBs	2030 Estimated on-road emissions	2030 Mobile safety margin allocation (percent)	2030 MVEBs
VOC	6.07	4.91	15	4.94	3.77	15	4.34
NO_X	12.85	8.53	15	9.81	6.62	15	7.61

As shown in Table 6, the 2025 and 2030 MVEBs exceed the estimated 2025 and 2030 on-road sector emissions. To accommodate future variations in travel demand models and VMT forecast, Indiana allocated a portion of the safety margin (described further below) to the mobile sector. Indiana has demonstrated that with mobile source emissions at or

below 4.94 tons per summer day (TPSD) and 4.34 TPSD of VOC and 9.81 TPSD and 7.61 TPSD of NO_X in 2025 and 2030, respectively, including partial allocation of the safety margin, emissions will remain under attainment year emission levels. EPA finds adequate and is proposing to approve the MVEBs for use to determine transportation conformity in the 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 in conjunction with the levels of the projected emissions inventories for the upwind areas discussed above.

C. 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, the emissions in the Indiana portion of the Chicago area are projected to have safety margins of 10.63 tons/day for NO_X and 1.41 tons/day for VOC in 2030 (the difference between the attainment year, 2017, emissions and the projected 2030 emissions for all sources in the Indiana portion of the Chicago area). Similarly, there is a safety margin of 8.02 tons/day for NO_X and 0.03 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.

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

VI. Section 182(f) NO_X Exemption

Section 182(f) establishes NO_X emission control requirements for ozone nonattainment areas. It provides that these emission control requirements, however, do not apply to an area if the Administrator determines that NO_X emission reductions would not contribute to attainment of the ozone standard. EPA's January 2005 document, ''Guidance on Limiting Nitrogen Oxides Requirements Related to 8-Hour Ozone Implementation,'' provides guidance for demonstrating that further NO_X reduction in an ozone nonattainment area will not contribute to ozone attainment. The guidance provides that three consecutive years of monitoring data showing attainment of the standard without implementation of section 182(f) NO_X provisions is adequate to demonstrate that ''additional reductions of oxides of nitrogen would not contribute to attainment . . . .'' CAA section 182(f)(1)(A). As described in the guidance document, approval of this type of NO_X exemption is contingent on continued monitored attainment of the standard.

On January 22, 2020, Indiana submitted a request for a waiver from the section 182(f) NO_X requirements for the Indiana portion of the Chicago area based on monitoring data for the years 2017–2019 showing attainment of the 2008 ozone standard in the area. Based on these data, EPA is proposing to approve Indiana's request for an exemption from the section 182(f) NO_X requirements in the Indiana portion of the Chicago area. Upon final approval of the NO_X waiver, Indiana will not be required to adopt and implement NO_X emission control regulations pursuant section 182(f) for the Indiana portion of the Chicago area to qualify for redesignation. If the Chicago area violates before redesignation, then EPA would not be able to finalize approval of a NO_X waiver.

VII. Proposed Actions

EPA is proposing to determine that the Chicago-Naperville, IL–IN–WI nonattainment area is attaining the 2008 ozone NAAQS, based on quality-assured and certified monitoring data for 2017–2019. EPA is proposing to approve Indiana's January 22, 2020 NO_X Exemption Request as meeting the moderate SIP requirements of section 182(f) of the CAA. EPA is proposing to determine that upon final approval of Indiana's NO_X Exemption Request, the area will have met the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA is proposing to change the legal designation of the Indiana 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 Indiana SIP, the state's maintenance plan for the area. The maintenance plan is designed to keep the Indiana portion of the Chicago area 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 Indiana portion of the Chicago area.

VIII. 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 that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

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

health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, 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 13, 2020.

Kurt Thiede,

Regional Administrator, Region 5.

[FR Doc. 2020–08031 Filed 4–17–20; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 431, 433, 435, 441, and 483

[CMS–2418–N]

RIN 0938–AT95

Medicaid Program; Preadmission Screening and Resident Review; Extension of Comment Period

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Proposed rule; Extension of comment period.

SUMMARY: This document extends the comment period for the proposed rule entitled ''Medicaid Program; Preadmission Screening and Resident Review'' that appeared in the February 20, 2020 **Federal Register**. The comment period for the proposed rule, which would end on April 20, 2020, is extended 30 days to May 20, 2020.

DATES: The comment period for the proposed rule (85 FR 9990) is extended to 5 p.m., eastern daylight time, on May 20, 2020.

ADDRESSES: You may submit comments as outlined in the February 20, 2020 proposed rule (85 FR 9990). Please choose only one method listed.

FOR FURTHER INFORMATION CONTACT: Anne Blackfield, (410) 786–8518.

SUPPLEMENTARY INFORMATION: In the ''Medicaid Program; Preadmission Screening and Resident Review'' proposed rule that appeared in the February 20, 2020 **Federal Register** (85 FR 9990), we solicited public comments on proposed policies that aim to modernize the requirements for Preadmission Screening and Resident Review (PASRR), currently referred to in regulation as Preadmission Screening and Annual Resident Review, by including statutory changes, reflecting updates to diagnostic criteria for mental illness and intellectual disability, reducing duplicative requirements and other administrative burdens on State PASRR programs, and making the process more streamlined and person-centered.

Since the issuance of the proposed rule, the United States and its citizens have endured a dramatic upheaval to our way of life as a result of the COVID–19 global pandemic. The federal and state governments, as well as private businesses, have made drastic but necessary decisions to restrict access to buildings, businesses, and transportation to slow the spread of the disease. As a result, many workplaces are dealing with changed priorities, new work procedures, and a limited workforce. We acknowledge the difficulties the current situation presents, including the limited ability of states and stakeholders to analyze and respond to our proposed rule. To maximize the opportunity for the public to provide meaningful input to CMS, we believe that it is important to allow additional time for the public to prepare comments on the proposed rule. In addition, we believe that granting an extension to the public comment period in this instance would further our overall objective to obtain public input on the proposed provisions to modernize PASRR requirements. Therefore, we are extending the comment period for the proposed rule for an additional 30 days.

The Administrator of the Centers for Medicare & Medicaid Services (CMS), Seema Verma, having reviewed and approved this document, authorizes Evell J. Barco Holland, who is the Federal Register Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Evell J. Barco Holland,

Federal Register Liaison, Department of Health and Human Services.

[FR Doc. 2020–08329 Filed 4–17–20; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF VETERANS AFFAIRS

48 CFR Parts 802, 809, 841, 842, and 852

RIN 2900–AQ38

VA Acquisition Regulation: Contractor Qualifications; Acquisition of Utility Services; and Contract Administration and Audit Services

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) is proposing to amend and update its VA Acquisition Regulation (VAAR) in phased increments to revise or remove any policy superseded by changes in the Federal Acquisition Regulation (FAR), to remove any procedural guidance internal to VA into the VA Acquisition Manual (VAAM), and to incorporate any new agency specific regulations or policies. These changes seek to streamline and align the VAAR with the FAR and remove outdated and duplicative requirements and reduce burden on contractors. The VAAM incorporates portions of the removed VAAR as well as other internal agency acquisition policy. VA will rewrite certain parts of the VAAR and VAAM, and as VAAR parts are rewritten, will publish them in the **Federal Register**. VA will combine related topics, as appropriate. This rulemaking revises VAAR coverage concerning Contractor Qualifications, Acquisition of Utility Services, and Contract Administration and Audit Services, as well as affected parts concerning Definitions of Words and Terms and Solicitation Provisions and Contract Clauses.

DATES: Comments must be received on or before June 19, 2020 to be considered in the formulation of the final rule.

ADDRESSES: Written comments may be submitted through *www.Regulations.gov;* by mail or hand-delivery to Director, Office of Regulation Policy and Management (00REG), Department of Veterans Affairs, 810

Vermont Avenue NW, Room 1064, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to ''RIN 2900–AQ38—VA Acquisition Regulation: Contractor Qualifications; Acquisition of Utility Services; and Contract Administration and Audit Services.'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1064, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov.*

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

SUPPLEMENTARY INFORMATION:

Background

This rulemaking is issued under the authority of the Office of Federal Procurement Policy (OFPP) Act which provides the authority for an agency head to issue agency acquisition regulations that implement or supplement the FAR.

VA is proposing to revise the VAAR to add new policy or regulatory requirements and to remove any redundant guidance and guidance that is applicable only to VA's internal operating processes or procedures. Codified acquisition regulations may be amended and revised only through rulemaking. All amendments, revisions and removals have been reviewed and concurred with by VA's Integrated Product Team of agency stakeholders.

The VAAR uses the regulatory structure and arrangement of the FAR and headings and subject areas are consistent with FAR content. The VAAR is divided into subchapters, parts (each of which covers a separate aspect of acquisition), subparts, and sections.

The Office of Federal Procurement Policy Act, as codified in 41 U.S.C. 1707, provides the authority for the Federal Acquisition Regulation and for the issuance of agency acquisition regulations consistent with the FAR.

When Federal agencies acquire supplies and services using appropriated funds, the purchase is governed by the FAR, set forth at Title 48 Code of Federal Regulations (CFR), chapter 1, parts 1 through 53, and the agency regulations that implement and supplement the FAR. The VAAR is set forth at Title 48 CFR, chapter 8, parts 801 to 873.

Discussion and Analysis

VA proposes to make the following changes to the VAAR in this phase of its revision and streamlining initiative. For procedural guidance cited below that is proposed to be deleted from the VAAR, each section cited for removal has been considered for inclusion in VA's internal agency operating procedures in accordance with FAR 1.301(a)(2). Similarly, delegations of authority that are removed from the VAAR will be included in the VAAM as internal departmental guidance. The VAAM is being created in parallel with these revisions to the VAAR and is not subject to the rulemaking process as they are internal VA procedures and guidance. The VAAM will not be finalized until corresponding VAAR parts are finalized, and therefore the VAAM is not yet available online.

VAAR Part 802—Definitions of Words and Terms

Under part 802, we propose to amend Section 802.101 to remove definitions of ''Suspending and Debarring Official (SDO)'' and ''Suspension and Debarment Committee (S&D Committee).''

VAAR Part 809—Contractor Qualifications

Under part 809, Contractor Qualifications, we propose to add the authority citation for 41 U.S.C. 1702 which addresses the acquisition planning and management responsibilities of Chief Acquisition Officers and Senior Procurement Executives, to include implementation of unique procurement policies, regulations and standards of the executive agency.

We propose to revise the authority citation of 40 U.S.C. 121 to remove the reference to paragraph (d), as paragraph (c) which will be retained comports with FAR and VAAR standard usage and reference to paragraph (d) is unnecessary. The authorities cited for this part are 38 U.S.C. 8127 and 8128; 40 U.S.C. 121(c); 41 U.S.C. 1702; and 48 CFR 1.301–1.304.

In subpart 809.1, Responsible Prospective Contractors, we propose to delete 809.104, Standards (no text), and 809.104–2, Special standards, as it includes internal VA procedural guidance and will be moved to the VAAM.

We propose to delete subpart 809.2, Qualifications Requirements, as the policy and procedures relating to the establishment of qualification requirements are no longer being used by VA and have been deemed unnecessary. As a result of this change, 809.202, Policy, which designated the HCA as the authority for establishing a qualification requirement in accordance with FAR 9.202(a)(1) is also being removed.

This rulemaking also proposes to remove 809.206, Acquisitions subject to qualification requirements, which contained no text. We also propose to remove 809.206–1, General, consisting of one sentence that provided that HCAs may determine that an emergency exists as provided by FAR 9.206–1(b); and 809.270, Qualified products for convenience/labor-saving foods, which provided internal guidance to Veterans Integrated Service Networks. All of the sections are being deleted as the Department is no longer using Qualified Product Lists.

We propose to revise subpart 809.4, Debarment, Suspension, and Ineligibility. In section 809.400, Scope of subpart, we propose to clarify that the policy supplements the FAR coverage under FAR subpart 9.4 and prescribes VA's procedures for the suspension and debarment of contractors. We propose to revise 809.402, Policy, which would establish that when VA is considering a debarment or suspension action, the Suspension and Debarment (S&D) Committee shall coordinate the action with the Interagency Committee on Debarment and Suspension in order to identify other agencies with an interest in the action, and to identify the agency that will take the lead on the action.

We propose to add 809.403, Definitions. This section would define the terms that are used through subpart 809.4, Debarment, Suspension, and Ineligibility, including the S&D Committee and the Suspending and Debarring Official (SDO).

We propose to remove 809.404, Excluded Parties List System, as this system has been replaced by the System for Award Management (SAM) and the FAR has sufficient coverage in this area.

We propose to revise 809.405, Effect of listing, to state that the authority to determine whether to solicit from, evaluate bids or proposals from, or award contracts to contractors with active exclusions in SAM is delegated to the Suspending and Debarring Official (SDO). The revised section also establishes that this authority is further delegated to the head of the contracting activity (HCA) or their designee. We propose to revise 809.405–1,

Continuation of current contracts, and 809.405–2, Restrictions on subcontracting, to delegate the authority to the SDO, who further delegates the authority to the HCA or designee to make the determinations described under these sections.

Under 809.406, Debarment, we propose to revise 809.406–1, General, to delegate to the SDO the authority to determine whether to continue business dealings between VA and a contractor suspended, proposed for debarment, or debarred.

In 809.406–2, Causes for debarment, we propose to revise the title to comport with the FAR and to remove the existing language and reflect no text. The coverage would be moved to a new section that follows. We propose to add new section 809.406–270, Additional causes for debarment, to reflect VA's program that would conform with the governing statute 38 U.S.C. 8127(g), Enforcement Penalties for Misrepresentation, to state that any business concern that has willfully and intentionally misrepresented the status of that concern as a small business concern owned and controlled by veterans or as a small business concern owned and controlled by service-disabled veterans pursuant to this section shall be debarred for no less than 5 years. It would also provide a definition for ''willful and intentional'' misrepresentations for the purposes of debarment actions taken pursuant to 38 U.S.C. 8127(g).

We propose to revise 809.406–3, Procedures, to provide to the public the updated procedures for debarments and to provide the responsibilities of the SDO and Suspension and Debarment (S&D) Committee. This section apprises contractors of their rights when they have been notified of their proposed debarment.

We propose to revise 809.406–4, Period of debarment, to inform prospective vendors that the period of debarment for willful and intentional misrepresentations of SDVOSB or VOSB status pursuant to 809.406–270(b) shall not be less than 5 years.

Under 809.407, Suspension, we propose to revise 809.407–1, General, to reflect that the authority to determine whether to continue to contract with a suspended contractor has been delegated to the HCAs. We propose to revise 809.407–3, Procedures, to apprise contractors of their rights when they have been notified of their proposed suspension. It has been revised to reflect the updated procedures. We propose to revise section 809.470, Fact-finding procedures, to inform the contractor or individual that they may submit documentary evidence, present witnesses, and confront any person the agency presents in the case of a suspension or debarment.

We propose to delete 809.503, Waiver, and move it to the VAAM as it provides internal procedural guidance. We propose to delete 809.504, Contracting officer responsibilities, and move it to the VAAM as it provides procedural guidance to VA's contracting officers.

We propose to revise section 809.507–1, Solicitation provision, to correctly identify 852.209–70 as a provision that must be included in any solicitation for the contracts outlined in FAR 9.502 which might have the potential for conflicts of interest. It was previously incorrectly referred to as a clause.

VAAR Part 841—Acquisition of Utility Services

Under part 841, Acquisition of Utility Services, we propose to add the authority citation for 41 U.S.C. 1702 which addresses the acquisition planning and management responsibilities of Chief Acquisition Officers and Senior Procurement Executives, to include implementation of unique procurement policies, regulations and standards of the executive agency.

We propose to revise the authority citation of 40 U.S.C. 121, to remove the reference to paragraph (d), as paragraph (c) which will be retained comports with FAR and VAAR standard usage and reference to paragraph (d) is unnecessary. The authorities cited for this part are 40 U.S.C. 121(c); 41 U.S.C. 1702; and 48 CFR 1.301–1.304.

We propose to revise subpart 841.1, General, by deleting 841.100, Scope of part, as the section limited the scope of the part to connection charges and since the revised part 841 would cover the full breadth of utility services, and 841.103, Statutory and delegated authority, and to move it to the VAAM as it represents internal guidance to contracting officers.

We propose to add section 841.102, Applicability, to clarify that the part applies to acquisitions of utility services from both regulated and nonregulated utility suppliers and that when energy is acquired as a commodity it is considered to be purchase of supplies rather than utility services.

We propose to delete subpart 841.2, Acquiring Utility Services, as its requirements for technical and legal review are redundant with Part 801.

We propose to add subpart 841.5, Solicitation Provision and Contract Clauses, and sections 841.501, Solicitation provision and contract clauses (no text), and 841.501–70, Disputes—Utility contracts, which prescribes the use of new clause 852.841–70, Disputes—Utility Contracts, in solicitations and contracts for utility services subject to the jurisdiction and regulation of a utility rate commission.

VAAR Part 842—Contract Administration and Audit Services

We propose to revise section 842.000, Scope of part, to clarify that the part prescribes policies and procedures for contract administration and audit services for Department of Veteran Affairs (VA) contracts. We propose to revise 842.070, Definitions, to revise the definition of ''Contract Administration'' to provide more detail. We also propose to add a definition for ''Administrative Contracting Officer Letter of Delegation'' to the section.

We propose to delete subpart 842.1, Contract Audit Services. Under the subpart, we propose to delete 842.101, Contract audit responsibilities, because the FAR guidance is sufficient in terms of policy, and the procedural guidance was moved to the VAAM. We also propose to remove 842.102, Assignment of contract audit services, from the VAAR as it provides internal guidance to VA's contracting officers on how to obtain contract audit services and move coverage to the VAAM.

We propose to revise subpart 842.2, Contract Administration Services, to add section 842.270, Contracting Officer's Representatives' role in contract administration, to provide policy on the appointment of the Contracting Officer's Representative in contract administration. We propose to redesignate 842.271, Contract clause for Government construction contract administration, to 842.272 as we propose to add a new section, title and content at 842.271. The new section 842.271, Administrative Contracting Officer's role in contract administration and delegated functions, describes the requisite ACO Letter of Delegation and the limitations of ACO authority, and in paragraph (d) would prescribe clause 852.242–71, Administrative Contracting Officer. Under the revision to subpart 842.2, the newly added 842.272, Contract clause for Government construction contract administration, prescribes clause 852.242–70, Government Construction Contract Administration, and revises the prescription for use in solicitations and contracts for construction expected to exceed the micro-purchase threshold by adding the words '',when contract administration is delegated'' at the end of the prescription to reflect that the clause would only be inserted by the

contracting officer when contract administration is delegated to another contracting activity or contracting officer.

We propose to revise section 842.705, Final indirect cost rates, to require contracting officers to request audits on proposed final indirect cost rates and billing rates for use in cost reimbursement and fixed-price incentive contracts except when quick closeout procedures are used. We propose to remove paragraph (b) of the existing text as internal procedural guidance and move it to the VAAM.

We propose to delete subpart 842.8, Disallowance of Costs. We propose to delete 842.801–70, Audit assistance prior to disallowing costs, as it references an office that no longer exists. We propose to delete 842.803, Disallowing costs after incurrence, which emphasizes that COs cannot exceed their contracting authority which is redundant to the FAR.

We propose to revise subpart 842.12, Novation and Change-of-Name Agreements, to add 842.1202, Responsibility for executing agreements, which provides detailed policy requirements regarding responsibilities for executing agreements related to a successor in interest to, or a change of name of a contractor. This is information that is relevant to the public at large as to how such modifications will be processed. We propose to remove 842.1203, Processing agreements, as the VAAR coverage provided is redundant to FAR 42.1203. Internal requirements for OGC legal counsel review have been moved to the VAAM.

VAAR Part 852—Solicitation Provisions and Contract Clauses

In subpart 852.2, Text of Provisions and Clauses, we propose to revise provision 852.209–70, Organizational Conflicts of Interest, to remove an outdated citation and to correct capitalization. The remaining language in the provision is unchanged.

We propose to add clause 852.241–70, Disputes—Utility Contracts, to provide that matters involving the interpretation of tariffed retail rates, tariff rate schedules, and tariffed terms provided under this contract are subject to any determinations by the independent regulatory body having jurisdiction.

We propose to revise clause 852.242–70, Government Construction Contract Administration, for use in all construction solicitations and contracts expected to exceed the micro-purchase threshold, when contract administration is delegated. The text of the clause remains the same, but the first sentence ''As prescribed in 842.271, . . .'' is revised to ''As prescribed in 842.272, . . .'' to reflect the new designation as this rule has added different content at 842.271. The clause authorizes the contracting officer to delegate contract administration authority to another contracting officer, and to designate another VA employee to act as resident engineer at the construction site with limited and specific authority.

We propose to add clause 852.242–71, Administrative Contracting Officer, for use in all construction solicitations and contracts expected to exceed the micro-purchase threshold, which states that the contracting officer reserves the right to designate an Administrative Contracting Officer (ACO) for the purpose of performing certain tasks/duties in the administration of the contract and that the designation will be in writing through an ACO Letter of Delegation.

Executive Orders 12866, 13563 and 13771

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). E.O. 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The Office of Information and Regulatory Affairs has determined that this rule is not a significant regulatory action under Executive Order 12866.

VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's website at *http://www.va.gov/orpm/*, by following the link for ''VA Regulations Published From FY 2004 Through Fiscal Year to Date.''

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

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (at 44 U.S.C. 3507) requires that VA consider the impact of paperwork and other information collection burdens imposed on the public. Under 44 U.S.C. 3507(a), an agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid OMB control number. See also 5 CFR 1320.8(b)(3)(vi). This proposed rule contains one provision constituting a collection of information at 48 CFR 809.507–1 and 48 CFR 852.209–70 which require offerors on solicitations for management support and consulting services to advise, as part of the firm's offer, whether or not award of the contract to the firm might involve a conflict of interest and, if so, to disclose all relevant facts regarding the conflict. The information is used by the contracting officer to determine whether or not to award a contract to the firm or, if a contract is to be awarded despite a potential conflict, whether or not additional contract terms and conditions are necessary to mitigate the conflict. No new collection of information is associated with this provision as a part of this proposed rule. The information collection requirement for 809.507–1 and 852.209–70 is currently approved by OMB and has been assigned OMB control number 2900–0418. This rule amends this information collection requirement to revise 809.507–1 to designate 852.209–70 as a provision instead of a clause. For the requested administrative amendments to VAAR 852.209–70, as required by the Paperwork Reduction Act of 1995 (at 44 U.S.C. 3507(d)), VA will submit this information collection amendment to OMB for its review.

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (5 U.S.C. 601–612).

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

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before

issuing any rule that may result in the expenditure by State, local, and tribal Governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This proposed rule will have no such effect on State, local, and tribal Governments or on the private sector.

List of Subjects

48 CFR Part 802

Government procurement.

48 CFR Part 809

Government procurement, Reporting and recordkeeping requirements.

48 CFR Part 841

Government procurement, Utilities.

48 CFR Part 842

Accounting, Government procurement.

48 CFR Part 852

Government procurement, Reporting and recordkeeping requirements.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Pamela Powers, Chief of Staff, Performing the Delegable Duties of the Deputy Secretary, Department of Veterans Affairs, approved this document on April 8, 2020, for publication.

Consuela Benjamin,

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

For the reasons set out in the preamble, VA proposes to amend 48 CFR to revise parts 802, 809, 841, 842 and 852 as follows:

PART 802—DEFINITIONS OF WORDS AND TERMS

■ 1. The authority citation for part 802 continues to read as follows:

Authority: 40 U.S.C. 121(c); 41 U.S.C. 1121(c)(3); 41 U.S.C. 1702; and 48 CFR 1.301–1.304.

802.101 [AMENDED]

■ 2. Section 802.101 is amended to remove the definitions for ''Suspending and Debarring Official (SDO)'' and ''Suspension and Debarment Committee (S&D Committee).''

PART 809—CONTRACTOR QUALIFICATIONS

■ 3. The authority citation for part 809 is revised to read as follows:

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

Subpart 809.1—Responsible Prospective Contractors 809.104 and 809.104–2 [Removed]

■ 4. Sections 809.104 and 809.104–2 are removed.

Subpart 809.2 [Removed and Reserved]

■ 5. Subpart 809.2, consisting of sections 809.201, 809.202, 809.204, 809.206, 809.206–1, and 809.270 is removed.

Subpart 809.4—Debarment, Suspension, and Ineligibility

■ 6. Subpart 809.4 is revised to read as follows:

809.400 Scope of subpart.

This subpart implements FAR subpart 9.4 and prescribes VA's procedures and related actions for the suspension and debarment of contractors.

809.402 Policy.

(b) Statutory debarments pursuant to the authority of 38 U.S.C. 8127(g), Enforcement Penalties for Misrepresentation, are mandatory when the determination is made that a business concern has willfully and intentionally misrepresented its status as a service-disabled, Veteran-owned small business or Veteran-owned small business.

809.403 Definitions.

Suspension & Debarment (S&D) Committee means a committee authorized by the SDO to assist the SDO with suspension and debarment related matters.

Suspending and Debarring Official (SDO) means the individual responsible for final decisions regarding suspension and debarment, as appointed by the agency.

809.405 Effect of listing.

The authority under FAR 9.405(a), 9.405(d)(2), and 9.405(d)(3) to determine whether to solicit from, evaluate bids or proposals from, or award contracts to contractors with active exclusions in the System for Award Management (SAM) is delegated to the Suspending and Debarring Official (SDO). This authority is further delegated to the HCAs, who may delegate this authority, in writing, to a designee.

809.405–1 Continuation of current contracts.

(a) Notwithstanding the suspension, proposed debarment, or debarment of a contractor, VA may continue contracts or subcontracts in existence at the time the contractor was suspended, proposed for debarment, or debarred, unless the cognizant head of the contracting activity (HCA) directs otherwise. Examples of factors to be considered include, but are not limited to, potential costs associated with a termination, possible disruption to VA program objectives, and integrity of VA acquisition programs.

(b) Authority to make the determinations under FAR 9.405–1(b) is delegated to the SDO and is further delegated to the HCA, who may delegate this authority, in writing, to a designee. The HCA or their designee must make a written determination of the compelling reasons in accordance with FAR 9.405–1(b). Compelling reasons for the purposes of FAR 9.405–1(b) include, but are not limited to, urgency of the need for new or continued work, lengthy time period to acquire the new work from other sources and meeting estimated quantity for requirements contracts.

809.405–2 Restrictions on subcontracting.

Authority to make the written determination required under FAR 9.405–2 consenting to a contractor's use of a subcontractor who is suspended, proposed for debarment, or debarred is delegated to the SDO. This authority is further delegated to the HCA, who may delegate this authority, in writing, to a designee.

809.406 Debarment.

809.406–1 General.

(a) For the purposes of FAR 9.406–1, the SDO's authority includes debarments pursuant to the Federal Management Regulation at 41 CFR 102–117.295. In addition to the factors listed in FAR 9.406–1, the SDO may consider the following examples before arriving at a debarment decision:

(1) Whether the contractor had a mechanism, such as a hotline, by which employees could have reported suspected instances of improper conduct, and instructions in place that encouraged employees to make such reports; or

(2) Whether the contractor conducted periodic reviews of company business practices, procedures, policies, and internal controls for compliance with standards of conduct and the special requirements of Government contracting.

(c) As provided in FAR 9.406–1(c), authority to determine whether to continue business dealings between VA and a contractor suspended, proposed for debarment, or debarred is delegated to the SDO.

809.406–2 Causes for debarment.

809.406–270 Additional causes for debarment.

(a) *Discretionary causes.* (1) In addition to the causes listed in FAR 9.406–2 (a) through (c), the SDO may debar contractors, based upon a preponderance of the evidence (as defined at FAR 2.101), for the Government's protection, for—

(i) Any deliberate violation of the limitation on subcontracting clause requirements for acquisitions under subpart 819.70; or

(ii) Failure to observe the material provisions of a voluntary exclusion or an administrative agreement.

(2) The period of debarment shall be commensurate with the seriousness of the action.

(b) *Statutory cause.* (1) Pursuant to 38 U.S.C. 8127(g), Enforcement Penalties for Misrepresentation, the SDO shall debar, from contracting with VA, for a period of not less than five years, any business concern that has willfully and intentionally misrepresented the status of that concern as a small business concern owned and controlled by Veterans or as a small business concern owned and controlled by service-disabled Veterans.

(2) Debarment of a business concern pursuant to 38 U.S.C. 8127(g) shall include the debarment of all principals in the business concern. Debarment shall be for a period of not less than five years.

(3) ''Willful and intentional'' misrepresentations, for the purpose of debarment actions taken pursuant to 38 U.S.C. 8127(g), are defined as deliberate misrepresentations concerning the status of the concern as a small business concern owned and controlled by Veterans or as a small business concern owned and controlled by service-disabled Veterans as supported by the preponderance of evidence. Examples of a preponderance of evidence for deliberate misrepresentation of SDVOSB and/or VOSB status include but are not limited to: Criminal convictions, plea agreements, deferred prosecution agreements, Board of Contract Appeals decisions, and admissions of guilt.

809.406–3 Procedures.

(a) Any individual may submit a referral to debar an individual or contractor to the SDO or to the S&D Committee. The referral for debarment shall be supported with evidence of a cause for debarment listed in FAR 9.406–2, or 809.406–2. The SDO shall forward referrals for debarment to the S&D Committee. If the referring individual is a VA employee and the referral for debarment is based on possible criminal or fraudulent activities, the VA employee shall also refer the matter to the VA Office of Inspector General.

(b) When the S&D Committee finds preponderance of the evidence for a cause for debarment, as listed in FAR 9.406–2 or 809.406–2, it shall prepare a recommendation and draft notice of proposed debarment for the SDO's consideration.

(c) VA shall send the notice of proposed debarment to the last known address of the individual or contractor, the individual or contractor's counsel, or agent for service of process, by certified mail, return receipt requested, or any other means that allows for confirmation of delivery. In the case of a contractor, VA may send the notice of proposed debarment to any partner, principal, officer, director, owner or co-owner, or joint venture. The S&D Committee concurrently shall list the appropriate parties as excluded in the SAM in accordance with FAR 9.404.

(d) If VA does not receive a reply from the contractor within 30 days after sending the notice of proposed debarment, the S&D Committee shall prepare a recommendation and refer the case to the SDO for a decision on whether or not to debar based on the information available.

(e) If VA receives a reply from the contractor within 30 days after sending the notice of proposed debarment, the S&D Committee shall consider the information in the reply before the S&D Committee makes its recommendation to the SDO.

(f) The S&D Committee, upon the request of the contractor proposed for debarment, shall, as soon as practicable, allow the contractor an opportunity to appear before the S&D Committee to present information or argument personally or through a representative. The contractor may supplement the oral presentation with written information and argument. VA shall conduct the proceeding in an informal manner and without requirement for a transcript.

(g) If the S&D Committee finds the contractor's or individual's submission in opposition to the proposed debarment raises a genuine dispute over facts material to the proposed debarment and the debarment action is not based on a conviction or civil judgment, the S&D Committee shall submit to the SDO the information establishing the dispute of material facts. If the SDO agrees there is a genuine dispute of material facts, the SDO shall refer the dispute to a designee for a resolution pursuant to 809.470, Fact-finding procedures. The S&D Committee shall provide the contractor or individual the disputed material fact(s). Decisions and determinations of VA's Center for Verification and Evaluation (CVE) or Office of Small and Disadvantaged Business Utilization (OSDBU), such as status protest decisions, and size determinations of the SBA shall not be subject to dispute or fact-finding in proposed debarment actions. The S&D Committee and SDO shall accept these decisions and determinations as resolved facts.

(h) If the proposed debarment action is based on a conviction or civil judgment, or if there are no disputes over material facts, or if any disputes over material facts have been resolved pursuant to 809.470, Fact-finding procedures, the SDO shall make a decision on the basis of all information available including any written findings of fact submitted by the designated fact finder, and oral or written agreements presented or submitted to the S&D Committee by the contractor.

(i) In actions processed under FAR 9.406 where no suspension is in place and where fact finding is not required, the VA shall make the final decision on the proposed debarment within 30 working days after receipt of any information and argument submitted by the contractor, unless the SDO extends this period for a good cause.

(j) In actions processed under 809.406–270(b), the SDO notifies the individuals and/or contractors of the determination of willful and intentional misrepresentation in the notice of proposed debarment. VA shall issue the final decision, removing or upholding the determination, within 90 days after SDO's determination of willful and intentional misrepresentation.

809.406–4 Period of debarment.

(a) The SDO will base the period of debarment on the circumstances surrounding the cause(s) for debarment.

(b) The SDO may remove a debarment imposed under FAR 9.406, amend its scope, or reduce the period of debarment based on a S&D Committee recommendation if—

(1) VA has debarred the contractor; and

(2) The debarring official concurs with documentary evidence submitted by or on behalf of the contractor setting forth the appropriate grounds for granting relief. Appropriate grounds include newly discovered material

evidence, reversal of a conviction, bona fide change of ownership or management, elimination of the cause for which debarment was imposed, or any other appropriate grounds.

(c) The period of debarment for willful and intentional misrepresentations of SDVOSB or VOSB status pursuant to 809.406–270(b) shall not be less than 5 years.

809.407 Suspension.

809.407–1 General.

(a) As provided in FAR 9.407–1(d), authority to determine whether to continue business dealings between VA and a suspended contractor is delegated to the HCAs. Compelling reasons include, but are not limited to, urgency of the need for new or continued work, lengthy time period to acquire the new work from other sources, and meeting estimated quantities for requirements contracts.

(b) For the purposes of FAR 9.407–1, the SDO is the suspending official under the Federal Management Regulation at 41 CFR 102–117.295.

809.407–3 Procedures.

(a) Any individual may submit a referral to suspend an individual or contractor to the SDO or to the S&D Committee. Referrals shall include supporting evidence of a cause for suspension listed in FAR 9.407–2. The SDO shall forward the referral to the S&D Committee. If the referring individual is a VA employee and the referral for suspension is based on possible criminal or fraudulent activities, the VA employee shall also refer the matter to the VA Office of Inspector General.

(b) When the S&D Committee finds adequate evidence of a cause for suspension, as listed in FAR 9.407–2, it shall prepare a recommendation and draft notice of suspension for the SDO's consideration.

(c) VA shall send the notice of suspension to the last known address of the individual or contractor, the individual or contractor's counsel, or agent for service of process, by certified mail, return receipt requested, or any other means that allows for confirmation of delivery. In the case of a contractor, VA may send the notice of suspension to any partner, principal, officer, director, owner or co-owner, or joint venture. The S&D Committee concurrently shall list the appropriate parties as excluded in SAM in accordance with FAR 9.404.

(d) If VA receives a reply from the contractor within 30 days after receipt of the notice of suspension, the S&D Committee shall consider the information in the reply before the Committee makes further recommendations to the SDO. The S&D Committee, upon the request of a suspended contractor, shall, as soon as practicable, allow the contractor an opportunity to appear before the S&D Committee to present information or argument personally or through a representative. The contractor may supplement the oral presentation with written information and argument. The proceeding will be conducted in an informal manner and without requirement for a transcript.

(e) For the purposes of FAR 9.407–3(b)(2), Decision making process, in actions not based on an indictment, if the S&D Committee finds that the contractor's submission in opposition to the suspension raises a genuine dispute over facts material to the suspension, the S&D Committee shall submit to the SDO the information establishing the dispute of material facts. However, the S&D Committee may first coordinate any further proceeding regarding the material facts in dispute with the Department of Justice or with a State prosecuting authority in a case involving a State jurisdiction. VA shall take no further action to determine disputed material facts pursuant to this section or 809.470 if the Department of Justice or a State prosecuting authority advises VA in writing that additional proceedings to make such a determination would prejudice Federal or State legal proceedings.

(f) If the SDO agrees that there is a genuine dispute of material facts, the SDO shall refer the dispute to the designee for resolution pursuant to 809.470.

809.470 Fact-finding procedures.

The provisions of this section constitute the procedures to be used to resolve genuine disputes of material fact pursuant to 809.406–3 and 809.407–3 of this subpart. The SDO shall appoint a designee to conduct the fact-finding. OGC shall represent VA at any fact-finding hearing and may present witnesses for VA and question any witnesses presented by the contractor. The proceedings before the fact-finder will be limited to a finding of the facts in dispute, as determined by the SDO. The fact-finder shall establish the date for the fact-finding hearing, normally to be held within 30 days after the S&D Committee notifies the contractor or individual that the SDO has established a genuine dispute of material fact(s) exists.

(a) The Government's representative and the contractor will have an opportunity to present evidence relevant to the material fact(s) identified by the SDO. The contractor or individual may appear in person or through a representative at the fact-finding hearing. The contractor or individual may submit documentary evidence, present witnesses, and confront any person the agency presents.

(b) Witnesses may testify in person. Witnesses will be reminded of the official nature of the proceedings and that any false testimony given is subject to criminal prosecution. Witnesses are subject to cross-examination. Hearsay evidence may be presented and will be given appropriate weight by the fact-finder.

(c) The proceedings shall be transcribed and a copy of the transcript shall be made available at cost to the contractor upon request, unless the contractor and the fact-finder, by mutual agreement, waive the requirement for a transcript.

(d) The fact-finder shall determine the disputed fact(s) by a preponderance of the evidence for proposed debarments, and by adequate evidence for suspensions. Written findings of fact shall be prepared by the fact-finder. A copy of the findings of fact shall be provided to the SDO, the Government's representative, and the contractor or individual. The SDO will consider the written findings of fact in the decision regarding the suspension or proposed debarment.

Subpart 809.5—Organizational and Consultant Conflicts of Interest

809.503 [Removed]

■ 7. Section 809.503 is removed.

809.504 [Removed]

■ 8. Section 809.504 is removed.

■ 9. Section 809.507–1 is revised to read as follows:

809.507–1 Solicitation provisions.

(a) While conflicts of interest may not presently exist, award of certain types of contracts may create potential future organizational conflicts of interest (see FAR 9.508 for examples). If a solicitation may create a potential future organizational conflict of interest, the contracting officer shall insert a provision in the solicitation imposing an appropriate restraint on the contractor's eligibility for award of contracts in the future. Under FAR 9.507–1, the restraint must be appropriate to the nature of the conflict and may exclude the contractor from award of one or more contracts in the future.

(b) The provision at 852.209–70, Organizational Conflicts of Interest, must be included in any solicitation for the services addressed in FAR 9.502.

PART 841—ACQUISITION OF UTILITY SERVICES

■ 10. The authority citation for part 841 is revised to read as follows:

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

Subpart 841.1—General

841.100 [Removed]

■ 11. Section 841.100 is removed.

■ 12. Section 841.102 is added to read as follows:

841.102 Applicability.

(a) This part applies to purchases of utility services from nonregulated and regulated utility suppliers when a delegation of authority from GSA for those services is requested and obtained.

(b)(4) The acquisition of energy, such as electricity, and natural or manufactured gas, when purchased as a commodity is considered to be acquisitions of supplies rather than utility services as described in FAR part 41.

841.103 [Removed]

■ 13. Section 841.103 is removed.

841.2 [Removed and reserved]

■ 14. Subpart 841.2 is removed and reserved.

■ 15. Subpart 841.5 is added to read as follows:

Subpart 841.5—Solicitation Provision and Contract Clauses

841.501 Solicitation provision and contract clauses.

841.501–70 Disputes—Utility contracts.

The contracting officer shall insert the clause at 852.841–70, Disputes—Utility Contracts, in solicitations and contracts for utility services subject to the jurisdiction and regulation of a utility rate commission.

PART 842—CONTRACT ADMINISTRATION AND AUDIT SERVICES

■ 16. The authority citation for part 842 continues to read as follows:

Authority 40 U.S.C. 121(c); 41 U.S.C. 1702; and 48 CFR 1.301–1.304.

■ 17. Section 842.000 is revised to read as follows:

842.000 Scope of part.

This part prescribes policies and procedures for contract administration and audit services for all Department of Veterans Affairs (VA) contracting activities.

■ 18. Section 842.070 is revised to read as follows:

842.070 Definitions.

As used in this part—

Contract administration means Government actions taken after contract award to obtain compliance with such contract requirements as timely delivery of supplies or services, acceptance, payment, and closing of the contract. These actions include, but are not limited to, technical, financial, audit, legal, administrative, and managerial services in support of the contracting officer. It may include additional tasks requested of designated contract administration offices within VA in support of pre-award activities for solicitations issued by or awarded by other contracting activities through Interagency Acquisitions.

Administrative Contracting Officer Letter of Delegation means a delegation of functions as set forth in FAR 42.202, 42.302 and 842.271, Administrative Contracting Officer's role in contract administration and delegated functions, that is issued by a contracting officer to delegate certain contract administration or specialized support services.

Subpart 842. 1—[Removed and reserved]

■ 19. Subpart 842.1 is removed and reserved.

■ 20. Subpart 842.2 is added to read as follows:

Subpart 842.2—Contract Administration Services

842.270 Contracting Officer's Representatives' role in contract administration.

(a) A contracting officer may designate a qualified person to be the Contracting Officer's Representative (COR) for the purpose of performing certain technical functions in administering a contract.

(b) The COR acts solely as a technical representative of the contracting officer and is not authorized to perform any function that results in a change in the scope, price, terms or conditions of the contract.

(c) A COR designation must be made in writing by the contracting officer. The designation shall identify the responsibilities and limitations of the COR. A copy of the designation must be furnished to the contractor and the Administrative Contracting Officer (ACO), if separately assigned.

842.271 Administrative Contracting Officer's role in contract administration and delegated functions.

(a) Contracting officers are authorized to delegate certain contract administration or specialized support services in accordance with FAR 42.202 and 42.302 to cognizant VA administrative contracting officers.

(b) The Administrative Contracting Officer's authority is limited to the actions detailed in the delegation.

(c) These delegations of authority shall be set forth in a written Administrative Contracting Officer (ACO) Letter of Delegation issued by the contracting officer to the accepting contract administration office and designated administrative contracting officer. The ACO Letter of Delegation shall contain the information required in FAR 42.202(a) through (c) and identify the responsibilities and limitations of the ACO. A copy of the delegation will be furnished to the contractor and the ACO.

(d) The contracting officer shall insert the clause at 852.242–71, Administrative Contracting Officer, in solicitations and contracts expected to exceed the micro-purchase threshold.

842.272 Contract clause for Government construction contract administration.

The contracting officer shall insert the clause at 852.242–70, Government Construction Contract Administration, in solicitations and contracts for construction expected to exceed the micro-purchase threshold, when contract administration is delegated.

■ 21. Section 842.705 is revised to read as follows:

842.705 Final indirect cost rates.

Except when the quick-closeout procedures described in FAR 42.708 are used, contracting officers shall request contract audits on proposed final indirect cost rates and billing rates for use in cost reimbursement and fixed-price incentive contracts as prescribed in FAR subpart 42.7.

Subpart 842.8—[Removed and reserved]

■ 22. Subpart 842.8 is removed and reserved.

Subpart 842.12—Novation and Change-of-Name Agreements

■ 23. Section 842.1202 is added to read as follows:

842.1202 Responsibility for executing agreements.

To avoid duplication of effort on the part of VA contracting offices in preparing and executing agreements to

recognize a change of name or successor in interest involving multiple contracts issued by VA activities, only one agreement will be prepared and executed between the Government and the parties (transferor and transferee) and will be processed as forth in FAR 42.1203. The Office of Acquisition and Logistics, Risk Management and Compliance Service will, in each case, designate a cognizant HCA responsible for assigning a contracting officer. The designated contracting officer shall be responsible for taking all necessary and appropriate actions with respect to either recognizing or not recognizing a successor in interest or recognizing a change of name agreement and processing and executing the agreements as set forth in VA procedures.

842.1203 [Removed]

■ 24. Section 842.1203 is removed.

PART 852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Subpart 852.2—Texts of Provisions and Clauses

■ 25. Section 852.209–70 is revised to read as follows:

852.209–70 Organizational Conflicts of Interest.

As prescribed in 809.507–1(b), insert the following provision:

Organizational Conflicts of Interest (Date)

(a) It is in the best interest of the Government to avoid situations which might create an organizational conflict of interest or where the Offeror's performance of work under the contract may provide the Contractor with an unfair competitive advantage. The term ''organizational conflict of interest'' means that because of other activities or relationships with other persons, a person is unable to render impartial assistance or advice to the Government, or the person's objectivity in performing the contract work is or might be otherwise impaired, or the person has an unfair competitive advantage.

(b) The Offeror shall provide a statement with its offer which describes, in a concise manner, all relevant facts concerning any past, present, or currently planned interest (financial, contractual, organizational, or otherwise) or actual or potential organizational conflicts of interest relating to the services to be provided under this solicitation. The Offeror shall also provide statements with its offer containing the same information for any consultants and subcontractors identified in its proposal and which will provide services under the solicitation. The Offeror may also provide relevant facts that show how its organizational and/or management system or other actions would avoid or mitigate any actual or potential organizational conflicts of interest.

(c) Based on this information and any other information solicited or obtained by the Contracting Officer, the Contracting Officer may determine that an organizational conflict of interest exists which would warrant disqualifying the Contractor for award of the contract unless the organizational conflict of interest can be mitigated to the Contracting Officer's satisfaction by negotiating terms and conditions of the contract to that effect. If the conflict of interest cannot be mitigated and if the Contracting Officer finds that it is in the best interest of the United States to award the contract, the Contracting Officer shall request a waiver in accordance with FAR 9.503.

(d) Nondisclosure or misrepresentation of actual or potential organizational conflicts of interest at the time of the offer or arising as a result of a modification to the contract, may result in the termination of the contract at no expense to the Government.

(End of provision)

■ 26. Section 852.241–70 is added to read as follows:

852.241–70 Disputes—Utility Contracts.

As prescribed in 841.501–70, insert the following clause:

Disputes—Utility Contracts (Date)

(a) *Definition.* As used in this clause, *Independent regulatory body* means the Federal Energy Regulatory Commission, a state-wide agency, or an agency with less than state-wide jurisdiction when operating pursuant to state authority. The body has the power to fix, establish, or control the rates and services of utility suppliers.

(b) *Independent Regulatory Body determinations.* The requirements of the Disputes clause at FAR 52.233–1 are supplemented to provide that matters involving the interpretation of tariffed retail rates, tariff rate schedules, and tariffed terms provided under this contract are subject to any determinations by the independent regulatory body having jurisdiction.

(End of clause)

■ 27. Section 852.242–70 is revised to read as follows:

852.242–70 Government Construction Contract Administration.

As prescribed in 842.272, insert the following clause. This is a fill-in clause.

Government Construction Contract Administration (Date)

(a) Contract administration functions set forth in FAR 42.302 are hereby delegated to: [*Insert name and office address of Contracting Officer*]

[*Note: If any of the functions set forth in FAR 42.302 are to be retained by the Contracting Officer, identify those as well with the notation: ''With the exception of the following contract administration functions: _____.''Delete this notation if not required.*]

(b) The following functions will be retained by the Contracting Officer or Administrative Contracting Officer (ACO) and are not redelegable to Resident Engineers:

(1) Award of contract modifications either through supplemental agreements or change orders that exceed the ACO's appointed warrant limitations.

(2) Issuance of default letters.

(3) Issuance of Cure or Show-Cause Notices.

(4) Suspension of work letters and/or modifications.

(5) Issuance of Contracting Officer final determination letters.

(6) Issuance of termination notices.

(7) Authorization of final payment.

(c) The work will be under the direction of a Department of Veterans Affairs Contracting Officer, who may designate another VA employee to act as resident engineer at the construction site who possesses limited warranted authority.

(d) Except as provided below, the resident engineer's directions will not conflict with or change contract requirements. Within the limits of any specific authority delegated by the Contracting Officer, the resident engineer may, by written direction, make changes in the work. The Contractor shall be advised of the extent of such authority prior to execution of any work under the contract.

(e) The Contracting Officer or an Administrative Contracting Officer identified in paragraph (a) may further delegate limited authority and specialized support services responsibilities below to the following warranted Resident Engineer personnel on site, not to exceed the dollar value and threshold of their warrant: [*Insert name and office address of Resident Engineer with limited authority*]

(1) Conduct post-award orientation conferences.

(2) Issue administrative changes (see FAR 43.101) correcting errors or omissions, contractor address, facility or activity code, remittance address, computations which do not required additional contract funds, and other such changes.

(3) For actions not to exceed $ [*Insert dollar amount*] negotiate and execute supplemental agreements resulting from change orders issued under the Changes clause.

(4) Negotiate and execute supplemental agreements changing contract delivery schedules where the time extension does not exceed [*Insert number*] calendar days.

(End of clause)

■ 28. Section 852.242–71 is added to read as follows:

852.242–71 Administrative Contracting Officer.

As prescribed in 842.271, insert the following clause:

Administrative Contracting Officer (Date)

The Contracting Officer reserves the right to designate an Administrative Contracting Officer (ACO) for the purpose of performing certain tasks/duties in the administration of

the contract. Such designation will be in writing through an ACO Letter of Delegation and will identify the responsibilities and limitations of the ACO. A copy of the ACO Letter of Delegation will be furnished to the Contractor.

(End of clause)

[FR Doc. 2020–07799 Filed 4–17–20; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 191 and 192

[Docket No. PHMSA–2019–0131]

Pipeline Safety: Farm Taps Frequently Asked Questions

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA); DOT.

ACTION: Announcement of frequently asked questions; request for comments.

SUMMARY: The Pipeline and Hazardous Materials Safety Administration (PHMSA) is making available for comment a set of proposed frequently asked questions (FAQs) regarding individual service lines directly connected to production, gathering, or transmission pipelines, commonly referred to as farm taps. The proposed FAQs address the applicability of the Federal Pipeline Safety Regulations and include guidance related to the Exercise of Enforcement Discretion Regarding Farm Taps published in the **Federal Register** on March 26, 2019.

DATES: Persons interested in submitting comments on the proposed farm tap FAQs must do so by June 19, 2020.

ADDRESSES: You may submit comments, identified by docket number PHMSA–2019–0131, by any of the following methods:

- *E-Gov Web: http://www.regulations.gov.* This site allows the public to enter comments on any **Federal Register** notice issued by any agency. Follow the online instructions for submitting comments.
- *Mail:* Docket Management System: U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* DOT Docket Management System: West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, between 9:00 a.m. and 5:00 p.m. EST, Monday through Friday, except federal holidays.
- *Fax:* 202–493–2251.
- *Instructions:* Identify the docket PHMSA–2019–0131, at the beginning of your comments. If you submit your comments by mail, submit two copies. If you wish to receive confirmation that PHMSA received your comments, include a self-addressed stamped postcard. Internet users may submit comments at *http://www.regulations.gov.*
- *Privacy Act:* DOT may solicit comments from the public regarding certain general notices. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*
- *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 document 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 document, it is important that you clearly designate the submitted comments as CBI. Pursuant to 49 CFR 190.343, you may ask PHMSA to give confidential treatment to information you give to the agency by taking the following steps: (1) Mark each page of the original document submission containing CBI as ''Confidential''; (2) send PHMSA, along with the original document, a second copy of the original document with the CBI deleted; and (3) explain why the information you are submitting is CBI. Unless you are notified otherwise, PHMSA will treat such marked submissions as confidential under FOIA, and they will not be placed in the public docket of this document. Submissions containing CBI should be sent to Sayler Palabrica at DOT, PHMSA, PHP–30, 1200 New Jersey Avenue SE, PHP–30, Washington, DC 20590–0001.

Any commentary PHMSA receives that is not specifically designated as CBI will be placed in the public docket for this matter.

- *Docket:* For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.* Follow the online instructions for accessing the dockets. Alternatively, you may review the documents in person at the street address listed above.

FOR FURTHER INFORMATION CONTACT: *General:* Mr. Sayler Palabrica by telephone at 202–366–0559, or email at *sayler.palabrica@dot.gov.*

Technical: Mr. Chris McLaren by telephone at 281–216–4455, or email at *chris.mclaren@dot.gov.*

SUPPLEMENTARY INFORMATION: PHMSA provides written clarification of the pipeline safety regulations (49 CFR parts 190–199) in the form of FAQs and other guidance materials. PHMSA is requesting public comment on a set of proposed FAQs intended to clarify, explain, and promote better understanding and implementation of the requirements in Parts 191 and 192 with respect to individual service pipelines directly connected to transmission, gathering, or production pipelines. These facilities are typically located in rural areas and are commonly known as ''farm taps.''

These proposed FAQs reflect PHMSA's current application of the regulations to the specific implementation scenarios presented. However, there are many situations and configurations in which farm taps exist in gas pipeline systems, and individual FAQs cannot account for all possible scenarios. Operators may request written regulatory interpretations from PHMSA regarding specific situations in accordance with § 190.11.

FAQs are provided to help the regulated community understand how to comply with the regulations, but they are not substantive rules themselves and do not create legally enforceable rights, assign duties, or impose new obligations not otherwise contained in the existing regulations and standards. However, an operator who is able to demonstrate compliance with the FAQs is likely to be able to demonstrate compliance with the relevant regulations. If a different course of action is taken by a pipeline operator, the operator must be able to demonstrate that its conduct is in accordance with the regulations.

On January 23, 2017, PHMSA published a final rule titled ''Operator Qualification, Cost Recovery, Accident and Incident Notification, and Other Pipeline Safety Changes'' in the **Federal Register** (82 FR 7972). This final rule, effective March 24, 2017, excepted individual service lines directly connected to a transmission, gathering, or production pipeline from the distribution integrity management program (DIMP) regulations at § 192.1003(b). Instead, PHMSA added § 192.740, requiring periodic inspection and maintenance for pressure-regulating, limiting, and overpressure protection devices on individual service lines directly connected to production, gathering, or transmission pipelines.

PHMSA adopted this approach after working with stakeholders to best identify how to address risks to the integrity of farm taps in an appropriate and cost-effective manner.

After the publication of the rule, industry stakeholders commented that PHMSA had underestimated the costs of compliance with the new § 192.740 farm tap inspection requirements, and that existing DIMP requirements, in conjunction with other current requirements such as § 192.723(b)(2) leak surveys, could provide an equivalent level of safety. As part of DOT's regulatory review process, PHMSA is considering changes to the requirements for maintaining pressure-regulating, limiting, and overpressure protection devices on farm taps in the future.

On March 26, 2019, PHMSA issued an Announcement of Enforcement Discretion (84 FR 11253) that provides operators with the flexibility to address the safety of pressure control, limiting, and overpressure protection devices on farm taps under either § 192.740 or their DIMP, as specified by § 192.1003 prior to its revision.

To help operators better understand the applicability of § 192.740 and other issues related to farm taps, PHMSA is issuing these proposed FAQs. PHMSA invites interested parties to review the proposed FAQs and submit written comments, data, or other information. Other topics addressed in the proposed FAQs include how to determine if a farm tap is regulated; reporting requirements for distribution services from an unregulated source pipeline; the applicability of operation and maintenance requirements; regulatory definitions; the applicability of certain requirements to existing facilities; testing requirements; and other Part 192 requirements. When finalized, these FAQs will supersede FAQ C.3.7 in the Distribution Integrity Management Frequently Asked Questions document at: *https://www.phmsa.dot.gov/pipeline/gas-distribution-integrity-management/gas-distribution-integrity-management-faqs.*

The proposed FAQs and other supporting documents are available online on the Federal eRulemaking Portal, *https://www.regulations.gov;* search for Docket No. PHMSA–2019–0131. Before finalizing the proposed FAQs, PHMSA will evaluate all comments received on or before the comment closing date. Comments received after the closing date will be evaluated to the extent practicable. Once finalized, PHMSA's FAQs will be posted on PHMSA's public website at *https://www.phmsa.dot.gov.*

Issued in Washington, DC, on April 9, 2020, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,

Associate Administrator for Pipeline Safety.

[FR Doc. 2020–07922 Filed 4–17–20; 8:45 am]

BILLING CODE 4910–60–P

Notices

Federal Register
Vol. 85, No. 76
Monday, April 20, 2020

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[DOC. NO. AMS–FGIS–20–0022]

Grain Inspection Advisory Committee Meeting; Postponed

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of Federal Advisory Committee meeting; postponed.

SUMMARY: On March 17, 2020, The Agricultural Marketing Service (AMS) published a notice that announced the next meeting for the Grain Inspection Advisory Committee, which was scheduled for April 1, 2020, 8:30 a.m. to 5:00 p.m. & April 2, 2020, 8:30 a.m. to 5:00 p.m. AMS is publishing this notice to announce that this federal advisory committee meeting has been postponed and will be re-scheduled at a later date.

DATES: Committee Meeting; Postponed.
Day 1: April 1, 2020—Postponed.
Day 2: April 2, 2020—Postponed.

ADDRESSES: Not Applicable. Meeting is postponed.

FOR FURTHER INFORMATION CONTACT: Kendra Kline by phone at (202) 690–2410 or by email at *Kendra.C.Kline@usda.gov.*

SUPPLEMENTARY INFORMATION: Due to ongoing challenges created by the COVID–19 pandemic and demand on industry leaders' time, AMS and the Committee have decided that the meeting be postponed.

On March 17, 2020 (85 FR 15109), AMS published a notice that announced the next meeting of the Grain Inspection Advisory Committee, which was scheduled for Wednesday, April 1, 2020 from 8:30 a.m. to 5:00 p.m. and Thursday, April 2, 2020 from 8:30 a.m. to 5:00 p.m. AMS is publishing this notice to announce that this federal advisory committee meeting has been postponed and will be re-scheduled at a later date. The rescheduled meeting will be announced in the **Federal Register**. Additional information about the GIAC can be found on the AMS public website *https://www.ams.usda.gov/about-ams/facas-advisory-councils/giac.*

Bruce Summers,
Administrator, Agricultural Marketing Service.

[FR Doc. 2020–08249 Filed 4–17–20; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the West Virginia Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA) that a meeting of the West Virginia Advisory Committee to the Commission will convene by conference call at 11:30 a.m. (EST) on Tuesday, May 5, 2020. The purpose of the meeting is to discuss possible topics for the Committee's civil rights project.

DATES: Tuesday, May 5, 2020 at 11:30 a.m. (EST).
Public Call-In Information: Conference call-in number: 1–800–367–2403 and conference call ID number: 2629531.

FOR FURTHER INFORMATION CONTACT: Ivy Davis at *ero@usccr.gov* or by phone at 202–376–7533.

SUPPLEMENTARY INFORMATION: Interested members of the public may listen to the discussion by calling the following toll-free conference call-in number: 1–800–367–2403 and conference call ID number: 2629531. Please be advised that before being placed into the conference call, the conference call operator will ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free conference call-in number.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1–888–364–3109 and providing the operator with the toll-free conference call-in number: 1–800–367–2403 and conference call ID number: 2629531.

Members of the public are invited to make statements during the Public Comments section of the Agenda. They are also invited to submit written comments, which must be received in the regional office approximately 30 days after the scheduled meeting. Written comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425 or emailed to Corrine Sanders at *ero@usccr.gov.* Persons who desire additional information may contact the Eastern Regional Office at (202) 376–7533.

Records and documents discussed during the meeting will be available for public viewing as they become available at: *https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzmCAAQ;* click the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meetings. Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Eastern Regional Office at the above phone number, email or street address.

Agenda: May 5, 2020 at 11:30 a.m. (EST)

I. Rollcall
II. Welcome
III. Project Planning
IV. Other Business
V. Next Meeting
VI. Open Comments
VII. Adjourn

Dated: April 15, 2020.

David Mussatt,
Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020–08276 Filed 4–17–20; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the District of Columbia Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a meeting of the District of Columbia Advisory Committee to the Commission will convene by conference call, at 11:30 a.m. (EDT) Thursday, May 7, 2020. The purpose of the planning meeting is to discuss the draft report of the Committee's civil rights project on the DC Mental Health Court.

DATES: Thursday, May 7, 2020 at 11:30 a.m. (EDT).

Public Call-In Information: Conference call number: 1–877–260–1479 and conference call ID number: 1929821.

FOR FURTHER INFORMATION CONTACT: Ivy L. Davis, at *ero@usccr.gov* or by phone at 202–376–7533.

SUPPLEMENTARY INFORMATION: Interested members of the public may listen to the discussion by calling the following toll-free conference call number: 1–877–260–1479 and conference call ID number: 1929821. Please be advised that before placing them into the conference call, the conference call operator may ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number herein.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1–800–877–8339 and providing the operator with the toll-free conference call number: 1–877–260–1479 and conference call ID number: 1929821.

Members of the public are invited to make statements during the Public Comments section of the meeting or to submit written comments. The comments must be received in the regional office by Monday, June 8, 2020. Comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425 or emailed to Evelyn Bohor at *ero@usccr.gov.* Persons who desire additional information may contact the Eastern Regional Office at 202–376–7533.

Records and documents discussed during the meeting will be available for public viewing as they become available at: *https://gsageo.force.com/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzlKAAQ.* Please click the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Eastern Regional Office at the above phone numbers, email or street address.

Agenda: Thursday, May 7, 2020, at 11:30 a.m. (EDT)

Rollcall
Welcome and
Planning Meeting
—discuss proposed report draft
Other Business
Next Planning Meeting
Public Comments
Adjourn

Dated: April 15, 2020.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020–08277 Filed 4–17–20; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the New Jersey Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a planning meeting of the New Jersey Advisory Committee to the Commission will convene by conference call, on Friday, May 15, 2020 at 1:00 p.m. (EDT). The purpose of the meeting is to receive updates from the Forfeiture and Licensing Workgroups about suggestions for planning the Committee's briefing to examine its civil rights project on the collateral consequences that a criminal record has on criminal asset forfeitures and occupational licensing.

DATES: Friday, May 15, 2020, at 1:00 p.m. (EDT).

Public Call-In Information: Conference call number: 1–800–667–5617 and conference call ID number: 7386659.

FOR FURTHER INFORMATION CONTACT: Ivy L. Davis, at *ero@usccr.gov* or by phone at 202–376–7533.

SUPPLEMENTARY INFORMATION: Interested members of the public may listen to the discussion by calling the following toll-free conference call number: 1–800–667–5617 and conference call ID number: 7386659. Please be advised that before placing them into the conference call, the conference call operator may ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number herein.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1–800–877–8339 and providing the operator with the toll-free conference call number: 1–800–667–5617 and conference call ID number: 7386659.

Members of the public are invited to make statements during the Public Comment section of the meeting or to submit written comments. The comments must be received in the regional office approximately 30 days after each scheduled meeting. Written comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425, or emailed to Evelyn Bohor at *ero@usccr.gov.* Persons who desire additional information may contact the Eastern Regional Office at (202) 376–7533.

Records and documents discussed during the meeting will be available for public viewing, as they become available at: *https://gsageo.force.com/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzjVAAQ* click the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meetings. Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Eastern Regional Office at the above phone number, email or street address.

Agenda: Friday, May 15, 2020 at 1:00 p.m. (EDT)

I. Roll Call
II. Welcome
III. Project Planning
IV. Other Business
V. Next Meeting
VI. Public Comments
VII. Adjourn

Dated: April 15, 2020.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020–08278 Filed 4–17–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

Proposed Information Collection; Comment Request; Survey: Expenditures Incurred by Recipients of Biomedical Research and Development Awards From the National Institutes of Health (NIH)

AGENCY: Bureau of Economic Analysis, Department of Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden as required by the Paperwork Reduction Act of 1995, invites the general public and other Federal agencies to comment on continuing information collections related to the Expenditures Incurred by Recipients of Biomedical Research and Development Awards survey from the National Institutes of Health (NIH).

DATES: Written comments must be submitted on or before June 19, 2020.

ADDRESSES: Direct all written comments to Jennifer A. Bennett, Chief, Training and Staff Development Section, Expenditure and Income Division, Bureau of Economic Analysis, 4600 Silver Hill Road, BE–57, Washington, DC 20233, or via email at *PRAcomments@doc.gov.* All comments received are part of the public record. Comments will generally be posted without change. All Personally Identifiable Information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. You may submit attachments to electronic comments in Microsoft Word, Excel, or Adobe PDF file formats.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Jennifer A. Bennett, Chief, Training and Staff Development Section, Expenditure and Income Division (BE–57), Bureau of Economic Analysis, U.S. Department of Commerce, 4600 Silver Hill Rd. Washington, DC 20233; or via email at *jennifer.bennett@bea.*gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The survey obtains the distribution of expenditures incurred by recipients of biomedical research awards from the National Institutes of Health (NIH) and will provide information on how the NIH award amounts are expended across several major categories. This information, along with wage and price data from other published sources, will be used to generate the Biomedical Research and Development Price Index (BRDPI). The Bureau of Economic Analysis (BEA) develops this index for NIH under a reimbursable contract. The BRDPI is an index of prices paid for the labor, supplies, equipment, and other inputs required to perform the biomedical research the NIH supports in its intramural laboratories and through its awards to extramural organizations. The BRDPI is a vital tool for planning the NIH research budget and analyzing future NIH programs. A survey of award recipients is currently the only means for updating the expenditure category weights that are used to prepare the BRDPI.

II. Authority

This survey will be voluntary. The authority for NIH to collect information for the BRDPI is provided in 45 CFR subpart C, Post-Award Requirements, section 74.21. This sets forth explicit standards for grantees in establishing and maintaining financial management systems and records, and section 74.53 which provides for the retention of such records as well as NIH access to such records.

BEA will administer the survey and analyze the survey results on behalf of NIH, through an interagency agreement between the two agencies. The authority for the NIH to contract with the Department of Commerce (DOC) to make this collection is the Economy Act (31 U.S.C. 1535 and 1536).

The ''Special Studies'' authority, 15 U.S.C. 1525 (first paragraph), permits DOC to provide, upon the request of any person, firm, or public or private organization (a) special studies on matters within the authority of the DOC, including preparing from its records special compilations, lists, bulletins, or reports, and (b) furnishing transcripts or copies of its studies, compilations and other records. NIH's support for this research is consistent with the Agency's duties and authority under 42 U.S.C. 282.

The information provided by the respondents will be held confidential and be used for exclusively statistical purposes. This pledge of confidentiality is made under the Confidential Information Protection provisions of title V, subtitle A, Public Law 107–347. Title V is the Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA). Section 512 (on Limitations on Use and Disclosure of Data and Information) of the Act, provides that ''data or information acquired by an agency under a pledge of confidentiality and for exclusively statistical purposes shall be used by officers, employees, or agents of the agency exclusively for statistical purposes. Data or information acquired by an agency under a pledge of confidentiality for exclusively statistical purposes shall not be disclosed by an agency in identifiable form, for any use other than an exclusively statistical purpose, except with the informed consent of the respondent.''

Responses will be kept confidential and will not be disclosed in identifiable form to anyone, other than employees or agents of BEA or agents of NIH, without prior written permission of the person filing the report. By law, each employee as well as each agent is subject to a jail term of up to 5 years, a fine of up to $250,000, or both for disclosing to the public any identifiable information that is reported about a business or institution.

Section 515 of the Information Quality Guidelines applies to this survey. The collection and use of this information comply with all applicable information quality guidelines, *i.e.,* those of the Office of Management and Budget, Department of Commerce, and BEA.

III. Method of Collection

A survey with a cover letter that includes a brief description of, and rationale for, the survey will be sent by email to potential respondents by the first week of August 2020, 2021, and 2022. A report of the respondent's expenditures of the NIH award amounts, including NIH awards received as a sub-recipient from another institution, following the proposed format for expenditure categories included with the survey form, will be requested to be completed and submitted online no later than December 8, which in most years will be approximately 120 days

after mailing. Survey respondents will be selected based on award levels, which determine the weight of the respondent in the biomedical research and development price index. Potential respondents will include (1) The top 100 organizations in total awards, which account for about 77 percent of total awards; (2) 40 additional organizations that are not primarily in the ''Research and Development (R&D) contracts'' category; and (3) 10 additional organizations that are primarily in the ''R&D contracts'' category.

IV. Data

OMB Control Number: 0608–0069.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Universities or other organizations that are NIH award recipients.

Estimated Number of Respondents: 150.

Estimated Time per Response: 16 hours but may vary among respondents because of differences in institution structure, size, and complexity.

Estimated Total Annual Burden Hours: 2,400 hours.

Estimated Total Annual Cost to Public: $0.

V. Request for Comments

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

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

Dated: April 14, 2020.

Sheleen Dumas,

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

[FR Doc. 2020–08239 Filed 4–17–20; 8:45 am]

BILLING CODE 3510–EA–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–835]

Finished Carbon Steel Flanges From Italy: 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 sales of finished carbon steel flanges (steel flanges) from Italy were made at less than normal value during the period of review (POR) February 8, 2017 through July 31, 2018.

DATES: Applicable April 20, 2020.

FOR FURTHER INFORMATION CONTACT: Preston N. Cox, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5041.

SUPPLEMENTARY INFORMATION:

Background

On October 17, 2019, Commerce published the *Preliminary Results* of the 2017–2018 antidumping duty administrative review of steel flanges from Italy and invited interested parties to comment.[1] This administrative review covers 27 companies. The mandatory respondents are Forgital Italy S.p.A. (Forgital) and ASFO S.p.A. (ASFO). On November 18, 2019, we received a timely filed case brief from Forgital,[2] and on November 25, 2019, we received a timely filed rebuttal brief from Weldbend Corporation and Boltex Manufacturing Co., L.P. (collectively, the petitioners).[3] On February 10, 2020, Commerce extended the final results of this review to no later than April 14, 2020.[4]

For a further discussion of events subsequent to the *Preliminary Results, see* the Issues and Decision Memorandum.[5] Commerce conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The products covered by the scope of the order are steel flanges from Italy. For a complete description of the scope of the order, *see* the Issues and Decision Memorandum.[6]

Analysis of Comments Received

All issues raised in the 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.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://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.

Application of Adverse Facts Available

For these final results, pursuant to section 776(a) of the Act, we continue to rely upon facts otherwise available to assign estimated weighted-average dumping margins to the respondents selected for individual examination in this review because both Forgital and ASFO withheld necessary information that was requested by Commerce, thereby significantly impeding the conduct of the review. Further, we continue to find that both ASFO and Forgital failed to cooperate by not acting to the best of their abilities to comply with requests for information. Therefore, we continue to apply an adverse inference in selecting among the facts available (AFA) to the respondents, in accordance with section 776(b) of the Act.

Rate for AFA and Non-Selected Companies

For these final results, we continue to assign both Forgital and ASFO the AFA rate selected in the less-than-fair-value

[1] *See Finished Carbon Steel Flanges From Italy: Preliminary Results of Antidumping Duty Administrative Review; 2017–2018,* 84 FR 55551 (October 17, 2019) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[2] *See* Forgital's Letter, ''Finished Carbon Steel Flanges From Italy: Case Brief of Forgital Italy S.p.A.,'' dated November 18, 2019.

[3] *See* Petitioners' Letter, ''Finished Carbon Steel Flanges from Italy: Rebuttal Brief of Weldbend Corporation and Boltex Manufacturing Co., L.P,'' dated November 25, 2019.

[4] *See* Memorandum, ''Finished Carbon Steel Flanges From Italy: Extension of Deadline for Final Results of Antidumping Duty Administrative Review; 2017–2018,'' dated February 10, 2020.

[5] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Administrative Review of the Antidumping Duty Order on Finished Carbon Steel Flanges From Italy; 2017–2018,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[6] *See* Issues and Decision Memorandum at 2.

investigation.[7] Additionally, in accordance with the U.S. Court of Appeals for the Federal Circuit's decision in *Albemarle Corp.* v. *United States,*[8] we are applying to the non-selected companies a rate based on the simple average of the individual rates applied to ASFO and Forgital in this administrative review.[9] This is the only rate determined in this review for individual respondents and, thus, should be applied to the 25 non-selected companies under section 735(c)(5)(B) of the Act. For a detailed discussion, *see* the Preliminary Decision Memorandum.

Final Results of the Administrative Review

As a result of this review, Commerce determines that the following weighted-average dumping margins exist for the POR:

Producer/exporter	Weighted-average dumping margin (percent)
ASFO S.p.A	204.53
Forgital Italy S.p.A	204.53
ASFO S.p.A.—FOMAS Group	204.53
Assotherm srl	204.53
Bifrangi S.p.A	204.53
CAT Carpenteria Metallica srl	204.53
Costruzione Ricambi Machine Industriali	204.53
Filmag Italia S.r.l	204.53
FOC Ciscato S.p.Ar	204.53
FOMAS	204.53
Forgia Di Bollate S.p.A	204.53
Forgiatura A. Vienna diAntonio Vienna	204.53
Franchini Acciai S.p.A	204.53
Galperti Forged Products	204.53
Inox Laghi S.r.l	204.53
KIASMA SRL	204.53
Iml Industria Meccanica Ligure	204.53
Martin Valmore srl	204.53
M.E.G.A. S.p.A	204.53
Metalfar Prodotti Industriali, S.p.A	204.53
Officine Ambrogio Melesi & C. S.R.L	204.53
Officine di Cortabbio s.r.l	204.53
OFFICINE MECCANICHE CIOCCA S.p.A	204.53
Office SANTAFEDE	204.53
Siderforgerossi Group S.p.A	204.53
UNIGEN Steel Engineering	204.53
VALVITALIA S.p.A	204.53

Assessment Rates

Commerce has determined, and U.S. Customs and Border Protections (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with these final results of review.[10] Thus, we will instruct CBP to apply an *ad valorem* assessment rate of 204.53 percent to all entries of subject merchandise during the period of review which were produced and/or exported by ASFO, Forgital and the aforementioned companies which were not selected for individual examination. We intend to issue liquidation instructions to CBP 15 days after publication of the final results of this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for ASFO, Forgital and the other companies listed above will be equal to the weighted-average dumping margin established in the final results of this administrative review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which the company participated; (3) if the exporter is not a firm covered in this review, a prior review, or in the original investigation, but the producer is, then the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be the all-others rate of 79.17 percent, the rate established in the less-than-fair-value investigation.[11] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order (APO)

This notice 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 return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(5).

Dated: April 14, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Discussion of the Issues
  1. Whether To Continue To Apply Total Adverse Facts Available to Forgital
V. Recommendation

[FR Doc. 2020–08301 Filed 4–17–20; 8:45 am]

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[7] *See Finished Carbon Steel Flanges from India and Italy: Antidumping Duty Orders,* 82 FR 40136 (August 24, 2017) (*Order*).

[8] *See Albemarle Corp.* v. *United States,* 821 F.3d 1345 (Fed. Cir. 2016).

[9] *See, e.g., Certain Small Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe (Under 4\1/2\ Inches) from Japan: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2014–2015,* 81 FR 80640, 80641 (November 16, 2016).

[10] *See* 19 CFR 351.212(b)(1) and section 751(a)(2)(C) of the Act.

[11] *See Order,* 82 FR at 40138.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–820]

Prestressed Concrete Steel Wire Strand From Thailand: Final Results of Antidumping Duty Administrative Review; 2018

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

SUMMARY: The Department of Commerce (Commerce) has completed its administrative review of the antidumping duty order on prestressed concrete steel wire strand (PC strand) from Thailand for the period of review (POR) January 1, 2018 through December 31, 2018. We continue to find that that The Siam Industrial Wire Co., Ltd. (SIW) did not make sales of subject merchandise at less than normal value (NV) during the POR.

DATES: Applicable April 20, 2020.

FOR FURTHER INFORMATION CONTACT: Brian Smith or Samantha Kinney, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: 202–482–1766 or 202–482–2285, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 5, 2020, Commerce published the *Preliminary Results* in the **Federal Register**.[1] We invited interested parties to comment on the *Preliminary Results.* No interested parties submitted comments or a request for a hearing. Commerce conducted this review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The merchandise covered by this *Order*[2] is prestressed concrete steel wire strand produced from wire of non-stainless, non-galvanized steel, which is suitable for use in prestressed concrete (both pre-tensioned and post-tensioned) applications. The product definition encompasses covered and uncovered strand and all types, grades, and diameters of PC strand. The merchandise subject to the *Order* is currently classifiable under subheadings 7312.10.3010 and 7312.10.3012 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to the scope is dispositive.

Changes Since the Preliminary Results

As no parties submitted comments on the margin calculation methodology used in the *Preliminary Results,* Commerce made no adjustments to that methodology in the final results of this review.

Final Results of the Review

In the *Preliminary Results,* Commerce determined that SIW did not make sales of subject merchandise at less than NV during the POR. As we have not received any information to contradict our preliminary finding, we continue to determine in the final results that SIW did not make sales of subject merchandise at less than NV during the POR. Accordingly, Commerce determines that a weighted-average dumping margin of 0.00 percent exists for entries of subject merchandise that were produced and/or exported by SIW.

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with these final results of administrative review. Because we calculated a zero margin for SIW in the final results of this review, we intend to instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

Commerce intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of these final results of administrative review for all shipments of the subject merchandise from Thailand 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) The cash deposit rate for SIW will be equal to zero; (2) for previously investigated companies not covered in this review but covered in a completed prior segment of this proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which the company was reviewed; (3) if the exporter is not a firm covered in this review, a previous review, or the original investigation, but the producer is, then the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of subject merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 12.91 percent, the all-others rate established in the investigation.[3] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers Regarding the Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. 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 Regarding Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction 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 terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(5).

Dated: April 7, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2020–08299 Filed 4–17–20; 8:45 am]

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[1] *See Prestressed Concrete Steel Wire Strand from Thailand: Preliminary Results of Antidumping Duty Administrative Review; 2018,* 85 FR 6501 (February 5, 2020) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[2] *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Prestressed Concrete Steel Wire Strand from Thailand,* 69 FR 4111 (January 28, 2004) (*Order*); *see also Prestressed Concrete Steel Wire Strand from Brazil, India, Japan, the Republic of Korea, Mexico, and Thailand: Continuation of the Antidumping Duty Finding/Orders and Countervailing Duty Order,* 80 FR 22708 (April 23, 2015).

[3] *See Order,* 69 FR at 4111.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–867]

Large Power Transformers From the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2017–2018

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

SUMMARY: The Department of Commerce (Commerce) determines that Hyosung Heavy Industries Corporation (Hyosung) and Hyundai Electric & Energy Systems Co. (Hyundai) made sales of large power transformers from the Republic of Korea (Korea) at less than normal value during

the period of review (POR) August 1, 2017 through July 31, 2018.

DATES: Applicable April 20, 2020.

FOR FURTHER INFORMATION CONTACT: John Drury (Hyosung) or Joshua DeMoss (Hyundai), AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0195 or (202) 482–3362, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 17, 2019, Commerce published the *Preliminary Results.*[1] Commerce published the *Amended Preliminary Results* on November 27, 2019, stating that Commerce preliminarily determined that LSIS Co., Ltd (LSIS) had no shipments during the POR.[2] A summary of the events that occurred since Commerce published these *Preliminary Results,* as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum.[3]

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.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Scope of the Order

The scope of this order covers large liquid dielectric power transformers having a top power handling capacity greater than or equal to 60,000 kilovolt amperes (60 megavolt amperes), whether assembled or unassembled, complete or incomplete. The merchandise subject to the order is currently classified in the Harmonized Tariff Schedule of the United States at subheadings 8504.23.0040, 8504.23.0080, and 8504.90.9540. For a complete description of the scope of the order, *see* the accompanying Issues and Decision Memorandum.

Final Determination of No Shipments

In the *Amended Preliminary Results,* Commerce determined that LSIS had no shipments of subject merchandise during the POR.[4] As no party commented on this issue and because we have not received any information to contradict our preliminary finding, we continue to find that LSIS did not have any shipments of subject merchandise during the POR and intend to issue appropriate instructions to U.S. Customs and Border Protection (CBP) based on the final results of this review.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the Issues and Decision Memorandum. For a list of the issues raised by parties, *see* the appendix to this notice.

Changes Since the Preliminary Results

Commerce has made no changes to the *Preliminary Results* with respect to Hyundai. As stated in the *Preliminary Results,* we found that the application of total facts otherwise available, with adverse inferences, to Hyundai's weighted-average dumping margin, pursuant to sections 776(a) and (b) of the Tariff Act of 1930, as amended (the Act), was warranted.

Based on our review of the record and comments received from interested parties, we made certain changes to the margin calculations for Hyosung.[5] As a result of these changes, the weighted-average dumping margin also changes for the companies not selected for individual examination.

Final Results of the Review

The final weighted-average dumping margins are as follows:

Producer or exporter	Weighted-average dumping margin (percent)
Hyosung Heavy Industries Corporation	37.42
Hyundai Electric & Energy Systems Co., Ltd	60.81
Iljin Electric Co., Ltd	37.42
Iljin	37.42

Disclosure

We will disclose the calculations performed 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 Rate

Commerce shall determine, and CBP shall assess, antidumping duties on all appropriate entries.[6] For any individually examined respondents whose weighted-average dumping margin is above *de minimis,* we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those same sales, in accordance with 19 CFR 351.212(b)(1). Upon issuance of the final results of this administrative review, if any importer-specific assessment rates calculated in the final results are above *de minimis* (*i.e.,* at or above 0.5 percent), Commerce will issue instructions directly to CBP to assess antidumping duties on appropriate entries.

To determine whether the duty assessment rates covering the period were *de minimis,* in accordance with the requirement set forth in 19 CFR 351.106(c)(2), for each respondent we calculated importer (or customer)-specific *ad valorem* rates by aggregating the amount of dumping calculated for all U.S. sales to that importer or customer and dividing this amount by the total entered value of the sales to that importer (or customer). Where an importer (or customer)-specific *ad valorem* rate is greater than *de minimis,* and the respondent has reported reliable entered values, we will apply the assessment rate to the entered value of the importer's/customer's entries during the POR.

[1] *See Large Power Transformers from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2017–2018,* 84 FR 55559 (October 17, 2019) (*Preliminary Results*).

[2] *See Large Power Transformers from the Republic of Korea: Correction to the Preliminary Results of Antidumping Duty Administrative Review; 2017–2018,* 84 FR 65350 (November 27, 2019) (*Amended Preliminary Results*).

[3] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Administrative Review of the Antidumping Duty Order on Large Power Transformers from the Republic of Korea; 2017–2018,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[4] *See Amended Preliminary Results.*

[5] *See* Issues and Decision Memorandum at Comment 5; *see also* Analysis of Data Submitted by Hyosung Corporation in the Final Results of the 2017–2018 Administrative Review of the Antidumping Duty Order on Large Power Transformers from the Republic of Korea, dated April 14, 2020.

[6] In these final results, Commerce applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012).

As explained in the previous administrative review of this proceeding,[7] above, we find that Hyosung has provided sufficient evidence, based on the totality of the circumstances under Commerce's successor-in-interest criteria, to demonstrate that Hyosung Heavy Industries Corporation is the successor-in-interest to Hyosung Corporation. Accordingly, after the publication of these final results, we intend to issue liquidation instructions covering entries made by Hyosung Heavy Industries Corporation and Hyosung Corporation during the POR at the rate established in these final results.[8]

We intend to issue assessment instructions directly to CBP 15 days after publication of the final results of this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of this notice for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication of these final results, as provided by section 751(a)(2) of the Act: (1) The cash deposit rate for respondents noted above will be equal to the weighted-average dumping margins established in the final results of this administrative review; (2) for merchandise exported by producers or exporters not covered in this administrative review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the producer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the subject merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 22.00 percent, the all-others rate established in the less-than-fair-value investigation.[9] These cash deposit requirements, when imposed, shall remain in effect until further notice.

As explained in the previous administrative review of this proceeding,[10] above, we find that Hyosung has provided sufficient evidence, based on the totality of the circumstances under Commerce's successor-in-interest criteria, to demonstrate that Hyosung Heavy Industries Corporation is the successor-in-interest to Hyosung Corporation. Accordingly, we intend to instruct CBP to continue collecting deposits from Hyosung Heavy Industries Corporation, and any entries of merchandise produced by Hyosung Corporation, at the rate assigned to Hyosung pursuant to these final results.[11]

Notification to Importers Regarding the Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during the POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties did occur and the subsequent assessment of doubled antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction 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/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 this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(h) and 19 CFR 351.221(b)(5). Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until May 19, 2020, unless extended.[12]

Dated: April 14, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Application of Adverse Facts Available
V. Discussion of the Issues

Hyundai-Specific Issues

Comment 1: Application of AFA
(A) Hyundai's Completeness Failure at Verification
(B) Hyundai's Reporting of Sales Documentation
(C) Hyundai's Understatement of its Home Market Gross Unit Prices
(D) Application of Total AFA
Comment 2: Selection of AFA Rate
Comment 3: Reliability of Hyundai's Cost Data
Comment 4: Moot Issue

Hyosung-Specific Issues

Comment 5: Ministerial Errors/Programming Changes
(A) Revenue Capping in the Home Market—Indirect Selling Expenses
(B) Installation Revenue
(C) Revenue Capping in the U.S. Market—Storage Revenue
(D) Other Expenses in the U.S. Market
Comment 6: Warranty Expenses
Comment 7: U.S. Customs and Border Protection (CBP) Instructions

General Issues

Comment 8: Rate for Non-selected Respondents
VI. Recommendation

[FR Doc. 2020–08302 Filed 4–17–20; 8:45 am]

BILLING CODE 3510–DS–P

[7] *See Large Power Transformers from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2016–2017,* 84 FR 16461 (April 19, 2019) (*LPTs 16–17 Final*), and accompanying Issues and Decision Memorandum (IDM) at Comment 22.

[8] *See* Issues and Decision Memorandum at Comment 7.

[9] *See Large Power Transformers from the Republic of Korea: Antidumping Duty Order,* 77 FR 53177 (August 31, 2012).

[10] *See LPTs 16–17 Final* IDM at Comment 22.

[11] *See* Issues and Decision Memorandum at Comment 7.

[12] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 17006 (March 26, 2020).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–836]

Light-Walled Rectangular Pipe and Tube From Mexico: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2017–2018

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

SUMMARY: The Department of Commerce (Commerce) finds that sales of light-walled rectangular pipe and tube (LWRPT) from Mexico were made at less than normal value (NV) during the period August 1, 2017 through July 31, 2018.

DATES: Applicable April 20, 2020.

FOR FURTHER INFORMATION CONTACT: Samuel Brummitt (Maquilacero) or John

Conniff (Regiopytsa), AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–7851 or (202) 482–1009, respectively.

SUPPLEMENTARY INFORMATION:

Background

This review covers two producers or exporters of the subject merchandise, Maquilacero S.A. de C.V. (Maquilacero) and Regiomontana de Perfiles y Tubos S.A. de C.V. (Regiopytsa), and 16 firms that were not selected for individual examination. Commerce published the *Preliminary Results* on October 17, 2019.[1] For events subsequent to the *Preliminary Results, see* the Issues and Decision Memorandum.[2] Commerce conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Commerce extended the deadline for the final results by 60 days. Accordingly, the deadline for the final results is now April 14, 2020.[3]

Scope of the Order

Imports covered by the *Order* are shipments of certain welded carbon-quality light-walled steel pipe and tube, of rectangular (including square) cross section, having a wall thickness of less than 4 mm. The term carbon-quality steel includes both carbon steel and alloy steel which contains only small amounts of alloying elements. Specifically, the term carbon-quality includes products in which none of the elements listed below exceeds the quantity by weight respectively indicated; 1.80 percent of manganese, or 2.25 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.15 percent of vanadium, or 0.15 percent of zirconium.

The description of carbon-quality is intended to identify carbon-quality products within the scope. The welded-carbon quality rectangular pipe and tube subject to the *Order* is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7306.61.50.00 and 7306.61.70.60. This tariff classification is provided for convenience and Customs purposes; however, the written description of the scope of the *Order* is dispositive.

For a full description of the scope of the order, *see* Issues and Decision Memorandum.

Final Determination of No Shipments

In the *Preliminary Results,* we preliminarily found that Fabricaciones y Servicios de Mexico (FASEMEX) had no shipments of subject merchandise during the POR. Following the publication of the *Preliminary Results,* we received no comments from interested parties regarding FASEMEX, nor has any party submitted record evidence which would call our preliminary determination of no shipments into question. Therefore, for the final results, we continue to find that FASEMEX had no shipments of subject merchandise during the POR. Accordingly, consistent with Commerce's practice, we intend to instruct U.S. Customs and Border Protection (CBP) to liquidate any existing entries of merchandise produced by FASEMEX, but exported by other parties, at the rate for the intermediate reseller, if available, or at the all-others rate.[4]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the Issues and Decision Memorandum. A list of the issues that parties raised and to which we responded is attached to this notice as an Appendix. 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.* 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 versions of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results,* we made certain changes to each of the preliminary weighted-average dumping margins for Maquilacero and Regiopytsa.[5]

Final Results of the Review

As a result of this review, Commerce determines the following weighted-average dumping margins exist for the mandatory respondents Maquilacero and Regiopytsa for the period August 1, 2017 through July 31, 2018. In accordance with section 735(c)(5)(A) of the Act, Commerce calculated a weighted-average dumping margin for the firms not selected for individual examination using the weighted-average dumping margins calculated for the mandatory respondents, which are not zero, *de minimis,* or determined entirely on the basis of facts available.[6]

Producer and/or exporter	Weighted-average dumping margin (percent)
Aceros Cuatro Caminos S.A. de C.V	3.29
Arco Metal S.A. de C.V	3.29
Galvak, S.A. de C.V	3.29
Grupo Estructuras y Perfiles	3.29
Hylsa S.A. de C.V	3.29
Industrias Monterrey S.A. de C.V	3.29
International de Aceros, S.A. de C.V	3.29
Maquilacero S.A. de C.V	3.12
Nacional de Acero S.A. de C.V	3.29
PEASA-Productos Especializados de Acero	3.29
Perfiles LM, S.A. de C.V[7]	3.29
Productos Laminados de Monterrey S.A. de C.V	3.29
Regiomontana de Perfiles y Tubos S.A. de C.V	3.40
Talleres Acero Rey S.A. de C.V	3.29
Ternium Mexico S.A. de C.V	3.29

[1] *See Light-Walled Rectangular Pipe and Tube from Mexico: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2017–2018,* 84 FR 55555 (October 17, 2019) (*Preliminary Results*) and accompanying Preliminary Decision Memorandum (PDM).

[2] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the 2017–2018 Administrative Review of the Antidumping Duty Order on Light-Walled Rectangular Pipe and Tube from Mexico,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] *See* Memorandum, ''Light-Walled Rectangular Pipe and Tube from Mexico: Extension of Time Limit for Final Results of Antidumping Duty Administrative Review; 2017–2018,'' dated January 21, 2020.

[4] *See, e.g., Magnesium Metal from the Russian Federation: Preliminary Results of Antidumping Duty Administrative Review,* 75 FR 26922, 26923 (May 13, 2010), unchanged in *Magnesium Metal from the Russian Federation: Final Results of Antidumping Duty Administrative Review,* 75 FR 56989 (September 17, 2010).

[5] *See* Issues and Decision Memorandum at Comments 1, 6, 7, 8, 9, and 10.

[6] In the case of two mandatory respondents, our practice is to calculate: (A) A weighted average of the dumping margins calculated for the mandatory respondents; (B) a simple average of the dumping margins calculated for the mandatory respondents; and (C) a weighted average of the dumping margins calculated for the mandatory respondents using each company's publicly ranged values for the merchandise under consideration. We compare (B) and (C) to (A) and select the rate closest to (A) as the most appropriate rate for all other companies. We have applied that practice here. *See* Memorandum, ''Antidumping Duty Administrative Review of Light-Walled Rectangular Pipe and Tube from Mexico: Calculation of Margin for Respondents Not Selected for Individual Examination,'' dated April 14, 2020.

Producer and/or exporter	Weighted-average dumping margin (percent)
Tuberia Laguna, S.A. de C.V	3.29
Tuberias Aspe	3.29
Tuberias y Derivados S.A de C.V	3.29

Disclosure of Calculations

We intend to disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding, in accordance with 19 CFR 351.224(b).

Assessment Rates

Commerce shall determine and CBP shall assess antidumping duties on all appropriate entries.[8] For each individually examined respondent whose weighted-average dumping margin is not zero or *de minimis* (*i.e.,* less than 0.50 percent), we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1). Upon issuance of the final results of this administrative review, if an importer-specific assessment rate calculated in the final results is not zero or *de minimis,* Commerce will issue instructions directly to CBP to assess antidumping duties on appropriate entries. Where either the respondent's weighted-average dumping margin is zero or *de minimis,* or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

For each company which was not individually examined whose weighted-average dumping margin is not zero or *de minimis,* we will instruct CBP to assess antidumping duties at an *ad valorem* rate equal to each company's weighted-average dumping margin noted above. Where a non-examined company's weighted-average dumping margin is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

In accordance with Commerce's ''automatic assessment'' practice, for entries of subject merchandise during the POR produced by each individually examined respondent for which it did not know that its merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.

We intend to issue assessment instructions directly to CBP 41 days after publication of the final results of this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication of the final results of this administrative review, as provided by section 751(a)(2) of the Act: (1) The cash deposit rate for companies noted above will be equal to the weighted-average dumping margin established in the final results of this administrative review; (2) for merchandise exported by producers or exporters not covered in this administrative review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding; (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 recently completed segment of this proceeding for the manufacturer of the subject merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 3.76 percent, the all-others rate established in the less-than-fair-value investigation.[9]

These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers Regarding the Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during the POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction 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/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 this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(h) and 351.221(b)(5).

Dated: April 14, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Final Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Analysis of Comments
- Comment 1: Whether Commerce Should Apply Its Normal Cost Methodology to Maquilacero and Regiopytsa
- Comment 2: Whether Section 232 Duties Should Be Deducted From Export Price
- Comment 3: Whether Downstream Sales of Auto Parts Made From LWRPT Are Subject Merchandise
- Comment 4: Whether Downstream Sales of Auto Parts Were Made at a Different Level of Trade
- Comment 5: Whether Commerce Should Use Maquilacero's Home Market Sales to Its Affiliate in the Final Margin Calculation
- Comment 6: Whether Commerce Should Correct a Clerical Error in Its Margin Calculation for Maquilacero
- Comment 7: Whether Commerce Should Apply a ''Transactions Disregarded'' Adjustment to the Cost of Steel Coil That Maquilacero purchased From an Affiliate
- Comment 8: Whether Commerce Should Revise Maquilacero's General and Administrative (G&A) Expense Ratio

[7] *See Light-Walled Rectangular Pipe and Tube from Mexico: Initiation and Expedited Preliminary Results of Changed Circumstances Review,* 82 FR 54322 (November 17, 2017), unchanged in *Light-Walled Rectangular Pipe and Tube from Mexico: Final Results of Changed Circumstances Review,* 83 FR 13475 (March 29, 2018) (determining that Perfiles LM, S.A. de C.V. is the successor-in-interest to Perfiles y Herrajes).

[8] In these final results, Commerce applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012).

[9] *See Light-Walled Rectangular Pipe and Tube from Mexico, the People's Republic of China, and the Republic of Korea: Antidumping Duty Orders; Light-Walled Rectangular Pipe and Tube from the Republic of Korea: Notice of Amended Final Determination of Sales at Less Than Fair Value,* 73 FR 45403 (August 5, 2008).

Comment 9: Whether Commerce Should Adjust the Costs Maquilacero Assigned to Non-Prime Products
Comment 10: Whether Commerce Should Correct Two Clerical Errors in Regiopytsa's Margin Calculation
Comment 11: Whether Commerce Should Assign Perfiles the Weighted-Average Dumping Margin It Received as a Mandatory Respondent in the 2013–2014 Administrative Review
V. Recommendation

[FR Doc. 2020–08300 Filed 4–17–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Visiting Committee on Advanced Technology

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: National Institute of Standards and Technology (NIST)'s Visiting Committee on Advanced Technology (VCAT or Committee) will meet on Tuesday, June 9, 2020, from 8:30 a.m. to 5:00 p.m. Eastern Time, and Wednesday, June 10, 2020, from 8:30 a.m. to 12:00 p.m. Eastern Time.

DATES: The VCAT will meet on Tuesday, June 9, 2020, from 8:30 a.m. to 5:00 p.m. and Wednesday, June 10, 2020, from 8:30 a.m. to 12:00 p.m. Eastern Time.

ADDRESSES: The meeting will be a virtual meeting via webinar. Please note admittance instructions under the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Stephanie Shaw, VCAT, NIST, 100 Bureau Drive, Mail Stop 1060, Gaithersburg, Maryland 20899–1060, telephone number 301–975–2667. Ms. Shaw's email address is *stephanie.shaw@nist.gov.*

SUPPLEMENTARY INFORMATION:

Authority: 15 U.S.C. 278, as amended, and the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App., notice is hereby given that the VCAT will meet on Tuesday, June 9, 2020, from 8:30 a.m. to 5:00 p.m. Eastern Time, and Wednesday, June 10, 2020, from 8:30 a.m. to 12:00 p.m. Eastern Time. The meeting will be open to the public. The VCAT is composed of not fewer than 9 members appointed by the NIST Director, eminent in such fields as business, research, new product development, engineering, labor, education, management consulting, environment, and international relations. The primary purpose of this meeting is for the VCAT to 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. The agenda will include an update on major programs at NIST including efforts on technology transfer, AI, cybersecurity and privacy, quantum science, advanced communications, and advanced manufacturing. The agenda may change to accommodate Committee business. The final agenda will be posted on the NIST website at *http://www.nist.gov/director/vcat/agenda.cfm.*

Individuals and representatives of organizations who would like to offer comments and suggestions related to the Committee's business are invited to request a place on the agenda. Approximately one-half hour will be reserved for public comments and speaking times will be assigned on a first-come, first-serve basis. The amount of time per speaker will be determined by the number of requests received, but is likely to be about 3 minutes each. The exact time for public comments will be included in the final agenda that will be posted on the NIST website at *http://www.nist.gov/director/vcat/agenda.cfm.* Questions from the public will not be considered during this period. Speakers who wish to expand upon their oral statements, those who had wished to speak but could not be accommodated on the agenda, and those who were unable to attend via webinar are invited to submit written statements to Stephanie Shaw at *stephanie.shaw@nist.gov* or Jason Boehm at *jason.boehm@nist.gov.*

For participants attending via webinar, please contact Ms. Shaw at 301–975–2667 or *stephanie.shaw@nist.gov* for detailed instructions on how to join the webinar by 5:00 p.m. Eastern Time, Thursday, June 4, 2020.

Kevin A. Kimball,

Chief of Staff.

[FR Doc. 2020–08346 Filed 4–17–20; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA121]

Fisheries of the Atlantic; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice of SEDAR 65 Assessment Webinar III for Highly Migratory Species Atlantic Blacktip Shark.

SUMMARY: The SEDAR 65 assessment of the Atlantic stock of Blacktip Shark will consist of a series of workshops and webinars: Data Workshop; Assessment Webinars; and a Review workshop.

DATES: The SEDAR 65 Assessment Webinar III has been scheduled for May 7, 2020, from 1 p.m. to 4 p.m. EDT.

ADDRESSES:

Meeting address: The meeting will be held via webinar. The webinar is open to members of the public. Registration is available online at: *https://attendee.gotowebinar.com/register/6482335034851547406.*

SEDAR address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N Charleston, SC 29405; *www.sedarweb.org.*

FOR FURTHER INFORMATION CONTACT: Kathleen Howington, SEDAR Coordinator, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; phone: (843) 571–4366; email: *Kathleen.Howington@safmc.net.*

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions, have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a three-step process including: (1) Data Workshop; (2) Assessment Process utilizing webinars; and (3) Review Workshop. The product of the Data Workshop is a data report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Assessment Process is a stock assessment report which describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future

population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, Highly Migratory Species Management Division, and Southeast Fisheries Science Center. Participants include: data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and non-governmental organizations (NGOs); international experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion at the Assessment Webinar III are as follows:

- Participants will finalize reference case model run(s) which are robust to the major uncertainties identified in commercial bycatch discard estimation (and post-release mortality) as well as the major uncertainties identified in the indices of abundance.
- Participants will also discuss sensitivity analyses, model diagnostic methodology and preliminary results for the reference case model run(s).

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

This meeting is accessible to people with disabilities. Requests for auxiliary aids should be directed to the South Atlantic Fishery Management Council office (see **ADDRESSES**) at least 5 business days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: April 15, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–08264 Filed 4–17–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA131]

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of video conference.

SUMMARY: The North Pacific Fishery Management Council (Council) Crab Plan Team will meet May 4, 2020 through May 7, 2020.

DATES: The meeting will be held on Monday, May 4, 2020 through Wednesday May 6, 2020, from 8 a.m. to 4 p.m. Alaska Standard Time, and 8 a.m. to 11 a.m. on Thursday, May 7, 2020.

ADDRESSES: The meeting will be videoconference. Join online through the link at *https://meetings.npfmc.org/Meeting/Details/1424.*

Council address: North Pacific Fishery Management Council, 1007 W 3rd Ave., Anchorage, AK 99501–2252; telephone: (907) 271–2809. Instructions for attending the meeting via video conference are given under **SUPPLEMENTARY INFORMATION**, below.

FOR FURTHER INFORMATION CONTACT: Jim Armstrong, Council staff; email: *james.armstrong@noaa.gov.* For technical support please contact Maria Davis, Council staff, email: *maria.davis@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Agenda

Monday, May 4, 2020 Through Thursday, May 7, 2020

The agenda will include: (a) Final 2020 stock assessments for Aleutian Islands golden king crab, Pribilof Island golden king crab, and Western Aleutian Islands red king Crab; (b) stock assessment modeling scenarios for snow crab, Tanner crab, Bristol Bay red king crab, and St Matthew Island blue king crab; (c) other discussions including the development of ecosystem and socioeconomic profiles for crab stocks, stock assessment model configuration and inputs, crab bycatch in groundfish fisheries, updated State of Alaska catch data and Board of Fisheries decisions; and (d) planning for future meetings. You can attend the meeting online using a computer, tablet, or smart phone, or by phone only. Connection information is available at: *https://meetings.npfmc.org/Meeting/Details/1424.*

The agenda is subject to change, and the latest version will be posted at *https://meetings.npfmc.org/Meeting/Details/1424* prior to the meeting, along with meeting materials.

Public Comment

Public comment letters will be accepted and should be submitted electronically to *https://meetings.npfmc.org/Meeting/Details/1424.*

Special Accommodations

These meetings are accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Shannon Gleason at (907) 903–3107 at least 7 working days prior to the meeting date.

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

Dated: April 15, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–08266 Filed 4–17–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA109]

Endangered Species; File No. 19641

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

ACTION: Notice; receipt of application for a permit modification.

SUMMARY: Notice is hereby given that the Connecticut Department of Energy and Environmental Protection, P.O. Box 719, Old Lyme, Connecticut 06371 (Responsible Party: Tom Savoy), has requested a modification to scientific research Permit No. 19641–01.

DATES: Written, telefaxed, or email comments must be received on or before May 20, 2020.

ADDRESSES: The modification request and related documents are available for review by selecting ''Records Open for Public Comment'' from the Features box on the Applications and Permits for

Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 19641–03 from the list of available applications. These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone: (301) 427–8401; fax: (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Malcolm Mohead or Erin Markin, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject modification to Permit No. 19641–01, issued on March 12, 2019 (84 FR 15595), is requested under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

Permit No. 19641–01 authorizes the permit holder to conduct scientific research on Atlantic and shortnose sturgeon to determine their presence, status, health, habitat use, and movements in Connecticut waters. Researchers may use gill nets and trawls to capture Atlantic and shortnose sturgeon to then measure, weigh, passive integrated transponder (PIT) tag, tissue sample, and photograph prior to release. A subset of individuals may also be anesthetized, acoustically tagged, fin ray sampled, and gastric lavaged. Early life stages (ELS) of shortnose sturgeon may be lethally sampled to document the occurrence of spawning in Connecticut waters. During research activities, the unintentional mortality of up to one juvenile and adult/sub-adult life stage of each species may occur, annually. Due to an expanding population of shortnose and Atlantic sturgeon in the Connecticut River, the Permit Holder requests annual increases in the take numbers authorized (*i.e.,* from 250 to 500) for both juvenile Atlantic sturgeon and adult/sub-adult shortnose sturgeon life stages. The Permit Holder also requests authorization for lethal collection of 300 Atlantic sturgeon ELS to document the occurrence of spawning events in Connecticut waters. The permit expires March 31, 2027.

Dated: April 14, 2020.

Julia Marie Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2020–08237 Filed 4–17–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Federal Consistency Appeal by Jordan Cove Energy Project, L.P. and Pacific Connector Gas Pipeline, LP

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

ACTION: Notice of appeal.

SUMMARY: This announcement provides notice that the Department of Commerce has received a ''Notice of Appeal'' filed by Appellants Jordan Cove Energy Project, L.P. and Pacific Connector Gas Pipeline, LP. Appellants are requesting that the Secretary of Commerce override an objection by the Oregon Department of Land Conservation and Development to a consistency certification for a proposed project to construct and operate a liquified natural gas export terminal and a 229-mile interstate natural gas pipeline and compressor station off the Pacific Coast.

ADDRESSES: NOAA intends to post publicly available materials and related documents comprising the appeal record on the following website: *http://www.regulations.gov/#!docketDetail;D=NOAA-HQ-2020-0058.*

FOR FURTHER INFORMATION CONTACT: For questions about this Notice, contact Rachel Morris, Attorney-Advisor, NOAA Office of the General Counsel, Oceans and Coasts Section, and Patrick Carroll, Attorney-Advisor, NOAA Office of the General Counsel, Oceans and Coasts Section, at *jordancove.appeal@noaa.gov* or (301) 713–7387.

SUPPLEMENTARY INFORMATION:

I. Notice of Appeal

On March 20, 2020, the Secretary of Commerce (Secretary) received a ''Notice of Appeal'' filed by Appellants Jordan Cove Energy Project, L.P. and Pacific Connector Gas Pipeline, LP pursuant to the Coastal Zone Management Act of 1972 (CZMA), 16 U.S.C. 1451 *et seq.,* and implementing regulations found at 15 CFR part 930, subpart H. Appellants are appealing an objection by the Oregon Department of Land Conservation and Development to Appellants' CZMA federal consistency certification for a proposed project to construct and operate a liquified natural gas (LNG) export terminal within the North Spit of Coos Bay and a 229-mile interstate natural gas pipeline and compressor station to connect the LNG export terminal to existing pipeline infrastructure. This matter constitutes an appeal of an ''energy project'' within the meaning of the CZMA regulations. *See* 15 CFR 930.123(c).

Under the CZMA, the Secretary may override the Oregon Department of Land Conservation and Development's objection on grounds that the project is consistent with the objectives or purposes of the CZMA, or is necessary in the interest of national security. To make the determination that the proposed activity is ''consistent with the objectives or purposes of the CZMA,'' the Secretary must find that: (1) The proposed activity furthers the national interest as articulated in sections 302 or 303 of the CZMA, in a significant or substantial manner; (2) the national interest furthered by the proposed activity outweighs the activity's adverse coastal effects, when those effects are considered separately or cumulatively; and (3) no reasonable alternative is available that would permit the proposed activity to be conducted in a manner consistent with the enforceable policies of the applicable coastal management program. 15 CFR 930.121. To make the determination that the proposed activity is ''necessary in the interest of national security,'' the Secretary must find that a national defense or other national security interest would be significantly impaired if the proposed activity is not permitted to go forward as proposed. 15 CFR 930.122.

II. Public Availability of Appeal Documents

NOAA intends to provide access to publicly available materials and related documents comprising the appeal record on the following website: *http://www.regulations.gov/#!docketDetail;D=NOAA-HQ-2020-0058.*

The consolidated record maintained by the lead federal permitting agency is also located at FERC Docket Numbers CP17–494 and CP17–495, FERC Online Docket Search, available at *https://elibrary.ferc.gov/idmws/docket_search.asp.*

Authority Citation: 15 CFR 930.128(a).

Adam Dilts,

Chief, Oceans and Coasts Section, NOAA Office of General Counsel.

[FR Doc. 2020–07862 Filed 4–17–20; 8:45 am]

BILLING CODE 3510–JE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA130]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice of initiation of scoping process; notice of public scoping meetings; request for comments.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) will hold two public scoping meetings via webinar and a written comment period to solicit public comments on a developing management action to consider potential changes to the allocation of the black sea bass commercial quota among the states of Maine through North Carolina.

DATES: The webinar scoping hearings will be held on Monday May 11, 2020, from 2 p.m. to 3:30 p.m., EDT and on Thursday, May 14, 2020, from 6 p.m. to 7:30 p.m., EDT. Written comments must be received on or before 11:59 p.m. EDT, May 31, 2020. See **SUPPLEMENTARY INFORMATION** for more details.

ADDRESSES: Both webinar hearings may be accessed at: *http://mafmc.adobeconnect.com/bsb-com-allocation-scoping/.* Webinar audio will also be accessible by phone by dialing 1–800–832–0736 and entering room number 5068871. A scoping document is available at: *http://www.mafmc.org/actions/bsb-commercial-allocation.* Copies of the scoping document are also available by request from Dr. Chris Moore, Executive Director, Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331.

Public comments: Written comments may be sent by any of the following methods:

- *Email to: jbeaty@mafmc.org;* Include ''black sea bass commercial allocation amendment'' in the subject line.
- *Via webform at: http://www.mafmc.org/comments/bsb-com-allocation-amendment.*
- *Mail to:* Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901. Mark the outside of the envelope ''black sea bass commercial allocation amendment.''
- *Fax to:* (302) 674–5399.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission (Commission) are developing a joint action to consider adjusting the allocations of the black sea bass commercial quota among states. These allocations were loosely based on landings data from 1980–2001. They were first implemented in 2003 and have not been modified since that time. They are currently included only in the Commission's fishery management plan and are not jointly managed with the Council. This joint action will consider whether modifications to these allocations should be made to account for changes in black sea bass distribution and abundance over time, as well as other considerations. It will also consider whether the allocations should be added to the Council's Fishery Management Plan and managed jointly by the Council and Commission.

Additional information on this action is available at: *http://www.mafmc.org/actions/bsb-commercial-allocation.*

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to M. Jan Saunders at the Mid-Atlantic Council office, (302) 526–5251, at least 5 days prior to the meeting date.

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

Dated: April 15, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–08265 Filed 4–17–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XW024]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Coastal Pelagic Species Fishery; Application for Exempted Fishing Permits; California Wetfish Producers Association

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

ACTION: Notice; request for comments.

SUMMARY: The Regional Administrator, West Coast Region, NMFS, has made a preliminary determination that an application for an Exempted Fishing Permit warrants further consideration. The application, submitted by the California Wetfish Producers Association, requests an exemption from the prohibition on directed fishing for Pacific sardine during the remainder of the 2019–2020 fishing year and the upcoming 2020–2021 fishing year. The goal of this research is to collect fishery-dependent data for potential use in the 2021 and 2022 Pacific sardine stock assessments. NMFS requests public comment on the application.

DATES: Comments must be received by May 5, 2020.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2020–0060, by the following method:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2020-0060,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments. The Exempted Fishing Permit application will be available under Relevant Documents through the same link.
- *Instructions:* Comments must be submitted by the above method to ensure that the comments are received, documented, and considered by NMFS. Comments 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 *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or

otherwise sensitive or protected information. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Lynn Massey, West Coast Region, NMFS, (562) 436–2462, *lynn.massey@noaa.gov.*

SUPPLEMENTARY INFORMATION: This action is authorized by the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP) and regulations at 50 CFR 600.745, which allow NMFS Regional Administrators to authorize exempted fishing permits (EFPs) to test fishing activities that would otherwise be prohibited.

On April 6, 2020, the California Wetfish Producers Association (CWPA) submitted an EFP application to NMFS requesting an exemption from the prohibition on directed fishing for Pacific sardine as part of an industry-based scientific collection effort. The CWPA requested to directly harvest up to 640 metric tons (mt) of Pacific sardine during the remainder of the 2019–2020 fishing year, as well as 740 mt during the upcoming 2020–2021 fishing year, which will begin on July 1, 2020. Directed fishing for Pacific sardine, with exceptions for the minor directed fisheries, the live bait fishery, and EFP activities, is currently prohibited off the U.S. West Coast (84 FR 31222; July 1, 2019) and on April 6, 2020, the Pacific Fishery Management Council voted to keep the primary directed fishery closed for the 2020–2021 season as well.

The primary directed fishery for Pacific sardine has been closed since 2015, and consequently, scientists at the Southwest Fisheries Science Center (SWFSC) have a limited amount of fishery-dependent data to use in their annual stock assessment. The goal of this EFP project is to provide additional biological data (*i.e.,* age and length data from directed harvest) for potential use in the 2021 and 2022 stock assessments for Pacific sardine. Under this EFP project, six participating vessels would target Pacific sardine off the coasts of southern and central California with the goal of obtaining a minimum of six point sets during mid-May to June 30, 2020. During the 2020–2021 fishing year, the same six vessels would target sardine with the goal of obtaining a minimum of six point sets during July 1, 2020 to December 31, 2020, and a minimum of six point sets during January 1, 2021 to June 30, 2021.

A portion of each point set (*i.e.,* an individual haul of fish captured with a purse seine net) would be retained for biological sampling, and the remainder would be sold by the participating fishermen and processors to offset research costs and avoid unnecessary discard. EFP landings would be offloaded at ports in Monterey/Moss Landing, California (for central California landings) or Long Beach/San Pedro, California (for southern California landings), and the portion of fish retained for biological sampling would be received by staff at the California Department of Fish and Wildlife.

NMFS does not expect any adverse biological impacts from this EFP project. Any harvest under this EFP would count against the annual catch limit (ACL) for Pacific sardine in both fishing years when EFP activities would occur. On July 1, 2019, NMFS published a final rule (84 FR 31222) to implement Pacific sardine harvest specifications for the 2019–2020 fishing year off the U.S. West Coast. This final rule included a 4,514-mt ACL and a prohibition on directed fishing for Pacific sardine with exceptions for the minor directed fisheries, the live bait fishery, and EFP activities. As of March 31, 2020, approximately 3,300 mt of the 4,514-mt ACL for the 2019–2020 fishing year remained unharvested. Based on existing and likely fishing pressure over the next three months, NMFS does not expect landings to approach the ACL. If NMFS does not issue this EFP, then the 640-mt request for EFP catch would be available for harvest by other permissible fishing activities prior to the end of the current fishing year, which ends on June 30, 2020.

After publication of this document in the **Federal Register**, NMFS may approve and issue permits to participating vessels after the close of the public comment period.

NMFS will consider comments submitted in deciding whether to approve the application as requested. NMFS may approve the application in its entirety or may make any alterations needed to achieve the goals of the EFP project.

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

Dated: April 14, 2020.

Hélène M.N. Scalliet,

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

[FR Doc. 2020–08215 Filed 4–17–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA136

Western Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of a public meeting.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold a meeting of the Pacific Pelagics Fishery Ecosystem Plan (FEP) Plan Team (PT) to discuss fishery management issues and develop recommendations to the Council for future management of pelagic fisheries in the Western Pacific region.

DATES: The Pelagic PT will be held on May 6–8, 2020. For specific times and agendas, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meetings will be held by web conference. Audio and visual portions of the web conference can be accessed at: *https://wprfmc.webex.com/join/info.wpcouncilnoaa.gov.* Web conference access information will also be posted on the Council's website at *www.wpcouncil.org.* For assistance with the web conference connection, contact the Council office at (808) 522–8220.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council; telephone (808) 522–8220.

SUPPLEMENTARY INFORMATION: The Pelagic PT meeting will be held on May 6–8, 2020, and run each day from 1 p.m. to 5 p.m. Hawaii Standard Time (HST) (12 p.m. to 4 p.m. Samoa Standard Time (SST); 9 a.m. to 1 p.m. on May 7–9, 2020, Chamorro Standard Time (ChST)). Public comment periods will be provided in the agenda. The order in which agenda items are addressed may change. The meetings will run as late as necessary to complete scheduled business.

Agenda for the Pelagic Plan Team Meeting

Wednesday, May 6, 2020, 1 p.m. to 5 p.m. HST (12 p.m. to 4 p.m. SST; Thursday, May 7, 2020, 9 a.m. to 1 p.m. ChST)

1. Welcome and Introductions
2. Approval of Draft Agenda, 2018 Report, and Assignment of Rapporteurs
3. Review 2019 Annual Stock Assessment and Fishery Evaluation (SAFE) Report Modules
   A. Fishery Data Modules
   i. American Samoa
   ii. CNMI

iii. Guam
iv. Hawaii
v. International
vi. Recreational/Non-Commercial Fisheries
B. Ecosystem Chapter
i. Environmental & Climate Variables
ii. Habitat
iii. Marine Planning
4. Public Comment

Thursday, May 7, 2020, 1 p.m. to 5 p.m. HST (12 p.m. to 4 p.m. SST; Friday, May 8, 2020, 9 a.m. to 1 p.m. ChST)

5. Continued: Review 2019 Annual SAFE Report Modules
B. Ecosystem Chapter
iv. Socioeconomics
v. Protected Species
6. SAFE Report Discussion
A. Discussion: Data Integration
B. Web-Interface of the Annual SAFE Report
C. 2019 Report Region Wide Improvements & Recommendations
7. Impacts of COVID–19 on Pelagic Fisheries
8. Community Participation in Hawaii Commercial Pelagic Fisheries
9. Pelagics FEP Council Action Items
A. Electronic Reporting in Hawaii Longline Fishery
B. Hawaii Small-boat Fishery Management
C. Requirements for October 1 Start-date for Shallow-set Longline Fishery
10. Public Comment

Friday, May 8, 2020, 1 p.m. to 5 p.m. HST (12 p.m. to 4 p.m. SST; Saturday, May 9, 2020, 9 a.m. to 1 p.m. ChST)

11. Status of Endangered Species Act Consultations and Development of Reasonable and Prudent Measures (RPMs) for the Hawaii Deep-Set and American Samoa Longline Fisheries
12. Hawaii Shallow-Set Longline Fishery RPM Working Group
13. Transformative Ecosystem-Based Management Workshop
14. Update on Seabird Mitigation Measures
15. Standardized Bycatch Reporting Methodology
16. Workshop on Area-Based Management of Blue Water Fisheries
17. Pelagic Plan Team Recommendations
18. Public Comment
19. Other Business

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

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

Dated: April 15, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–08267 Filed 4–17–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA120]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public online meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Habitat Committee (HC) and Salmon Technical Team will hold a meeting, which is open to the public.

DATES: The online meeting will be held Tuesday, May 12, 2020, at 9 a.m. Pacific Daylight Time, and will end at 10:30 a.m. on the same day.

ADDRESSES: This meeting will be held online. To attend the meeting: (1) Join the meeting by using this link: *https://meetings.ringcentral.com/join;* (2) enter the Meeting ID provided in the meeting announcement (see *www.pcouncil.org*) and click JOIN; (3) You will be prompted to either download the RingCentral meetings application or join the meeting without a download via your web browser; (4) enter your name and click JOIN; (5) You may connect to the audio portion of the meeting via ''computer audio'' using a headset or opt to dial into the meeting via telephone using the TOLL number (s) provided on the screen; and (6) Once connected, you will be in the meeting, seeing other participants and a shared screen, if applicable. Technical Information and System Requirements: PC-based attendees are required to use Windows® 10, 8; Mac®-based attendees are required to use Mac OS® X 10.5 or newer; Mobile attendees are required to use iPhone®, iPad®, Android™ phone or Android tablet (See the RingCentral mobile apps in your app store). You may send an email to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov*) or contact him at (503) 820–2280, extension 412 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Jennifer Gilden, Pacific Council; telephone: (503) 820–2418.

SUPPLEMENTARY INFORMATION: Major topics include, but are not limited to, discussing habitat-related limiting factors for Klamath River Fall Chinook and Sacramento River Fall Chinook that may have contributed to the overfished determination and considering a timeline and work plan for the HC to develop recommendations for Pacific Council consideration to address relevant issues. Public comments during the webinar will be received from attendees at the discretion of the HC Chair.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov;* (503) 820–2412) at least 10 days prior to the meeting date.

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

Dated: April 15, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–08263 Filed 4–17–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA119]

Marine Mammals and Endangered Species

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

ACTION: Notice; issuance of permits and permit amendments.

SUMMARY: Notice is hereby given that permits and permit amendments have been issued to the following entities under the Marine Mammal Protection Act (MMPA).

ADDRESSES: The permits and related documents are available for review upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room

13705, Silver Spring, MD 20910; phone: (301) 427–8401; fax: (301) 713–0376.

FOR FURTHER INFORMATION CONTACT: Shasta McClenahan (Permit No. 23467–01 and 23640) at (301) 427–8401.

SUPPLEMENTARY INFORMATION: Notices were published in the **Federal Register** on the dates listed below that requests for a permit or permit amendment had been submitted by the below-named applicants. To locate the **Federal Register** notice that announced our receipt of the application and a complete description of the research, go to *www.federalregister.gov* and search on the permit number provided in Table 1 below.

TABLE 1—ISSUED PERMITS AND PERMIT AMENDMENTS

Permit No.	RTID	Applicant	Previous **Federal Register** notice	Permit or amendment issuance date
23467–01	0648–XR064	Sarah Conner, Wild Space Productions, St. Stephens House, Colston Avenue, Bristol, BS1 4ST, United Kingdom.	85 FR 7295; February 7, 2020.	March 24, 2020.
23640	0648–XR089	Wall to Wall Media Limited, 85 Gray's Inn Road, London, WC1X 8TX, United Kingdom (Responsible Party: James Hemming).	85 FR 5201; January 29, 2020.	March 11, 2020.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activities proposed are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Authority: The requested permits have been issued under the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

Dated: April 15, 2020.

Julia Marie Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2020–08274 Filed 4–17–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Patent Trial and Appeal Board (PTAB) Appeals

ACTION: Notice of renewal of information collection; request for comment.

SUMMARY: The United States Patent and Trademark Office (USPTO), as required by the Paperwork Reduction Act of 1995, invites comments on the renewal and revision of an existing information collection: 0651–0063 (Patent Trial and Appeal Board (PTAB) Appeals).

DATES: Written comments must be submitted on or before June 19, 2020.

ADDRESSES: You may submit comments by any of the following methods:

- *Email: InformationCollection@uspto.gov.* Include ''0651–0063 comment'' in the subject line of the message.
- *Federal Rulemaking Portal: http://www.regulations.gov.*
- *Mail:* Kimberly Hardy, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Michael Tierney, Vice Chief Administrative Patent Judge, Patent Trial and Appeal Board, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272–9797; or by email to *Michael.Tierney@uspto.gov.* Additional information about this information collection is also available at *http://www.reginfo.gov* under ''Information Collection Review.''

SUPPLEMENTARY INFORMATION:

I. Abstract

The Patent Trial and Appeal Board (PTAB or Board) is established by statute under 35 U.S.C. 6. This statute directs, in relevant part, that PTAB shall ''on written appeal of an applicant, review adverse decisions of examiners upon applications for patents pursuant to section 134(a).'' PTAB has the authority, under 35 U.S.C. 134 and 306 to decide appeals in applications and *ex parte* reexamination proceedings, and under pre-AIA sections of the Patent Act, *i.e.,* 35 U.S.C. 134 and 315, to decide appeals in *inter partes* reexamination proceedings. In addition, 35 U.S.C. 6 establishes the membership of PTAB as the Director, the Deputy Director, the Commissioner for Patents, the Commissioner for Trademarks, and the Administrative Patent Judges. Each appeal is decided by a merits panel of at least three members of the Board. The Board's responsibilities under the statute include the review of *ex parte* appeals from adverse decisions of examiners in those situations where a written appeal is taken by a dissatisfied applicant or patent owner. In *inter partes* reexamination appeals, PTAB reviews examiner's decisions adverse to a patent owner or a third-party requester. PTAB's opinions and decisions for publicly available files are published on the USPTO website.

The items associated with this information collection include appeals in applications and *ex parte* reexamination proceedings, and appeals in *inter partes* reexamination proceedings that are governed by the regulations in 37 CFR 41. Failure to comply with the appropriate regulations may result in dismissal of the appeal or denial of entry of the submission.

The name of this information collection is being changed from ''PTAB Actions'' to ''PTAB Appeals'' to better reflect the content of the information collection. In addition, this renewal adds three items currently approved in another information collection (0651–0031: Patent Processing) to include all items related to patent appeals in a single information collection. These three items are: Notice of Appeal, Amendment to Cancel Claims During an Appeal, and Request for Oral Hearing. A separate change request will be submitted to remove these three items from that information collection (0651–0031: Patent Processing).

II. Method of Collection

Items in this information collection may be submitted via mail, hand delivery, facsimile, or filed as attachments through the USPTO's Web-based electronic filing system (EFS-Web).

III. Data

OMB Number: 0651–0063.

Form Number(s): (AIA = American Invents; SB = Specimen Book):

• PTO/AIA/31: (Notice of Appeal from the Examiner to the Patent Trial and Appeal Board).
• PTO/SB/31: (Notice of Appeal).
• PTO/AIA/32: (Request for Oral Hearing before the Patent Trial and Appeal Board).
• PTO/SB/32: (Request for Oral Hearing before the Patent Trial and Appeal Board).

Type of Review: Revision of a currently approved information collection.

Affected Public: Individuals or households; private sector. The USPTO estimates that the majority (95%) of respondents (*i.e.,* applicants, patent owners, and requesters) will be from the private sector, but that about 5% will be individuals and households.

Estimated Number of Respondents: 22,664 respondents.

Estimated Number of Responses: 48,886 responses.

Estimated Time per Response: The USPTO estimates that it takes the public approximately .5 to 32 hours to complete this information collection, depending on the complexity of the request. This includes the time to gather the necessary information, prepare the brief, petition, and other papers, and submit the completed request to the USPTO.

Estimated Total Annual Respondent Burden Hours: 565,927 hours.

Estimated Total Annual Respondent Cost Burden: $226,370,800. The USPTO expects that all of the responses in this information collection will be prepared by an intellectual property attorney. The attorney rates are found in the 2019 Report of the Economic Survey of the America Intellectual Property Law Association (AIPLA).[1] Using the professional hourly rate of $400 for attorneys in private firms, the USPTO estimates that the total respondent cost burden for this information collection is $226,370,800 per year.

TABLE 1—BURDEN HOUR/BURDEN COST TO RESPONDENTS

[Private sector]

Item No.	Item	Respondents	Responses (yr) (a)	Hours (b)	Burden (hrs/yr) (c) (a) x (b)	Rate ($/hr) (d)	Total cost ($/hr) (e) (c) x (d)
1	Notice of Appeal	21,531	21,531	.5	10,766	$400	$4,306,400
2	Appeal Brief	Same as item 1	15,188	32	486,016	400	194,406,400
3	Amendment to Cancel Claims.	Same as item 1	1,495	2	2,990	400	1,196,000
4	Reply Brief	Same as item 1	7,060	5	35,300	400	14,120,000
5	Request for Rehearing Before the PTAB.	Same as item 1	390	5	1,950	400	780,000
6	Petitions to the Chief Administrative Patent Judge Under 37 CFR 41.3.	Same as item 1	65	4	260	400	104,000
7	Request for Oral Hearing.	Same as item 1	712	.5	356	400	142,400
Totals		21,531	46,441		537,638		215,055,200

TABLE 2—BURDEN HOUR/BURDEN COST TO RESPONDENTS (INDIVIDUALS AND HOUSEHOLDS)

Item No.	Item	Respondents	Responses (yr) (a)	Hours (b)	Burden (hrs/yr) (c) (a) x (b)	Rate ($/hr) (d)	Total cost ($/hr) (e) (c) x (d)
1	Notice of Appeal	1,133	1,133	.5	567	$400	$226,800
2	Appeal Brief	Same as item 1	799	32	25,568	400	10,227,200
3	Amendment to Cancel Claims.	Same as item 1	79	2	158	400	63,200
4	Reply Brief	Same as item 1	372	5	1,860	400	744,000
5	Request for Rehearing Before the PTAB.	Same as item 1	21	5	105	400	42,000
6	Petitions to the Chief Administrative Patent Judge Under 37 CFR 41.3.	Same as item 1	3	4	12	400	4,800
7	Request for Oral Hearing.	Same as item 1	38	.5	19	$400	$7,600
Totals		1,133	2,445		28,289		11,315,600

Estimated Total Annual Non-hour Respondent Cost Burden: $48,712,078 ($48,704,205 in fees and $7,873 in postage costs). There are no maintenance, operation, capital start-up, or recordkeeping costs associated with

[1] The AIPLA 2019 rate of $400, for attorneys in private firms, is lower than the 2017 rate; this difference explains some (or all) of any reductions in the total hourly cost burden.

this information collection. However, this information collection does have annual (non-hour) costs in the form of postage costs and fees, which are explained below.

TABLE 3—FILING FEES

Item No.	Item	Estimated annual responses	Fee ($)	Total cost ($)
1	Notice of appeal (large)	16,092	$840	$13,517,280
1	Notice of appeal (small)	5,439	420	2,284,380
1	Notice of appeal (micro)	1,133	210	237,930
2	Filing a brief in support of an appeal in an *inter partes* reexamination proceeding (large).	7	2,100	14,700
2	Filing a brief in support of an appeal in an *inter partes* reexamination proceeding (small).	2	1,050	2,100
2	Filing a brief in support of an appeal in an *inter partes* reexamination proceeding (micro).	1	525	525
2	Filing a Brief in Support of an Appeal in an Application or *Ex Parte* Reexamination Proceeding to the Board.	15,987	0	0
4	Forwarding an Appeal in an Application or *Ex Parte* Reexamination Proceeding to the Board (large).	11,351	2,360	26,788,360
4	Forwarding an Appeal in an Application or *Ex Parte* Reexamination Proceeding to the Board (small).	3,837	1,180	4,527,660
4	Forwarding an Appeal in an Application or *Ex Parte* Reexamination Proceeding to the Board (micro).	799	590	471,410
7	Request for oral hearing (large)	533	1,360	724,880
7	Request for oral hearing (small)	180	680	122,400
7	Request for oral hearing (micro)	37	340	12,580
Total		55,398		48,704,205

The briefs, petitions, and other papers may be submitted by mail through the United States Postal Service (USPS). The USPTO expects that about 2% of items in this information collection will be mailed by Express Mail using the flat rate envelope, resulting in an estimated postage cost of $7,873.

IV. Request for Comments

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

The USPTO invites public comments on:

(a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

(b) The accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of information on respondents, *e.g.,* the use of automated collection techniques or other forms of information technology.

Kimberly Hardy,

Information Collections Officer, Office of the Chief Administrative Officer, United States Patent and Trademark Office.

[FR Doc. 2020–08344 Filed 4–17–20; 8:45 am]

BILLING CODE 3510–16–P

COMMODITY FUTURES TRADING COMMISSION

Climate-Related Market Risk Subcommittee Under the Market Risk Advisory Committee; Correction

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice; correction.

SUMMARY: The Commodity Futures Trading Commission published a document in the **Federal Register** of April 14, 2020, concerning a request for public comment on topics and issues being addressed by the Climate-Related Market Risk Subcommittee under the Market Risk Advisory Committee. The document contained an incorrect term in the **DATES** section. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: David M. Gillers, MRAC Climate Subcommittee Alternate Designated Federal Officer and Chief of Staff to Commissioner Rostin Behnam at (202) 418–6026 or email: *MRAC_Submissions@cftc.gov.*

Correction

In the **Federal Register** of April 14, 2020, FR Doc. 2020–07860, on page 20678, in the third column, correct the sentence of the **DATES** caption to read:

The deadline for the submission of comments is May 14, 2020.

Dated: April 14, 2020.

Robert N. Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2020–08243 Filed 4–17–20; 8:45 am]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Energy and Environmental Markets Advisory Committee

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of meeting.

SUMMARY: The Commodity Futures Trading Commission (CFTC or Commission) announces that on May 7, 2020, from 10:00 a.m. to 2:30 p.m., the Energy and Environmental Markets Advisory Committee (EEMAC) will hold a public meeting. At this meeting, the EEMAC will hear remarks on the Commission's Position Limits for Derivatives proposed rule as approved by the Commission on January 30, 2020.

The agenda for this meeting will be available to the public and posted on the Commission's website at *https://www.cftc.gov.* Instructions for public access to the live audio feed of the meeting will also be posted on the Commission's website. In the event that the time, date, or place of this meeting changes, an announcement of the change, along with the new time, date, or place of the meeting, will be posted on the Commission's website.

DATES: The meeting will be held on May 7, 2020, from 10:00 a.m. to 2:30 p.m. Members of the public who wish to submit written statements in connection with the meeting should submit them by May 14, 2020.

ADDRESSES: You may submit public comments, identified by ''Energy and Environmental Markets Advisory Committee,'' by any of the following methods:

- *CFTC Comments Portal: https://comments.cftc.gov.* Select the ''Submit Comments'' link for this meeting notice and follow the instructions on the Public Comment Form.
- *Mail:* Send to Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Center, 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. Any statements submitted in connection with the committee meeting will be made available to the public, including by publication on the CFTC website, *https://www.cftc.gov.*

FOR FURTHER INFORMATION CONTACT: Abigail S. Knauff, EEMAC Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581; (202) 418–5123.

SUPPLEMENTARY INFORMATION: At this meeting, the EEMAC will hear remarks on the Commission's Position Limits for Derivatives proposed rule as approved on January 30, 2020. Specifically, the EEMAC will examine: (1) The proposed position limits for spot months, single month, and all-months-combined, and (2) the proposed bona fide hedge exemptions from such position limits and related procedures.

Members of the public may also listen to the public meeting by telephone by calling a domestic toll-free telephone or international toll or toll-free number to connect to a live, listen-only audio feed. Call-in participants should be prepared to provide their first name, last name, and affiliation.

Domestic Toll Free: 1–877–951–7311.

International Toll and Toll Free: Will be posted on the CFTC's website, *https://www.cftc.gov,* on the page for the meeting, under Related Links.

Pass Code/Pin Code: 4007007.

The meeting agenda may change to accommodate other EEMAC priorities. For agenda updates, please visit the EEMAC committee website at: *https://www.cftc.gov/About/CFTCCommittees/EnergyEnvironmentalMarketsAdvisory/emac_meetings.html.*

After the meeting, a transcript of the meeting will be published through a link on the CFTC's website at: *https://www.cftc.gov.* All written submissions provided to the CFTC in any form will also be published on the CFTC's website. Persons requiring special accommodations to attend the meeting because of a disability should notify the contact person above.

(Authority: 7 U.S.C. 2(a)(15)(B)(i)).

Dated: April 15, 2020.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2020–08347 Filed 4–17–20; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF EDUCATION

Extension of the Application Deadline—Small, Rural School Achievement (SRSA) Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

SUMMARY: On January 24, 2020, we published in the **Federal Register** a notice of application deadline for the fiscal year (FY) 2020 SRSA Program application cycle (SRSA notice), Catalog of Federal Domestic Assistance (CFDA) number 84.358A. The SRSA notice established a deadline date of April 17, 2020, for the transmittal of applications. This notice extends the FY 2020 application deadline for all eligible applicants to May 15, 2020.

DATES: Deadline for Transmittal of Applications: May 15, 2020.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Hitchcock, U.S. Department of Education, 400 Maryland Avenue SW, Room 3E–218, Washington, DC 20202. Telephone: (202) 260–1472. Email: *reap@ed.gov.*

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

SUPPLEMENTARY INFORMATION: On January 24, 2020, we published the SRSA notice in the **Federal Register** (85 FR 4311). The SRSA notice established an application deadline of April 17, 2020, for eligible local educational agencies (LEAs) to submit applications under the SRSA program. We are extending the deadline for transmittal of applications under the SRSA notice to May 15, 2020.

We are extending this deadline to allow LEAs impacted by recent school closures and the extraordinary circumstances related to the COVID–19 pandemic additional time to submit their applications.

Note: All other information in the SRSA notice, including application submission instructions and requirements, remains the same, as described at *www.federalregister.gov/documents/2020/01/24/2020-01193/application-deadline-for-fiscal-year-2020-small-rural-school-achievement-program.*

Information about SRSA is available on the Department's website at *www.oese.ed.gov/offices/office-of-formula-grants/rural-insular-native-achievement-programs/rural-education-achievement-program/small-rural-school-achievement-program/.*

Program Authority: Sections 5211–5212 of the Elementary and Secondary Education Act of 1965, as amended, 20 U.S.C. 7345–7345a.

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

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

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

your search to documents published by the Department.

Frank T. Brogan,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2020–08193 Filed 4–17–20; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Cost-Sharing Partnerships With the Private Sector in Fusion Energy

AGENCY: Fusion Energy Sciences (FES) Program, Office of Science (SC), Department of Energy (DOE).

ACTION: Request for information (RFI).

SUMMARY: The United States Department of Energy is developing a plan for a possible cost share program in fusion reactor technologies. This RFI invites interested parties to provide DOE–SC input on the topical areas, program objectives, eligibility requirements, program organization and structure, public and private roles and responsibilities, funding modalities, and assessment criteria of such an initiative.

DATES: Written comments and information are requested on or before May 15, 2020.

ADDRESSES: The DOE Office of Science is using the *http://www.regulations.gov* system for the submission and posting of public comments in this proceeding. All comments in response to this RFI are therefore to be submitted electronically through *http://www.regulations.gov,* via the web form accessed by following the ''Submit a Formal Comment'' link near the top right of the **Federal Register** web page for this RFI.

FOR FURTHER INFORMATION CONTACT: Requests for additional information may be submitted to Dr. John Mandrekas, (301) 903–4923, *CostShareFusion@science.doe.gov.*

SUPPLEMENTARY INFORMATION: Recognizing the recent surge in interest and investments by the private sector in the development of fusion energy, the DOE–SC FES program has been exploring partnership initiatives to leverage the private sector efforts, with the objective of accelerating progress toward the realization of fusion energy and solidifying U.S. leadership in this critical energy technology of the future. As a first step, FES launched the Innovation Network for Fusion Energy (INFUSE) [1] program which provides private-sector fusion companies with access to the expertise and facilities of DOE's national laboratories to overcome critical scientific and technological hurdles in pursuing development of fusion energy systems. INFUSE is modeled after the successful Gateway for Accelerated Innovation in Nuclear (GAIN) voucher program [2] established by the DOE Nuclear Energy (DOE–NE) Office. As in the GAIN voucher program, INFUSE does not provide funding directly to the private companies, but instead provides support to the partnering DOE laboratories to enable them to collaborate with their industrial partners.

As a next step, DOE–SC is exploring cost share partnership programs where the funding is provided directly to the private-sector companies under a performance-based milestone-driven approach. Such a program could be modeled after successful milestone-driven cost share programs established by other DOE offices or federal agencies, such as the Small Modular Reactors (SMRs) [3] and the non-voucher part of GAIN programs of DOE–NE, as well as NASA's Commercial Orbital Transportation Services (COTS) program.[4] DOE is also exploring the establishment of a fusion public-private partnership cost share program in reactor technologies.

Request for Information: The objective of this request for information is to gather input about the topical areas, program objectives, eligibility requirements, program organization and structure, public and private roles and responsibilities, funding modalities, and assessment criteria of such an initiative.

DOE–SC is not announcing an intention or an interest in procuring goods and services for its use. This RFI makes no statement about the possibility that DOE–SC might issue one or more solicitations for either procurement or financial assistance activities in the future. DOE–SC seeks input about how best to create a public benefit through expanding partnerships with the private sector in the field of fusion energy.

Comments containing references, studies, research, and other empirical data that are not widely published should include copies of the referenced materials. Note that comments will be made publicly available as submitted. Any information that may be confidential and exempt by law from public disclosure should be submitted as described below.

Confidential Business Information: Pursuant to 10 CFR 1004.11, any person submitting information he or she believes to be confidential and exempt by law from public disclosure should submit via email: One copy of the document marked ''confidential'' including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination. Factors of interest to DOE when evaluating requests to treat submitted information as confidential include: (1) A description of the items, (2) whether and why such items are customarily treated as confidential within the industry, (3) whether the information is generally known by or available from other sources, (4) whether the information has previously been made available to others without obligation concerning confidentiality, (5) an explanation of the competitive injury to the submitting person which would result from public disclosure, (6) when such information might lose its confidential character due to the passage of time, and (7) why disclosure of the information would be contrary to the public interest.

Signed in Washington, DC, on April 9, 2020.

Chris Fall,

Director, Office of Science.

[FR Doc. 2020–08312 Filed 4–17–20; 8:45 am]

BILLING CODE 6450–01–P

[1] Innovation Network for Fusion Energy (INFUSE), *https://infuse.ornl.gov/.*

[2] Gateway for Accelerated Innovation in Nuclear (GAIN), *https://inl.gov/research-program/gain/.*

[3] Advanced Small Modular Reactors (SMRs), *https://www.energy.gov/ne/nuclear-reactor-technologies/small-modular-nuclear-reactors.*

[4] National Aeronautics and Space Administration, Commercial Orbital Transportation Services (COTS), *https://www.nasa.gov/commercial-orbital-transportation-services-cots.*

DEPARTMENT OF ENERGY

[OE Docket No. EA–409–A]

Application To Export Electric Energy; Saracen Power LP

AGENCY: Office of Electricity, Department of Energy.

ACTION: Notice of application.

SUMMARY: Saracen Power LP (Applicant or Saracen) has applied to renew its authorization to transmit electric energy from the United States to Canada pursuant to the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before May 20, 2020.

ADDRESSES: Comments, protests, motions to intervene, or requests for

more information should be addressed by electronic mail to *Electricity.Exports@hq.doe.gov,* or by facsimile to (202) 586–8008.

SUPPLEMENTARY INFORMATION: The Department of Energy (DOE) regulates exports of electricity from the United States to a foreign country, pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b) and 42 U.S.C. 7172(f)). Such exports require authorization under section 202(e) of the Federal Power Act (16 U.S.C. 824a(e)).

On June 18, 2015, DOE issued Order EA–409, which authorized Saracen to transmit electric energy from the United States to Canada as a power marketer for a five-year term using existing international transmission facilities appropriate for open access. The authorization expires on June 18, 2020. On March 31, 2020, Saracen filed an application (Application or App.) with DOE for renewal of the export authorization contained in Order No. EA–409.

Saracen states that it is a ''Texas limited partnership with its principal place of business in Houston, Texas,'' that it ''is controlled by Saracen Energy Trading LP (''SET''), a Texas limited partnership and the sole general partner of Saracen Power LP,'' and that ''[t]he general partner of SET is SET GP LLC, a Texas limited liability company that in turn is owned by individuals Neil Kelley and Mark Wilken.'' App. at 2. The Applicant further states that it ''will purchase the power to be exported to Canada from wholesale generators, electric utilities, and federal power marketing agencies.'' *Id.* at 3. Saracen contends that its proposed exports ''will not impair or tend to impede the sufficiency of electric power supplies in the United States or the regional coordination of electric utility planning or operations.'' *Id.* at 4.

The existing international transmission facilities to be utilized by the Applicant have previously been authorized by Presidential permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the Application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedure (18 CFR 385.211). Any person desiring to become a party to this proceeding should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214).

Comments and other filings concerning Saracen's application to export electric energy to Canada should be clearly marked with OE Docket No. EA–409–A. Additional copies are to be provided directly to Allison P. Duensing, General Counsel, The Saracen Group of Companies, 3033 W Alabama St., Houston, TX 77098, *aduensing@saracenenergy.com* and Daniel E. Frank & Allison E. Speaker, Eversheds Sutherland (US) LLP, 700 Sixth St. NW, Suite 700, Washington, DC 20001–3980, *danielfrank@evershedssutherland.com, allisonspeaker@eversheds-sutherland.com.*

A final decision will be made on this Application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after DOE determines that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of this Application will be made available, upon request, by accessing the program website at *http://energy.gov/node/11845,* or by emailing Matthew Aronoff at *matthew.aronoff@hq.doe.gov.*

Signed in Washington, DC, on April 14, 2020.

Christopher Lawrence,

Management and Program Analyst, Transmission Permitting and Technical Assistance, Office of Electricity.

[FR Doc. 2020–08191 Filed 4–17–20; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP20–49–000]

Transcontinental Gas Pipe Line Company, LLC; Notice of Revised Schedule for Environmental Review of a Proposed Amendment of the Northeast Supply Enhancement Project

This notice identifies the Federal Energy Regulatory Commission staff's revised schedule for the completion of the environmental assessment (EA) for Transcontinental Gas Pipe Line Company, LLC's Northeast Supply Enhancement Project Amendment. The first notice of schedule, issued on March 25, 2020, identified May 15, 2020 as the EA issuance date. However, we received few comments regarding the access road that is the subject of the amendment. As a result, staff has revised the schedule for issuance of the EA.

Schedule for Environmental Review

Issuance of the EA April 24, 2020
90-day Federal Authorization Decision Deadline July 23, 2020

If a schedule change becomes necessary, an additional notice will be provided so that the relevant agencies are kept informed of the project's progress.

Additional Information

In order to receive notification of the issuance of the EA and to keep track of all formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Additional information about the Project is available from the Commission's Office of External Affairs at (866) 208–FERC or on the FERC website (*www.ferc.gov*). Using the ''eLibrary'' link, select ''General Search'' from the eLibrary menu, enter the selected date range and ''Docket Number'' excluding the last three digits (*i.e.,* CP20–49), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov.* The eLibrary link on the FERC website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: April 14, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–08261 Filed 4–17–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10721–032]

Idaho Aviation Foundation; Notice of Application Accepted for Filing, Intent To Waive Scoping, Soliciting Motions To Intervene and Protests, Ready for Environmental Analysis, and Soliciting Comments, Terms and Conditions, Recommendations, and Prescriptions

Take notice that the following hydroelectric application has been filed

with the Commission and is available for public inspection.

a. *Type of Application:* Subsequent License.

b. *Project No.:* 10721–032.

c. *Date Filed:* February 28, 2020.

d. *Applicant:* Idaho Aviation Foundation.

e. *Name of Project:* Big Creek Hydroelectric Project.

f. *Location:* On McCorkle Creek, near the town of Yellow Pine in Valley County, Idaho. The project would occupy 0.43 acre of federal land managed by the U.S. Forest Service.

g. *Applicant Contact:* Vic Jaro, Idaho Aviation Foundation, P.O. Box 2016, Eagle, ID 83616, (208) 404–9627; *info@idahoaviationfoundation.org.*

h. *FERC Contact:* Suzanne Novak, (202) 502–6665, or *suzanne.novak@ferc.gov.*

i. *Deadline for filing requests for cooperating agency status, motions to intervene and protests, comments, terms and conditions, recommendations, and prescriptions:* 60 days from the issuance date of this notice; reply comments are due 105 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file motions to intervene, protests, comments, terms and conditions, recommendations, and prescriptions 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). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–10721–032.

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.

j. This application has been accepted for filing and is now ready for environmental analysis.

k. *The Big Creek Project consists of the following facilities:* (1) A 2-foot-wide, 7-foot-long diversion structure with a check gate; (2) a 1,321-foot-long, 4-inch-diameter, buried PVC penstock with a screened inlet; (3) a 12-foot-wide, 14-foot-long generator house containing a Pelton turbine with an installed capacity of 5 kilowatts; (4) an 18-inch-diameter tailrace that discharges to McCorkle Creek; (5) a 257-foot-long transmission line buried in 2-inch-diameter PVC conduit; and (6) appurtenant facilities. The project operates in a run-of-river mode between mid-May and late October; it does not operate the remainder of the year. The project generates an average of 1.2 to 1.6 megawatt-hours annually. No changes to project operation or facilities are proposed.

l. Due to the small size and location of this project, the applicant's close coordination with federal and state agencies during preparation of the application and the studies completed during pre-filing consultation, and the lack of any study requests submitted in response to the Commission's tendering notice, we intend to waive scoping. Due to the small size and location of this project, the applicant's close coordination with federal and state agencies during preparation of the application, the studies completed during pre-filing consultation, and the lack of any study requests in response to the Commission's tendering notice, we intend to waive scoping. Based on a review of the application and resource agency consultation letters including comments filed to date, Commission staff intends to prepare a single environmental assessment (EA). Commission staff determined that the issues that need to be addressed in its EA have been adequately identified during the pre-filing period, and no new issues are likely to be identified through additional scoping. The EA will consider assessing the potential effects of project operation on geology and soils, aquatic, terrestrial, threatened and endangered species, recreation, and cultural and historic resources.

m. 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. For assistance, contact FERC Online Support.

You may register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified intervention deadline date, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified intervention deadline date. Applications for preliminary permits will not be accepted in response to this notice.

A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit a development application. A notice of intent must be served on the applicant(s) named in this public notice.

o. *A license applicant must file no later than 60 days following the date of issuance of this notice:* (1) A copy of the water quality certification; (2) a copy of the request for certification, including proof of the date in which the certifying agency received the request; or (3) evidence of waiver of water quality certification.

p. *Procedural schedule:* The application will be processed according to the following schedule. Revisions to the schedule will be made as appropriate.

Commission issues EA: November 2020

Comments on EA due: December 2020

Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

All filings must (1) bear in all capital letters the title ''PROTEST'', ''MOTION TO INTERVENE'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION,'' ''COMPETING APPLICATION,'' ''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 protesting or intervening; 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. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: April 14, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–08260 Filed 4–17–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. 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 toll free at (866) 208–3676, or for TTY, contact (202)502–8659.

Docket Nos.	File date	Presenter or requester
Prohibited:		
NONE.		
Exempt:		
1. EL16–49–000	4–2–2020	U.S. Senate.[1]
2. P–2082–062, P–14803–000	4–8–2020	U.S. Senate.[2]
3. CP14–96–000	4–9–2020	State of New York, Office of the Attorney General.[3]
4. EC19–120–000	4–9–2020	U.S. Senate.[4]
5. CP16–9–000	4–14–2020	Congressman Stephen F. Lynch.
6. CP15–554–000	4–14–2020	Congresswoman Elaine Luria.

[1] Senators Cory A. Booker, Charles E. Schumer, Thomas R. Carper, Sheldon Whitehouse, Tammy Duckworth, Chris Van Hollen, Christopher A. Coons, and Benjamin L. Cardin.
[2] Senators Ron Wyden, Jeffrey A. Merkley, Dianne Feinstein, Kamala D. Harris, and Representative Jared Huffman.
[3] Bureau Chief of Environmental Protection, Lemuel M. Srolovic.
[4] Senators Jeffrey A. Merkley, Bernard Sanders, and Edward J. Markey.

Dated: April 14, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–08255 Filed 4–17–20; 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: EC20–43–000.

Applicants: Pacific Gas and Electric Company, PG&E Corporation.

Description: Supplement to March 2, 2020 Application for Authorization Under Section 203 of the Federal Power Act of Pacific Gas and Electric Company, et al.

Filed Date: 4/13/20.

Accession Number: 20200413–5227.
Comments Due: 5 p.m. ET 4/27/20.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER20–1120–001.
Applicants: Paper Birch Energy, LLC.
Description: Tariff Amendment: Amended MBR Application to be effective 4/29/2020.
Filed Date: 4/13/20.
Accession Number: 20200413–5167.
Comments Due: 5 p.m. ET 5/4/20.

Docket Numbers: ER20–1457–001.
Applicants: Wisconsin Power and Light Company.
Description: Tariff Amendment: Refile—ACEC Wholesale Power Agreement Amendment to be effective 6/1/2020.
Filed Date: 4/13/20.
Accession Number: 20200413–5210.
Comments Due: 5 p.m. ET 5/4/20.

Docket Numbers: ER20–1460–001.
Applicants: Wisconsin Power and Light Company.
Description: Tariff Amendment: Refile—REC Amendment to WPA to be effective 6/1/2020.
Filed Date: 4/13/20.
Accession Number: 20200413–5213.
Comments Due: 5 p.m. ET 5/4/20.

Docket Numbers: ER20–1461–001.
Applicants: Wisconsin Power and Light Company.
Description: Tariff Amendment: Refile—CWEC Amendment to WPA to be effective 6/1/2020.
Filed Date: 4/13/20.
Accession Number: 20200413–5214.
Comments Due: 5 p.m. ET 5/4/20.

Docket Numbers: ER20–1525–000.
Applicants: Eastern Landfill Gas, LLC.
Description: Amendment to April 8, 2020 Waiver Request of Eastern Landfill Gas, LLC under ER20–1525. (Replaces 20200408–5021).
Filed Date: 4/13/20.
Accession Number: 20200413–5226.
Comments Due: 5 p.m. ET 4/29/20.

Docket Numbers: ER20–1558–000.
Applicants: PacifiCorp.
Description: § 205(d) Rate Filing: Lincoln Solar LGIA—unexecuted to be effective 6/13/2020.
Filed Date: 4/13/20.
Accession Number: 20200413–5207.
Comments Due: 5 p.m. ET 5/4/20.

Docket Numbers: ER20–1559–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: § 205(d) Rate Filing: Filing of Rate Schedule FERC No. 281, CTP Methodology to be effective 4/14/2020.
Filed Date: 4/13/20.
Accession Number: 20200413–5216.
Comments Due: 5 p.m. ET 5/4/20.

Docket Numbers: ER20–1560–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 3644 ETEC Attachment AO to be effective 3/31/2020.
Filed Date: 4/14/20.
Accession Number: 20200414–5005.
Comments Due: 5 p.m. ET 5/5/20.

Docket Numbers: ER20–1561–000.
Applicants: Virginia Electric and Power Company, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Dominion submits Revisions to OATT, Att. H–16C re: Other Post-Employment Benefit to be effective 6/15/2020.
Filed Date: 4/14/20.
Accession Number: 20200414–5114.
Comments Due: 5 p.m. ET 5/5/20.

Docket Numbers: ER20–1562–000.
Applicants: Midlands Solar LLC.
Description: Baseline eTariff Filing: baseline new to be effective 4/15/2020.
Filed Date: 4/14/20.
Accession Number: 20200414–5125.
Comments Due: 5 p.m. ET 5/5/20.

Docket Numbers: ER20–1563–000.
Applicants: Midlands Lessee LLC.
Description: Baseline eTariff Filing: baseline new to be effective 4/15/2020.
Filed Date: 4/14/20.
Accession Number: 20200414–5128.
Comments Due: 5 p.m. ET 5/5/20.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES20–23–000.
Applicants: Mississippi Power Company.
Description: Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of Mississippi Power Company.
Filed Date: 4/14/20.
Accession Number: 20200414–5118.
Comments Due: 5 p.m. ET 5/5/20.

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 14, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–08254 Filed 4–17–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC20–15–000]

Commission Information Collection Activities (FERC-510); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the proposed extension of currently approved information collection, FERC–510 (Application for Surrender of a Hydropower License).

DATES: Comments on the collection of information are due June 19, 2020.

ADDRESSES: You may submit comments (identified by Docket No. IC20–15–000) by either of the following methods:

- *eFiling at Commission's website: http://www.ferc.gov/docs-filing/efiling.asp*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, at Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance, contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at (866) 208–3676 (toll-free).

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* and telephone at (202) 502–8663.

SUPPLEMENTARY INFORMATION: *Title:* FERC–510, Application for Surrender of a Hydropower License.

OMB Control No.: 1902–0068.

Type of Request: Three-year extension of the FERC–510 information collection requirements with no changes to the current reporting and recordkeeping requirements.

Abstract: The information collected under the requirements of FERC–510 is used by the Commission to implement the statutory provisions of sections 4(e), 6, and 13 of the Federal Power Act (FPA) (16 U.S.C. 797(e), 799 and 806). Section 4(e) gives the Commission authority to issue licenses for the purposes of constructing, operating and maintaining dams, water conduits, reservoirs, powerhouses, transmission lines or other power project works necessary or convenient for developing and improving navigation, transmission and utilization of power using bodies of water over which Congress has jurisdiction. Section 6 gives the Commission the authority to prescribe the conditions of licenses including the revocation or surrender of the license. Section 13 defines the Commission's authority to delegate time periods for when a license must be terminated if project construction has not begun. Surrender of a license may be desired by a licensee when a licensed project is retired or not constructed or natural catastrophes have damaged or destroyed the project facilities.

FERC–510 is the application for the surrender of a hydropower license. The information is used by Commission staff to determine the broad impact of such surrender. The Commission will issue a notice soliciting comments from the public and other agencies and conduct a careful review of the application before issuing an order for Surrender of a License. The order is the result of an analysis of the information produced (*i.e.,* dam safety, public safety, and environmental concerns, etc.), which is examined to determine whether any conditions must be satisfied before granting the surrender. The order implements the existing regulations and is inclusive for surrender of all types of hydropower licenses issued by FERC and its predecessor, the Federal Power Commission. The Commission implements these mandatory filing requirements in the Code of Federal Regulations (CFR) under 18 CFR 6.1–6.4.

Type of Respondent: Private or Municipal Hydropower Licensees.

Estimate of Annual Burden [1]: The Commission estimates the total annual burden and cost [2] for this information collection as follows:

FERC–510

Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden hrs. & cost ($) per response	Total annual burden hrs. & total annual cost ($)	Cost per respondent ($)
(1)	(2)	(1)*(2) = (3)	(4)	(3)*(4) = (5)	(5) ÷ (1)
8	1	8	80 hrs.; $6,400	640 hrs.; $51,200	$6,400

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: April 14, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–08258 Filed 4–17–20; 8:45 am]

BILLING CODE 6717–01–P

[1] "Burden" is the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For additional information, refer to Title 5 Code of Federal Regulations 1320.3.

[2] The Commission staff thinks that the average respondent for this collection is similarly situated to the Commission, in terms of salary plus benefits. The FERC 2019 average salary plus benefits for one FERC full-time equivalent (FTE) is $167,091/year (or $80.00/hour).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Number: PR20–50–000.

Applicants: Enterprise Texas Pipeline LLC.

Description: Tariff filing per 284.123(b)(2)+(g): ETP 311 Rate Filing and Amended SOC to be effective 4/1/2020.

Filed Date: 4/13/2020.

Accession Number: 202004135069.

Comments Due: 5 p.m. ET 5/4/2020.

284.123(g) Protests Due: 5 p.m. ET 6/12/2020.

Docket Numbers: RP20–779–000.

Applicants: Transcontinental Gas Pipe Line Company, LLC.

Description: § 4(d) Rate Filing: GT&C Section 49 Tariff Change to be effective 5/11/2020.

Filed Date: 4/10/20.

Accession Number: 20200410–5078.

Comments Due: 5 p.m. ET 4/22/20.

Docket Numbers: RP20–780–000.

Applicants: Pine Needle LNG Company, LLC.

Description: Compliance filing Petition for Approval of a Negotiated Stipulation and Agreement.

Filed Date: 4/10/20.

Accession Number: 20200410–5150.

Comments Due: 5 p.m. ET 4/22/20.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified date(s). Protests

may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 14, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–08253 Filed 4–17–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 8015–008]

North Eastern Wisconsin Hydro, LLC; Notice of Application for Temporary Amendment and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Temporary amendment of exemption.

b. *Project No.:* 8015–008.

c. *Date Filed:* April 13, 2020.

d. *Applicant:* North Eastern Wisconsin Hydro, LLC.

e. *Name of Project:* Shawano Paper Mills Dam Project.

f. *Location:* The project is located on the Wolf River in Shawano County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Ms. Melissa Rondou, Eagle Creek Renewable Energy, 116 N State St., P.O. Box 167, Neshkoro, WI 54960; telephone: (920) 293–4628 ext. 347.

i. *FERC Contact:* Christopher Chaney, telephone: (202) 502–6778, and email address: *christopher.chaney@ferc.gov.*

j. Deadline for filing comments, motions to intervene, and protests is 30 days from the issuance date of this notice by the Commission.

All documents may be filed electronically via the internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's website 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* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–8015–008. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* The exemptee requests authorization to increase the normal target impoundment elevation from 802.5 feet mean sea level (msl) to a target elevation of 802.9 feet msl between May 15, 2020, and November 15, 2020, while continuing to operate the project within the authorized elevation range of 801.83 feet msl and 803.17 feet msl. The exemptee states the amendment is necessary to determine appropriate mitigation measures for the navigational hazards that exist on Shawano Lake and the channel, and implement them prior to the 2021 recreation season.

l. *Locations of the Application:* 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 website at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. Agencies may obtain copies of the application directly from the applicant. 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, (866) 208–3676 or TTY, (202) 502–8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* All filings must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable ; (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 protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 385.2010.

Dated: April 14, 2020.

Kimberly Bose,

Secretary.

[FR Doc. 2020–08259 Filed 4–17–20; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–10008–25–OW]

Notice of Charter Renewal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Charter for the United States Environmental Protection Agency's (EPA) Environmental Financial Advisory Board (EFAB) will

be renewed for an additional two-year period, as a necessary committee which is in the public interest, in accordance with the provisions of the Federal Advisory Committee Act (FACA). The purpose of the EFAB is to provide advice and recommendations to the EPA Administrator on issues associated with environmental financing. It is determined that the EFAB is in the public interest in connection with the performance of duties imposed on the Agency by law. Inquiries may be directed to Stephanie Sanzone, Water Infrastructure and Resiliency Finance Center, U.S. EPA, 1200 Pennsylvania Avenue NW, Washington, DC 20460 (Mail Code: 4204M), Telephone (202) 564–2839, or *sanzone.stephanie@epa.gov.*

Dated: April 9, 2020.

Andrew D. Sawyers,

Director, Office of Wastewater Management.

[FR Doc. 2020–08242 Filed 4–17–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2018–0274; FRL–10008–36–ORD]

Integrated Science Assessment for Ozone and Related Photochemical Oxidants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The Environmental Protection Agency (EPA) is announcing the availability of a final document titled, ''Integrated Science Assessment for Ozone and Related Photochemical Oxidants (Final)'' (EPA/600/R–20/012). The document was prepared by the Center for Public Health and Environmental Assessment (CPHEA) within EPA's Office of Research and Development (ORD) as part of the review of the primary (health-based) and secondary (welfare-based) ozone national ambient air quality standards (NAAQS) and represents an update of the 2013 Integrated Science Assessment (ISA) for ozone and related photochemical oxidants. The ISA, in conjunction with additional technical and policy assessments, provides the basis for EPA's decisions on the adequacy of the current NAAQS and the appropriateness of possible alternative standards.

DATES: The document will be available on or about April 24, 2020.

ADDRESSES: The ''Integrated Science Assessment for Ozone and Related Photochemical Oxidants (Final)'' will be available primarily via the internet on EPA's Integrated Science Assessment for Ozone page at *https://www.epa.gov/isa/integrated-science-assessment-isa-ozone-and-related-photochemical-oxidants* or the public docket at *http://www.regulations.gov,* Docket ID: EPA–HQ–ORD–2018–0274. A limited number of CD–ROM copies will be available. Contact Ms. Marieka Boyd by phone: 919–541–0031; fax: 919–541–5078; or email: *boyd.marieka@epa.gov* to request a CD–ROM, and please provide your name, your mailing address, and the document title, ''Integrated Science Assessment for Ozone and Related Photochemical Oxidants (Final)'' to facilitate processing of your request.

FOR FURTHER INFORMATION, CONTACT: For technical information, contact Dr. Thomas Luben, CPHEA; phone: 919–541–5762; fax: 919–541–1818; or email: *luben.tom@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Information About the Document

Section 108(a) of the Clean Air Act directs the Administrator to identify certain air pollutants which, among other things, ''cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare''; and to issue air quality criteria for them. The air quality criteria are to ''accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health or welfare which may be expected from the presence of [a] pollutant in the ambient air . . . .''. Under section 109 of the Act, EPA is then to establish NAAQS for each pollutant for which EPA has issued criteria. Section 109(d)(1) of the Act subsequently requires periodic review and, if appropriate, revision of existing air quality criteria to reflect advances in scientific knowledge on the effects of the pollutant on public health or welfare. EPA is also required to review and, if appropriate, revise the NAAQS, based on the revised air quality criteria (for more information on the NAAQS review process, see *https://www.epa.gov/naaqs*).

EPA has established NAAQS for six criteria pollutants. Presently the EPA is reviewing the air quality criteria and NAAQS for photochemical oxidants and ozone; ozone is the current indicator for this NAAQS. Periodically, EPA reviews the scientific basis for these standards by preparing an ISA (formerly called an Air Quality Criteria Document). The ISA provides the scientific basis for EPA's decisions, in conjunction with additional technical and policy assessments, on the adequacy of the current NAAQS and the appropriateness of possible alternative standards. The Clean Air Scientific Advisory Committee (CASAC), an independent science advisory committee whose review and advisory functions are mandated by Section 109(d)(2) of the Clean Air Act, is charged (among other things) with independent scientific review of the EPA's air quality criteria.

On June 26, 2018 (83 FR 29785), EPA formally initiated its current review of the air quality criteria for the health and welfare effects of ozone and related photochemical oxidants and the primary (health-based) and secondary (welfare-based) ozone NAAQS, requesting the submission of scientific and policy-relevant information on specified topics. This information was incorporated into EPA's ''Integrated Review Plan for the Review of the Ozone National Ambient Air Quality Standards (External Review Draft),'' which was available for public comment (83 FR 55163) and discussion by the CASAC via publicly accessible teleconference consultation (83 FR 55528). The final ''Integrated Review Plan for the Review of the Ozone National Ambient Air Quality Standards'' was posted to the EPA website in August 2019 (*https://www.epa.gov/naaqs/ozone-o3-air-quality-standards*).

In the development of the draft ISA, webinar workshops were held on October 29 and 31, 2018, and November 1 and 5, 2018, to discuss initial draft materials with invited EPA and external scientific experts (83 FR 53472). The input received during these webinar workshops aided in the development of the materials presented in the ''Integrated Science Assessment for Ozone and Related Photochemical Oxidants (External Review Draft)'', which was released on September 19, 2019 (84 FR 50836) and is available at: *https://cfpub.epa.gov/ncea/isa/recordisplay.cfm?deid=344670.* The CASAC met at a public meeting on December 3–6, 2019 (84 FR 58713), to review the draft Ozone ISA. A public teleconference was then held on February 11, 2020 for CASAC to review their draft letter to the Administrator on the draft ISA. This meeting was announced in the **Federal Register** on January 27, 2020 (85 FR 4656). Subsequently, on February 19, 2020, the CASAC provided a letter of their review to the Administrator of the EPA, available at: *https://yosemite.epa.gov/sab/sabproduct.nsf/264cb1227d55e02c85257402007446a4/F228E5D4D848BBED85258515006354D0/$File/EPA-*

CASAC-20-002.pdf. The letter from the CASAC, as well as public comments received on the draft Ozone ISA, can be found in Docket ID No. EPA–HQ–ORD–2018–0274.

The Administrator responded to the CASAC's letter on the External Review Draft of the Ozone ISA on April 1, 2020, and the letter is available at: *https://yosemite.epa.gov/sab/sabproduct.nsf/LookupWebProjectsCurrentCASAC/F228E5D4D848B BED85258515006354D0/$File/EPA-CASAC-;20-002+Response.pdf.* Administrator Wheeler's letter to the CASAC indicated the Agency will ''incorporate the CASAC's comments and recommendations, to the extent possible, and create a final Ozone ISA so that it may be available to inform a proposed decision on any necessary revisions of the NAAQS by spring 2020.'' The consensus CASAC comments on the draft Ozone ISA (February 19, 2020) recommended that the Draft Ozone ISA would benefit from: (1) Critical review, synthesis, and discussion of available scientific evidence; (2) reassessment of causality determinations and rationale for some new and altered causality determinations; and (3) consultation with outside experts on high-level, over-arching process aspects related to ISA development and consideration of causality. In consideration of these comments while preparing the Final Ozone ISA, the EPA added new text and clarified existing text in the Preface and in Appendix 10 to more clearly articulate how scientific evidence is identified, evaluated and summarized in the ISA, revised the causality determination for long-term ozone exposure and metabolic effects, and will take steps to both identify methods for improving the ISA process and to solicit outside expertise on best practices for making causality determinations from multiple lines of evidence. Additionally, the EPA focused on addressing those comments that contributed to improving clarity, could be addressed in the near-term, and identified errors in the draft Ozone ISA. Lastly, Administrator Wheeler noted, ''for those comments and recommendations that are more substantial or cross-cutting and which cannot be fully addressed in this timeframe, [the Agency will] develop a plan to incorporate these changes into future Ozone ISAs as well as ISAs for other criteria pollutant reviews.''

Dated: April 14, 2020.

Wayne Cascio,

Director, Center for Public Health and Environmental Assessment.

[FR Doc. 2020–08333 Filed 4–17–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–10008–37–OMS]

Privacy Act of 1974; System of Records

AGENCY: Office of Mission Support, Environmental Protection Agency (EPA).

ACTION: Notice of a modified system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, the Office of Inspector General (OIG) is giving notice that it proposes to modify the point of contact, retention and disposal, system manager and address, notification procedures, and the inclusion of the new general routine uses identified per OMB M–17–12 of an existing system of records, Inspector General Enterprise Management System (IGEMS) Hotline Module (EPA–30).

DATES: Persons wishing to comment on this system of records notice must do so by May 20, 2020. New or Modified routine uses for this modified system of records will be effective May 20, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OEI–2011–0349, by one of the following methods:

Regulations.gov: www.regulations.gov Follow the online instructions for submitting comments.

Email: oei.docket@epa.gov.

Fax: 202–566–1752.

Mail: OMS Docket, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

Hand Delivery: OMS Docket, EPA/DC, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OEI–2011–0349. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Controlled Unclassified Information (CUI) or other information for which disclosure is restricted by statute. Do not submit information that you consider to be CUI or otherwise protected through *www.regulations.gov.* The *www.regulations.gov* website is an ''anonymous access'' system for EPA, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. Each agency determines submission requirements within their own internal processes and standards. EPA has no requirement of personal information. If you send an email comment directly to the EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about the EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CUI or other information for which disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the OMS Docket, EPA/DC, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OMS Docket is (202) 566–1752.

FOR FURTHER INFORMATION CONTACT: Stephanie Wright, Assistant Inspector General for Management, 202–566–0847.

SUPPLEMENTARY INFORMATION:

I. General Information

The EPA OIG is giving notice that it intends to modify an existing system of records. The Inspector General Enterprise Management System (IGEMS) Hotline Module is modifying its point of contact, retention and disposal, system manager and address, and notification procedure. This system facilitates OIG responsibilities under Section 7 of the Inspector General Act, that is to receive and investigate complaints of information concerning the possible existence of activities constituting a violation of law, rules, or regulations, mismanagement, gross waste of funds, abuse of authority or a substantial and specific danger to the public health or safety, and the subject of the complaints. The privacy of individuals is protected through user authentication and system roles, permissions and privileges. The system is operated and maintained by the Office of Inspector General, Office of Management, Information Technology Directorate (OM–ITD).

SYSTEM NAME AND NUMBER:

Inspector General Enterprise Management System (IGEMS) Hotline Module. EPA–30

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of Inspector General, Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

SYSTEM MANAGER(S):

USEPA, Office of Management (Mail code 2410T), 1200 Pennsylvania Ave. NW, Washington, DC 20460, Attn: Assistant Inspector General for Management. Tel Number: 202–566–0847, Fax: 202–566–0857.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Inspector General Act of 1978, 5 U.S.C. app. 3.

PURPOSE(S) OF THE SYSTEM:

Facilitates OIG's responsibilities under Section 7 of the Inspector General Act, that is to receive and investigate complaints of information concerning the possible existence of activities constituting a violation of law, rules or regulations, mismanagement, gross waste of funds, abuse of authority or a substantial and specific danger to the public health or safety, and the subject of the complaints.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who report information to the Office of Inspector General (OIG) concerning the possible existence of activities constituting a violation of law, rules or regulations, mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health or safety; the subject of the complaints; persons about whom complaints are made; and possible witnesses identified.

CATEGORIES OF RECORDS IN THE SYSTEM:

Complainants who report indications of wrongdoing, name and address of the complainant (except for anonymous complainants), date complaint received, program area, nature and subject of complaint, any additional contacts and specific comments provided by the complainant, information on the OIG disposition of the complaint, including investigative case number, preliminary inquiry number, dates of referral, reply and follow-up, status and disposition code of the complaint.

RECORD SOURCE CATEGORIES:

Complainants who are employees of EPA; employees of other Federal agencies; employees of state and local agencies; and private citizens. Records in the system come from complainants through the telephone, mail, personal interviews, web forms, and email. Complainants are advised that if they provide contact information, this information may be used to initiate follow-up communications with the complainant and may be shared by EPA with appropriate administrative, law enforcement, and judicial entities engaged in investigating or adjudicating the tip or complaint.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The following new routine uses apply to this system because the use of the record is necessary for the efficient conduct of government operations. The routine uses are related to and compatible with the original purpose for which the information was collected.

General routine uses A, B, C, D, E, F, G, H, I, J, and K apply to this system (73 FR 2245). Records may also be disclosed:

- To appropriate agencies, entities, and persons when (1) the Agency suspects or has confirmed that there has been a breach of the system of records, (2) the Agency has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Agency (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Agency's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.
- To another Federal agency or Federal entity, when the Agency determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.
- To a Federal agency responsible for considering suspension or debarment action where such record would be relevant to such action.
- To the Department of Justice to obtain its advice on Freedom of Information Act matters.
- In response to a lawful subpoena issued by a Federal agency.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

In accordance with OIG Records Management Policy, computer records are maintained in a secure, password protected computer system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

By case number, complainant or subject name, and subject matter.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records stored in this system are subject to EPA Records Schedule 1016, which covers records related to operations and programs of the EPA and its external business partners that ensure compliance with applicable laws and regulations and prevent waste, fraud, and abuse.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings. The IGEMS Hotline module is restricted to the Hotline Administrator and the Hotline module

users. It is one of the modules found in IGEMS. IGEMS is accessible to EPA OIG employees only. It is an internal database accessible by use of strong passwords, which are renewed on a regular basis and controls to lock the screen after a set time are enforced.

RECORD ACCESS PROCEDURES:

To the extent permitted under the Privacy Act of 1974, 5 U.S.C. 552a(k)(2), this system has been exempted from the provisions of the Privacy Act of 1974 that permit access and correction. However, EPA may, in its discretion, fully grant individual requests for access and correction if it determines that the exercise of these rights will not interfere with an interest that the exemption is intended to protect. The exemption from access is limited in some instances by law to information that would reveal the identity of a confidential source. Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORD PROCEDURES:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

NOTIFICATION PROCEDURE:

Requests to determine whether this system of records contains a record pertaining to you must be sent to the Agency's Privacy Officer. The address is: U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW (2831T), Washington, DC 20460; (202) 566–1668; Email: (*privacy@epa.gov*).

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(k)(2), this system is exempt from the following provisions of the Privacy Act of 1974, subject to the limitations set forth in that subsection: 5 U.S.C. 552a (c)(3); (d); (e)(1); (e)(4)(G); (e)(4)(H); and (f)(2) through (5).

HISTORY:

76 FR 42707—Changing the name of the system from the Office of Inspector General (OIG) Hotline Allegation System (EPA–30) to the Inspector General Enterprise Management System (IGEMS) Hotline Module.

40 CFR part 16—

Exempt the OIG Hotline Allegation System—EPA/OIG (EPA–30) system of records from compliance with certain subsections of the Act. This amendment is made to maintain the efficiency and integrity of OIG investigations, audits, or referrals that result from complaints concerning the possible existence of activities constituting a violation of law, rules, or regulations, mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health or safety.

57 FR 36092—Established OIG Hotline Allegation System—EPA/OIG and is maintained by the EPA Office of Inspector General (OIG).

Dated: April 15, 2020.

Vaughn Noga,

Senior Agency Official for Privacy.

[FR Doc. 2020–08288 Filed 4–17–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–10006–91–OW]

Notice of Availability of the Deepwater Horizon Oil Spill Louisiana Trustee Implementation Group Draft Supplemental Restoration Plan and Environmental Assessment for the Cypremort Point State Park Improvements Project Modification

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability; request for public comments.

SUMMARY: On July 20, 2018, the Environmental Protection Agency (EPA) published a Notice of Availability of the *Deepwater Horizon* Oil Spill Louisiana Trustee Implementation Group (Louisiana TIG) Final Restoration Plan and Environmental Assessment #4: Nutrient Reduction (Nonpoint Source) and Recreational Use (RP/EA #4). The Louisiana TIG is considering modifications to the Cypremort Point State Park Improvements (Cypremort Improvements) project originally described in the RP/EA #4. The modifications being considered include replacing the original proposed breakwater system project feature with construction of a recreational vehicle (RV) campground, associated infrastructure, and amenities at the park. In accordance with the Oil Pollution Act of 1990 (OPA) and the National Environmental Policy Act (NEPA), the Federal and State natural resource trustee agencies for the Louisiana TIG prepared a Draft Supplemental Restoration Plan and Environmental Assessment for the Cypremort Point State Park Improvements Project Modification (Supplemental RP/EA). The Supplemental RP/EA evaluates modifications to the Cypremort Improvements project and alternatives considered by the Louisiana TIG under criteria set forth in the OPA natural resource damage assessment (NRDA) regulations and evaluates the environmental effects in accordance with the NEPA. The modifications under consideration to the Cypremort Improvements project are consistent with the restoration alternatives selected in the *Deepwater Horizon* Oil Spill Final Programmatic Damage Assessment and Restoration Plan/Programmatic Environmental Impact Statement (PDARP/PEIS). This notice informs the public of the availability of the Supplemental RP/EA and provides an opportunity for the public to submit comments on the document.

DATES: The Louisiana TIG will consider public comments received on or before May 20, 2020.

Public Webinar: The Louisiana TIG will conduct a public webinar on April 28, 2020, at 12 p.m. Central Daylight Time to facilitate public review and comment on the Supplemental RP/EA. The public webinar will include a presentation on the Supplemental RP/EA. Public comments will be taken during the public webinar. The public may register for the webinar at *https://attendee.gotowebinar.com/register/2110487686130281741.* After registering, participants will receive a confirmation email with instructions for joining the webinar. The presentation will be posted on the web shortly after the webinar is conducted.

ADDRESSES: *Obtaining Documents:* You may download the Supplemental RP/EA at any of the following sites:

- *http://www.gulfspillrestoration.noaa.gov*
- *http://www.la-dwh.com*

Alternatively, you may request a CD of the Supplemental RP/EA (see **FOR FURTHER INFORMATION CONTACT**). You may also view the document at any of the public facilities listed at *http://www.gulfspillrestoration.noaa.gov.*

Submitting Comments: You may submit comments on the Supplemental RP/EA by one of the following methods:

- *Via the Web: http://www.gulfspillrestoration.noaa.gov/restoration-areas/louisiana*
- *Via U.S. Mail:* U.S. Fish and Wildlife Service, P.O. Box 29649, Atlanta, GA 30345
- *During the Public Webinar:* Comments may be provided by the public during the webinar on April 28, 2020

Once submitted, comments cannot be edited or withdrawn. The Louisiana TIG may publish any comment received on the document. 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 Louisiana TIG 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). Please be aware that your entire comment, including your personal identifying information, will become part of the public record. Please note that mailed comments must be postmarked on or before the comment deadline of 30 days following publication of this notice to be considered.

FOR FURTHER INFORMATION CONTACT:

- Louisiana—Joann Hicks, 225–342–5477
- EPA—Douglas Jacobson, 214–665–6692

SUPPLEMENTARY INFORMATION:

Introduction

On April 20, 2010, the mobile offshore drilling unit *Deepwater Horizon,* which was being used to drill a well for BP Exploration and Production, Inc. (BP), in the Macondo prospect (Mississippi Canyon 252–MC252), experienced a significant explosion, fire, and subsequent sinking in the Gulf of Mexico, resulting in the release of an unprecedented volume of oil and other discharges from the rig and from the wellhead on the seabed. The *Deepwater Horizon* oil spill is the largest offshore oil spill in U.S. history, discharging millions of barrels of oil over a period of 87 days. The Trustees conducted the natural resource damage assessment for the *Deepwater Horizon* oil spill under the Oil Pollution Act of 1990 (33 U.S.C. 2701 *et seq.*). Under the OPA, Federal and State agencies act as trustees on behalf of the public to assess natural resource injuries and losses and to determine the actions required to compensate the public for those injuries and losses. The OPA further instructs the designated trustees to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship, including the loss of use and services from those resources from the time of injury until the time of restoration to baseline (the resource quality and conditions that would exist if the spill had not occurred) is complete.

The *Deepwater Horizon* oil spill Trustees are:

- U.S. Environmental Protection Agency (EPA);
- U.S. Department of the Interior (DOI), as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;
- National Oceanic and Atmospheric Administration (NOAA), on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture (USDA);
- State of Louisiana Coastal Protection and Restoration Authority (CPRA), Oil Spill Coordinator's Office (LOSCO), Department of Environmental Quality (LDEQ), Department of Wildlife and Fisheries (LDWF), and Department of Natural Resources (LDNR);
- State of Mississippi Department of Environmental Quality;
- State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;
- State of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; and
- State of Texas Parks and Wildlife Department, General Land Office, and Commission on Environmental Quality.

On April 4, 2016, the Trustees reached and finalized a settlement of their natural resource damage claims with BP in a Consent Decree approved by the United States District Court for the Eastern District of Louisiana. Pursuant to that Consent Decree, restoration projects in the Louisiana Restoration Area are chosen and managed by the Louisiana TIG. The Louisiana TIG is composed of the following Trustees: CPRA, LOSCO, LDEQ, LDWF, LDNR, EPA, DOI, NOAA, USDA.

Background

The original scope of the Cypremort Improvements project was evaluated in the RP/EA #4, which was published in the **Federal Register** at 83 FR 34571 on July 20, 2018. As proposed in the RP/EA #4, the project would entail a variety of park enhancements including beach restoration, marsh boardwalk and trail construction, road and jetty repairs, and replacement of the breakwater system that helps protect the park's recreational beach. Following completion of the RP/EA #4, the Louisiana Office of State Parks was successful in securing other non-NRDA funding to construct the breakwater system that was originally proposed as a component of the Cypremort Improvements project. The Louisiana TIG prepared the Supplemental RP/EA to evaluate modifications to the Cypremort Improvements project and consider alternatives, consistent with the purpose and need of the original project. Alternatives considered in the Supplemental RP/EA include replacing the original proposed breakwater system project feature with construction of an RV campground, associated infrastructure, and amenities at the park. The Louisiana TIG prepared the Supplemental RP/EA to inform the public about potential modifications to the Cypremort Improvements project and to seek public comment.

Next Steps

The public is encouraged to review and comment on the Supplemental RP/EA. A public webinar is scheduled to help facilitate the public review and comment process. After the public comment period ends, the Louisiana TIG will consider the comments received before issuing a Final Supplemental RP/EA. A summary of comments received and the Louisiana TIG's responses and any revisions to the document, as appropriate, will be included in the final document. Public comments on the Supplemental RP/EA will inform the Louisiana TIG's decision on whether to select the Cypremort Improvements project, as modified, in the Final Supplemental RP/EA.

Administrative Record

The documents comprising the Administrative Record for the Supplemental RP/EA can be viewed electronically at *https://www.doi.gov/deepwaterhorizon/adminrecord.*

Authority

The authority for this action is the Oil Pollution Act of 1990 (33 U.S.C. 2701 *et seq.*), its implementing NRDA regulations found at 15 CFR part 990, and the NEPA (42 U.S.C. 4321 *et seq.*).

Dated: March 31, 2020.

Benita Best-Wong,

Deputy Assistant Administrator, Office of Water.

[FR Doc. 2020–07263 Filed 4–17–20; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[3060–1252; FRS 16655]

Information Collection 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 20, 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 Nicole Ongele, FCC, via email to *PRA@fcc.gov* and to *Nicole.Ongele@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 Nicole Ongele at (202) 418–2991. 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: 3060–1252.

Title: Application to Participate in Rural Digital Opportunity Fund Auction, FCC Form 183.

Form Number: FCC Form 183.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities, Not-for-profit institutions, and State, Local or Tribal governments.

Number of Respondents and Responses: 500 respondents and 500 responses.

Estimated Time per Response: 7 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 154, 254 and 303(r) of the Communications Act of 1934, as amended.

Estimated Total Annual Burden: 3,500 hours.

Total Annual Costs: No cost.

Nature and Extent of Confidentiality: Although most information collected in FCC Form 183 will be made available for public inspection, the Commission will withhold certain information collected in FCC Form 183 from routine public inspection. Specifically, the Commission will treat certain technical and financial information submitted in FCC Form 183 as confidential and as though the applicant has requested that this information be treated as confidential trade secrets and/or commercial information. In addition, an applicant may use the abbreviated process under 47 CFR 0.459(a)(4) to request confidential treatment of certain financial information contained in its FCC Form 183 application. However, if a request for public inspection for this technical or financial information is made under 47 CFR 0.461, and the applicant has any objections to disclosure, the applicant will be notified and will be required to justify continued confidential treatment of its request. To the extent that a respondent seeks to have other information collected in FCC Form 183 withheld from public inspection, the respondent may request confidential treatment pursuant to 47 CFR 0.459.

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: The Commission will use the information collected to determine whether applicants are eligible to participate in the Rural Digital Opportunity Fund auction. On January 30, 2020 the Commission adopted the *Rural Digital Opportunity Fund Order,* WC Docket Nos. 19–126, 10–90, FCC 20–5 which will commit up to $20.4 billion over the next decade to support up to gigabit speed broadband networks in rural America. The funding will be allocated through a multi-round, reverse, descending clock auction that favors faster services with lower latency and encourages intermodal competition in order to ensure that the greatest possible number of Americans will be connected to the best possible networks, all at a competitive cost.

To implement the Rural Digital Opportunity Fund auction, the Commission adopted new rules for the Rural Digital Opportunity Fund auction, including the adoption of a two-stage application process. For the Connect America Fund Phase II auction, applicants that wanted to qualify to bid in the auction were required to submit the FCC Form 183 short-form application. Because the Connect America Fund Phase II auction has ended, the Commission intends to repurpose the FCC Form 183 for the Rural Digital Opportunity Fund auction. Any entity that wishes to participate in the Rural Digital Opportunity Fund auction will be required to submit the FCC Form 183 short-form application to demonstrate its qualifications to bid. Accordingly, the Commission proposes to revise this collection to indicate that it now intends to collect this

information pursuant to section 54.804(a) of the Commission's rules, replacing section 54.315(a) of the Commission's rules. 47 CFR 54.315(a), 54.804(a). The Commission also intends to make several revisions to FCC Form 183, including text changes to reflect the Rural Digital Opportunity Fund auction. Based on the Commission's experience with auctions and consistent with the record, this two-stage collection of information balances the need to collect information essential to conduct a successful auction with administrative efficiency.

Under this information collection, the Commission will collect information that will be used to determine whether an applicant is legally qualified to participate in an auction for Rural Digital Opportunity Fund support. To aid in collecting this information, the Commission will use FCC Form 183, which the public will use to provide the necessary information and certifications. Commission staff will review the information collected on FCC Form 183 as part of the pre-auction process, prior to the start of the auction, and determine whether each applicant satisfies the Commission's requirements to participate in an auction for Rural Digital Opportunity Fund support. Without the information collected on FCC Form 183, the Commission will not be able to determine if an applicant is legally qualified to participate in the auction and has complied with the various applicable regulatory and statutory auction requirements for such participation. This approach is an appropriate assessment of providers for ensuring serious participation without being unduly burdensome.

Federal Communications Commission.

Cecilia Sigmund,

Federal Register Liaison Officer.

[FR Doc. 2020–07839 Filed 4–17–20; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Supplemental Evidence and Data Request on Safety of Vaccines Used for Routine Immunization in the United States

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Request for Supplemental Evidence and Data Submissions

SUMMARY: The Agency for Healthcare Research and Quality (AHRQ) is seeking scientific information submissions from the public. Scientific information is being solicited to inform our review on *Safety of Vaccines Used for Routine Immunization in the United States,* which is currently being conducted by the AHRQ's Evidence-based Practice Centers (EPC) Program. Access to published and unpublished pertinent scientific information will improve the quality of this review.

DATES: *Submission Deadline* on or before 30 days after the date of this publication in the **Federal Register**.

ADDRESSES:

Email Submissions: epc@ahrq.hhs.gov.

Print Submissions:

Mailing Address: Center for Evidence and Practice Improvement; Agency for Healthcare Research and Quality, ATTN: EPC SEADs Coordinator, 5600 Fishers Lane, Mail Stop 06E53A, Rockville, MD 20857.

Shipping Address (FedEx, UPS, etc.): Center for Evidence and Practice Improvement; Agency for Healthcare Research and Quality, ATTN: EPC SEADs Coordinator, 5600 Fishers Lane, Mail Stop 06E77D, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Jenae Benns, Telephone: 301–427–1496 or Email: *epc@ahrq.hhs.gov.*

SUPPLEMENTARY INFORMATION: The Agency for Healthcare Research and Quality has commissioned the Evidence-based Practice Centers (EPC) Program to complete a review of the evidence for Safety of Vaccines Used for Routine Immunization in the United States. AHRQ is conducting this systematic review pursuant to Section 902(a) of the Public Health Service Act, 42 U.S.C. 299a(a).

The EPC Program is dedicated to identifying as many studies as possible that are relevant to the questions for each of its reviews. In order to do so, we are supplementing the usual manual and electronic database searches of the literature by requesting information from the public (*e.g.,* details of studies conducted). We are looking for studies that report on *Safety of Vaccines Used for Routine Immunization in the United States,* including those that describe adverse events. The entire research protocol is available online at: *https://effectivehealthcare.ahrq.gov/products/safety-vaccines/protocol.*

This is to notify the public that the EPC Program would find the following information on *Safety of Vaccines Used for Routine Immunization in the United States* helpful:

- A list of completed studies that your organization has sponsored for this indication. In the list, please *indicate whether results are available on ClinicalTrials.gov along with the ClinicalTrials.gov trial number.*
- *For completed studies that do not have results on ClinicalTrials.gov,* a summary, including the following elements: study number, study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, primary and secondary outcomes, baseline characteristics, number of patients screened/eligible/enrolled/lost to follow-up/withdrawn/analyzed, effectiveness/efficacy, and safety results.
- *A list of ongoing studies that your organization has sponsored for this indication.* In the list, please provide the *ClinicalTrials.gov* trial number or, if the trial is not registered, the protocol for the study including a study number, the study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, and primary and secondary outcomes.
- Description of whether the above studies constitute *ALL Phase II and above clinical trials* sponsored by your organization for this indication and an index outlining the relevant information in each submitted file.

Your contribution is very beneficial to the Program. Materials submitted must be publicly available or able to be made public. Materials that are considered confidential; marketing materials; study types not included in the review; or information on indications not included in the review cannot be used by the EPC Program. This is a voluntary request for information, and all costs for complying with this request must be borne by the submitter.

The draft of this review will be posted on AHRQ's EPC Program website and available for public comment for a period of 4 weeks. If you would like to be notified when the draft is posted, please sign up for the email list at: *https://www.effectivehealthcare.ahrq.gov/email-updates.*

The systematic review will answer the following questions. This information is provided as background. AHRQ is not requesting that the public provide answers to these questions.

Key Questions (KQ)

KQ 1: What is the evidence that vaccines included in the immunization schedule recommended for adults in the United States (*https://www.cdc.gov/vaccines/schedules/hcp/imz/adult.html*) are safe in the short term (within 42 days following immunization) or long term (>42 days after immunization)?

KQ1a. What adverse events (AEs) are collected in clinical studies (Phases I–IV) and in observational studies containing a control/comparison group?

KQ1b. What AEs are reported in clinical studies (Phases I–IV) and in observational studies containing a control/comparison group?

KQ1c. What AEs are associated with these vaccines?

1. For each AE associated with a particular vaccine, what is the average severity and frequency?

2. For AEs without statistically significant associations with a particular vaccine, what is the range of possible effects?

3. For each AE associated with a particular vaccine, what are the risk factors for the AE (including age, sex, race/ethnicity, genotype, underlying medical condition, whether a vaccine is administered individually or in a combination vaccine product, schedule of vaccine administration, adjuvants, and medications administered concomitantly)?

KQ 2: What is the evidence that vaccines included in the immunization schedules recommended for children and adolescents in the United States (*https://www.cdc.gov/vaccines/schedules/hcp/imz/child-adolescent.html*) are safe in the short term (within 42 days following immunization) or long term (>42 days after immunization)?

KQ2a. What AEs are collected in clinical studies (Phases I–IV) and in observational studies containing a control/comparison group?

KQ2b. What AEs are reported in clinical studies (Phases I–IV) and in observational studies containing a control/comparison group?

KQ2c. What AEs are associated with these vaccines?

1. For each AE associated with a particular vaccine, what is the average severity and frequency?

2. For AEs without statistically significant associations with a particular vaccine, what is the range of possible effects?

3. For each AE associated with a particular vaccine, what are the risk factors for the AE (including age, sex, race/ethnicity, genotype, underlying medical condition, whether a vaccine is administered individually or in a combination vaccine product, schedule of vaccine administration, adjuvants, and medications administered concomitantly)?

KQ 3: What is the evidence that vaccines recommended for pregnant women in the United States are safe in the short term (within 42 days following immunization) or long term (>42 days after immunization) for both the woman and her fetus/infant?

KQ3a. What AEs are collected in clinical studies (Phases I–IV) and in observational studies containing a control/comparison group?

KQ3b. What AEs are reported in clinical studies (Phases I–IV) and in observational studies containing a control/comparison group?

KQ3c. What AEs are associated with these vaccines?

1. For each AE associated with a particular vaccine, what is the average severity and frequency?

2. For AEs without statistically significant associations with a particular vaccine, what is the range of possible effects?

3. For each AE associated with a particular vaccine, what are the risk factors for the AE (including age, sex, race/ethnicity, genotype, underlying medical condition, whether the vaccine is administered individually or in a combination vaccine product, the schedule of vaccine administration, adjuvants, and medications administered concomitantly)?

KQ3d. What AEs are associated with these vaccines in the fetus/infant?

1. For each AE associated with a particular vaccine, what is the average severity and frequency?

2. For AEs without statistically significant associations with a particular vaccine, what is the level of certainty?

3. For each AE associated with a particular vaccine, what are risk factors for the AE (including age, gender, race/ethnicity, genotype, underlying medical condition, whether vaccine administered individually or in a combination vaccine product, vaccine schedule of administration, adjuvants, medications administered concomitantly)?

PICOTS (POPULATIONS, INTERVENTIONS, COMPARATORS, OUTCOMES, TIMING, SETTINGS)

Domain	Inclusion	Exclusion
Population	• Human participants of all ages for whom the vaccines are recommended in the United States.	• Studies in animals or mechanistic/in vitro studies. • Studies exclusively in populations for whom the vaccine is not approved or is contraindicated.
Interventions	All KQs • Individual vaccines included in the immunization schedule recommended for adults, children and adolescents, and pregnant women, as well as combination vaccines available in the United States.. Vaccines for adults (KQ1).	• Studies of vaccines not on the United States recommended schedules, including brands/formulations not available in the United States, or no longer used.

PICOTS (POPULATIONS, INTERVENTIONS, COMPARATORS, OUTCOMES, TIMING, SETTINGS)—Continued

Domain	Inclusion	Exclusion
	• Hepatitis A (HepA; Havrix, Vaqta); hepatitis B (HepB; Engerix-B, Recombivax HB, HEPLISAV–B); HepA-Hep B (Twinrix); Haemophilus influenzae type b (Hib; PedvaxHIB, ActHIB, Hiberix); human papillomavirus (HPV, HPV9; Gardasil 9); inactivated influenza (IIV; Afluria Quadrivalent, Flucelvax Quadrivalent, Fluarix Quadrivalent, Flulaval Quadrivalent, Fluzone High Dose, Fluzone Quadrivalent, Fluad); live attenuated influenza (LAIV; FluMist Quadrivalent); recombinant influenza (RIV; Flublok Quadrivalent); measles, mumps, rubella (MMR; M–M–R II); meningococcal (Menactra [MenACWY–D], Menveo [MenACWY–CRM]); Meningococcal B (MenB; Bexsero [MenB–4C], Trumenba [MenB–FHbp]); pneumococcal conjugate vaccine (PCV13; Prevnar 13); pneumococcal polysaccharide vaccine (PPSV23; Pneumovax); tetanus, diphtheria, & acellular pertussis (Tdap; Adacel, Boostrix); tetanus, diphtheria (Td; TDVAX, Tenivac); varicella (VAR; Varivax); zoster (recombinant, RZV; live, ZVL; Shingrix, Zostavax). Children and Adolescents (KQ 2). • Vaccines for children and adolescents will include diphtheria, tetanus, & acellular pertussis (DTaP; Daptacel, Infanrix); hepatitis A (HepA; Havrix, Vaqta); hepatitis B (HepB; Engerix-B, Recombivax HB); Haemophilus influenzae type b (Hib; PedvaxHIB, ActHIB, Hiberix); human papillomavirus (HPV, HPV9; Gardasil 9); inactivated polio vaccine (IPV; IPOL); inactivated influenza (IIV; Afluria Quadrivalent, Fluarix Quadrivalent, Flulaval Quadrivalent, Fluzone Quadrivalent, Flucelvax Quadrivalent); live attenuated influenza (LAIV; FluMist Quadrivalent); measles, mumps, rubella (MMR; M–M–R II); meningococcal (MenACWY–D, Men-ACWY–CRM; Menactra [MenACWY–D], Menveo [MenACWY–CRM]); meningococcal B (MenB; Bexsero [MenB–4C], Trumenba [MenB–FHbp]); pneumococcal conjugate vaccine (PCV13; Prevnar 13); pneumococcal polysaccharide vaccine (PPSV23; Pneumovax); rotavirus (RV; Rotarix, RotaTeq); tetanus, diphtheria, & acellular pertussis (Tdap; Adacel, Boostrix); varicella (VAR; Varivax); DTaP-HepB–IPV (Pediarix); DTaP–IPV/Hib (Pentacel); DTaP–IPV (Kinrix, Quadracel); MMR–V (ProQuad); DTaP–IPV-Hib-HepB (Vaxelis). Vaccines for pregnant women (KQ3). • Hepatitis B (HepB; Engerix-B, Recombivax HB, HEPLISAV–B); inactivated influenza (IIV; Afluria Quadrivalent, Flucelvax Quadrivalent, Fluarix Quadrivalent, Flulaval Quadrivalent, Fluzone Quadrivalent); recombinant influenza (RIV; Flublok Quadrivalent); tetanus, diphtheria, & acellular pertussis (Tdap; Adacel, Boostrix).	
Comparators	• Active comparators (*e.g.,* other vaccines or other vaccination schedules) and inactive comparators (*e.g.,* no vaccine).	• Studies without intervention comparator.
Outcomes	• Adverse events identified in participants, and, in the case of pregnant women, in their fetuses/infants (including the presence and the absence of harms, toxicities, transient side effects, and unintended adverse health effects).	• Studies reporting only on effectiveness outcomes.
Timing	• Short term (within 30–42 days following immunization) as well as long term (>42 days after immunization) effects.	• No exclusions apply.
Setting(s)	• No restrictions with regard to settings.	
Study design	• Controlled studies (randomized and non-randomized controlled clinical trials, cohort studies comparing two or more cohorts, case-control studies, self-controlled case series).	• Studies without comparator (*e.g.,* case studies*).
Other limiters	• English language scientific journal publications and trial records with published results.	• Studies published in abbreviated form only (*e.g.,* letters, conference abstracts). • Studies reported only in non-English publications.

*Case studies are outside the scope of the review because they do not include unvaccinated individuals for comparison.

Dated: April 15, 2020.

Virginia Mackay-Smith,

Associate Director, Office of the Director, AHRQ.

[FR Doc. 2020–08331 Filed 4–17–20; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Center for Health Statistics (BSC, NCHS)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the CDC announces the following meeting for the Board of Scientific Counselors, National Center for Health Statistics (BSC, NCHS). This meeting is open to the public limited only by the audio (via teleconference) lines available. The public is welcome to listen to the meeting, please use the following URL *https://www.cdc.gov/nchs/about/bsc/bsc_meetings.htm* that points to the BSC homepage. Further information and meeting agenda will be available on the BSC website including instructions for accessing the live meeting broadcast.

DATES: The meeting will be held on May 5, 2020, 11:00 a.m.–1:30 p.m., EDT.

ADDRESSES: The teleconference access is *https://www.cdc.gov/nchs/about/bsc/bsc_meetings.htm.*

FOR FURTHER INFORMATION CONTACT: Sayeedha Uddin, M.D., M.P.H., Executive Secretary, NCHS/CDC, Board of Scientific Counselors, 3311 Toledo Road, Room 2627, Hyattsville, Maryland 20782, telephone (301) 458–4303, *isx9@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Purpose: This committee is charged with providing advice and making recommendations to the Secretary, Department of Health and Human Services; the Director, CDC; and the Director, NCHS, regarding the scientific and technical program goals and objectives, strategies, and priorities of NCHS.

Matters to be Considered: The agenda will include discussion on items per the scope of the Charter. The meeting agenda includes welcome remarks and a Center update by NCHS leadership; update on Patient Centered Outcomes Research Trust Fund Projects. Agenda items are subject to change as priorities dictate.

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2020–08213 Filed 4–17–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP) GH20–001, Develop, Implement, and Evaluate Evidence-Based, Innovative Approaches To Prevent, Find, and Cure Tuberculosis in High-Burden Settings; GH20–002, Malaria Operations Research To Improve Malaria Control and Reduce Morbidity and Mortality in Western Kenya; GH20–003, Conducting Public Health Research in Colombia; GH20–004, Conducting Public Health Research in Georgia; and GH20–005, Conducting Public Health Research in South America; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—GH20–001, Develop, Implement, and Evaluate Evidence-based, Innovative Approaches to Prevent, Find, and Cure Tuberculosis in High-Burden Settings; GH20–002, Malaria Operations Research to Improve Malaria Control and Reduce Morbidity and Mortality in Western Kenya; GH20–003, Conducting Public Health Research in Colombia; GH20–004, Conducting Public Health Research in Georgia; and GH20–005, Conducting Public Health Research in South America; April 14–16, 2020, 9:00 a.m.– 2:00 p.m., EDT, in the amended FRN.

The teleconference, which was published in the **Federal Register** on April 1, 2020, Vol. 85, No. 63, page 18243, is being amended to change the meeting dates and times to: April 14–15, 2020, from 9:00 a.m.–2:00 p.m., EDT. The meeting is closed to the public.

FOR FURTHER INFORMATION CONTACT: Hylan Shoob, Ph.D., Scientific Review Officer, Center for Global Health, CDC, 1600 Clifton Road NE, Atlanta, Georgia 30329–4027, Telephone (404) 639–4796; *HShoob@cdc.gov.*

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2020–08214 Filed 4–17–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–P–0015A]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to

minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by May 20, 2020.

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions:

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.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at website address at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html.*

1. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

2. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

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. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Revision with change of a currently approved collection; *Title of Information Collection:* Medicare Current Beneficiary Survey; *Use:* CMS is the largest single payer of health care in the United States. The agency plays a direct or indirect role in administering health insurance coverage for more than 120 million people across the Medicare, Medicaid, CHIP, and Exchange populations. A critical aim for CMS is to be an effective steward, major force, and trustworthy partner in supporting innovative approaches to improving quality, accessibility, and affordability in healthcare. CMS also aims to put patients first in the delivery of their health care needs.

The Medicare Current Beneficiary Survey (MCBS) is the most comprehensive and complete survey available on the Medicare population and is essential in capturing data not otherwise collected through our operations. The MCBS is an in-person, nationally-representative, longitudinal survey of Medicare beneficiaries that we sponsor and is directed by the Office of Enterprise Data and Analytics (OEDA). The survey captures beneficiary information whether aged or disabled, living in the community or facility, or serviced by managed care or fee-for-service. Data produced as part of the MCBS are enhanced with our administrative data (*e.g.* fee-for-service claims, prescription drug event data, enrollment, etc.) to provide users with more accurate and complete estimates of total health care costs and utilization. The MCBS has been continuously fielded for more than 28 years, encompassing over 1 million interviews and more than 100,000 survey participants. Respondents participate in up to 11 interviews over a four year period. This gives a comprehensive picture of health care costs and utilization over a period of time.

The MCBS continues to provide unique insight into the Medicare program and helps CMS and our external stakeholders better understand and evaluate the impact of existing programs and significant new policy initiatives. In the past, MCBS data have been used to assess potential changes to the Medicare program. For example, the MCBS was instrumental in supporting the development and implementation of the Medicare prescription drug benefit by providing a means to evaluate prescription drug costs and out-of-pocket burden for these drugs to Medicare beneficiaries. Beginning in 2021, this proposed revision to the clearance will add a few new measures to existing questionnaire sections. The revisions will result in a slight increase in respondent burden due to the addition of the new items. *Form Number:* CMS–P–0015A (OMB control number: 0938–0568); *Frequency:* Occasionally; *Affected Public:* Business or other for-profits and Not-for-profit institutions; *Number of Respondents:* 13,656; *Total Annual Responses:* 35,998; *Total Annual Hours:* 44,573. (For policy questions regarding this collection contact William Long at 410–786–7927.)

Dated: April 15, 2020.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2020–08275 Filed 4–17–20; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–1723–N]

Medicare Program; Virtual Public Meetings in June 2020 for New Public Requests for Revisions to the Healthcare Common Procedure Coding System (HCPCS) Coding for Durable Medical Equipment (DME) and Accessories, Orthotics and Prosthetics (O&P), Supplies and Other Non-Drug and Non-Biological Items

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice announces the dates and time of virtual Healthcare Common Procedure Coding System (HCPCS) public meetings to be held in June 2020 to discuss our preliminary coding recommendations for new public requests for revisions to the HCPCS Level II code set for Durable Medical Equipment (DME) and Accessories, Orthotics and Prosthetics (O&P), Supplies and other non-drug and non-biological items.

DATES:

Virtual Meeting Dates: Monday, June 1, 2020, 9 a.m. to 5 p.m., eastern daylight time (e.d.t.), and Tuesday, June 2, 2020, 9 a.m. to 12:30 p.m., e.d.t., for Durable Medical Equipment (DME) and Accessories, Orthotics and Prosthetics (O&P), Supplies and other non-drug and non-biological items.

Deadline for Primary Speaker Registration and Presentation Materials: The deadline for registering to be a primary speaker, and submitting

materials and writings that will be used in support of an oral presentation is 5 p.m., e.d.t., Thursday, May 14, 2020. There is a 10-page submission limit for any presentation materials. All registered primary speakers will be emailed a link for their individual use to join the meeting, in advance of the virtual meeting. Detailed information pertaining to registering to participate via WebEx, including dial-in information for Primary Speakers, 5-minute speakers, and all other attendees, will be provided in CMS' ''Guidelines for Participation in HCPCS Public Meetings'', as posted on CMS' HCPCS website at *https://www.cms.gov/Medicare/Coding/MedHCPCSGenInfo/HCPCSPublicMeetings approximately two weeks prior to the HCPCS Public Meeting.* We encourage all speakers to familiarize themselves with, and follow, protocol for participation as a speaker in CMS' HCPCS Public meetings as detailed in these guidelines.

Deadline for 5-Minute Speakers Registration: The deadline for registering to be a 5-Minute speaker is 5 p.m., e.d.t., Thursday, May 14, 2020. All 5-Minute speakers will be emailed a link for their individual use to join the meeting, in advance of the virtual meeting. Detailed information pertaining to registering to participate via WebEx, including dial-in information for Primary Speakers, 5-minute speakers, and all other attendees, will be provided in CMS' ''Guidelines for Participation in HCPCS Public Meetings'', as posted on CMS' HCPCS website at *https://www.cms.gov/Medicare/Coding/MedHCPCSGenInfo/HCPCSPublicMeetings approximately two weeks prior to the HCPCS Public Meeting.* We encourage all speakers to familiarize themselves with, and follow, protocol for participation as a speaker in CMS' HCPCS Public meetings as detailed in these guidelines.

Deadline for Registration for all Other Attendees: All individuals who plan to attend the virtual public meetings to listen, but are not registering as a primary or 5-minute speaker, may simply join the virtual meeting on the date that they plan to attend, using the meeting attendee link specified for that meeting date. A ''raise your hand'' feature will be available to ask questions. A meeting attendee link for each public meeting date will be posted approximately 2 weeks in advance of the public meetings on CMS' HCPCS website at *https://www.cms.gov/Medicare/Coding/MedHCPCSGenInfo.*

Deadline for Requesting Special Accommodations: Individuals who plan to participate in the virtual public meetings and require special assistance must request these services by 5 p.m., e.d.t., Thursday, May 14, 2020.

Deadline for Submission of Written Comments: Written comments and other documentation in response to a preliminary coding determination that are received by no later than 5 p.m. on the date of the virtual public meeting at which the code request is scheduled for discussion will be considered in formulating a final coding decision.

ADDRESSES:

Virtual Meeting Location: The June 1 and June 2, 2020 HCPCS Public meetings will be held virtually via WebEx only. Detailed information pertaining to registering to participate via WebEx, including dial-in information for Primary Speakers, 5-minute speakers, and all other attendees, will be provided in CMS' ''Guidelines for Participation in HCPCS Public Meetings'', posted approximately 2 weeks prior to the HCPCS Public Meeting on CMS' HCPCS website at *https://www.cms.gov/Medicare/Coding/MedHCPCSGenInfo/HCPCSPublic Meetings.*

Written Comments: As part of CMS' response to the COVID–19 public health emergency, written comments from the general public and meeting registrants will only be accepted when emailed to *HCPCS_Level_II_Code_Applications@cms.hhs.gov* or to staff listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice any time up to 5 p.m. on the date of the virtual public meeting at which a request is discussed. Due to the close timing of the virtual public meetings, subsequent CMS consideration, and final decisions, we are able to consider only those written comments received by the close of business (5 p.m.) on the date of the virtual public meeting at which the request is discussed.

FOR FURTHER INFORMATION CONTACT: Irina Akelaitis, (410) 786–4602, or *Irina.Akelaitis@cms.hhs.gov;* Felicia Kyeremeh, (410) 786–1898, or *Felicia.Kyeremeh@cms.hhs.gov;* Sundus Ashar, (410) 786–0750, or *Sundus.Ashar1@cms.hhs.gov;* or William Walker, (410) 786–5023, or *William.Walker@cms.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On December 21, 2000, the Congress passed the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA) (Pub. L. 106–554). Section 531(b) of BIPA mandated that we establish procedures that permit public consultation for coding and payment determinations for new durable medical equipment (DME) under Medicare Part B of title XVIII of the Social Security Act (the Act). In the November 23, 2001 **Federal Register** (66 FR 58743), we published a notice providing information regarding the establishment of the public meeting process for DME. The procedures and public meetings announced in that notice for new DME were in response to the mandate of section 531(b) of BIPA. As of 2020, we implemented changes to our HCPCS coding procedures that enable quarterly coding cycles for drugs and biological products, and bi-annual coding cycles for durable medical equipment, prosthetics, orthotics and supplies, and other non-drug, non-biological products. To achieve the time savings necessary to implement coding for the vast majority of drugs and biological products on a quarterly cycle, we will not be conducting public meetings for coding decisions on drugs and biological products. For the 2020 coding cycles, for drug and biological code applicants who are dissatisfied with CMS' coding decision in a quarterly coding cycle, we provide them an opportunity to resubmit their application in the next or subsequent quarterly cycle.

II. Virtual Meeting Registration

Due to the ''Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID–19) Outbreak'' [1] issued on March 13, 2020, there will not be an in-person meeting. The June 1 and June 2, 2020 HCPCS Public meetings will be virtual and available for remote audio attendance and participation only via WebEx.

A. Required Information for Registration

The following information must be provided when registering on-line to attend:

- Name.
- Company name and address.
- Direct-dial telephone and fax numbers.
- Email address.
- Special needs information.

A CMS staff member will confirm your registration by email.

B. Registration Process

1. Primary Speakers

Individuals must also indicate whether they are the ''primary speaker'' for an agenda item. Primary speakers must be designated by the entity that submitted the HCPCS coding request.

[1] *https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/.*

When registering, primary speakers must provide a brief written statement regarding the nature of the information they intend to provide and advise CMS' HCPCS staff listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice, regarding needs for audio/visual support. Speaker PowerPoint files are tested and arranged in speaker sequence well in advance of the meeting. We will accept emailed PowerPoint files that are received by the deadline for submissions of presentation materials as specified in the **DATES** section of this notice. Materials will only be accepted when emailed to *HCPCS_Level_II_Code_Applications@cms.hhs.gov or* to staff listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice. Late submissions and updates of electronic materials after our deadline cannot be accommodated.

The sum of all presentation materials and additional supporting documentation should not exceed 10 pages (each side of a page counts as 1 page). An exception will be made to the 10-page limit only for relevant studies newly published between the application deadline and the virtual public meeting date, in which case, we request a copy of the complete publication be emailed as soon as possible to *HCPCS_Level_II_Code_Applications@cms.hhs.gov* or to staff listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice. This exception applies only to the page limit and not the submission deadline.

Fifteen minutes is the total time interval for the presentation. In establishing the public meeting agenda, we may group multiple, related requests under the same agenda item. In that case, we will decide whether additional time will be allotted, and may opt to increase the amount of time allotted to the primary speaker.

Every primary speaker must declare at the beginning of the speaker's presentation at the meeting, as well as in the speaker's written summary, whether the speaker has any financial involvement with the manufacturers or competitors of any items being discussed; this includes any payment, salary, remuneration, or benefit provided to that speaker by the manufacturer or the manufacturer's representatives.

On the day of the virtual meeting, before the end of the meeting, all primary speakers must email a brief written summary of their comments and conclusions to CMS' HCPCS staff listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

2. ''5-Minute Speakers''

The deadline for registering to be a 5-Minute speaker is noted in the **DATES** section of this notice. Individuals must provide their name, company name and address, and contact information as specified in the instructions for remote participation, and identify the specific agenda item that they will address. Based on the number of items on the agenda and the progress of the meeting, a determination will be made at the meeting by the meeting coordinator and the meeting moderator regarding how many ''5-minute speakers'' can be accommodated and whether the 5-minute allocation would be reduced to accommodate the number of speakers.

Every 5-minute speaker must declare at the beginning of the speaker's presentation at the meeting, as well as in the speaker's written summary whether the speaker has any financial involvement with the manufacturers or competitors of any items being discussed; this includes any payment, salary, remuneration, or benefit provided to that speaker by the manufacturer or the manufacturer's representatives.

On the day of the virtual meeting, before the end of the meeting, all 5-minute speakers must email a brief written summary of their comments and conclusions to *HCPCS_Level_II_Code_Applications@cms.hhs.gov* or to CMS' HCPCS staff listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

C. Additional Virtual Meeting/Registration Information

Prior to registering to attend a virtual public meeting, all participants are advised to review the public meeting agendas at *https://www.cms.gov/Medicare/Coding/MedHCPCSGenInfo/HCPCSPublicMeetings* which identify our preliminary coding recommendations, and the dates each item will be discussed. Draft agendas, including a summary of each request and our preliminary recommendations will be posted at least 2 weeks before each virtual meeting on our HCPCS website at *https://www.cms.gov/Medicare/Coding/MedHCPCSGenInfo/HCPCSPublicMeetings.*

All participants and other interested stakeholders are encouraged to regularly check CMS' official HCPCS website at *https://www.cms.gov/Medicare/Coding/MedHCPCSGenInfo/HCPCSPublic Meetings for a*dditional details regarding the public meeting process for new public requests for revisions to the HCPCS, including information on how to join the meeting remotely, and guidelines for an effective presentation. In particular, please review the document titled ''Guidelines for Participation in Public Meetings for New Public Requests for Revisions to the Healthcare Common Procedure Coding System (HCPCS)''. Individuals who intend to provide a presentation at a virtual public meeting are encouraged to familiarize themselves with the HCPCS website and the valuable information it provides to prospective registrants. The HCPCS website also contains a document titled ''Healthcare Common Procedure Coding System (HCPCS) Level II Coding Procedures,'' which is a description of the HCPCS coding process, including a detailed explanation of the procedures CMS uses to make coding determinations for the products, supplies, and services that are coded in the HCPCS.

The HCPCS website also contains a document titled ''HCPCS Decision Tree & Definitions,'' which illustrates, in flow diagram format, HCPCS coding standards as described in our Coding Procedures document.

III. Written Comments From Meeting Attendees

As part of CMS' response to the COVID–19 public health emergency, there is a limited presence at the CMS headquarters for receiving paper packages. Therefore, written comments from the general public and meeting registrants will *only* be accepted when emailed to *HCPCS_Level_II_Code_Applications@cms.hhs.gov* or to staff listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice any time up to 5 p.m. on the date of the virtual public meeting at which a request is discussed. Due to the close timing of the virtual public meetings, subsequent workgroup reconsiderations, and final decisions, we are able to consider only those written submissions received by the close of business (5 p.m.) on the date of the virtual public meeting at which the request is discussed.

The Administrator of the Centers for Medicare & Medicaid Services (CMS), Seema Verma, having reviewed and approved this document, authorizes Evell J. Barco Holland, who is the Federal Register Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Evell J. Barco Holland,

Federal Register Liaison,Department of Health and Human Services.

[FR Doc. 2020–08335 Filed 4–17–20; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Medical Student Education Program; Notice of Deviation to Maximum Competition Requirements

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice of deviation to maximum competition requirements.

SUMMARY: HRSA is requesting a deviation from competition requirements in order to fund additional applications received in fiscal year 2019 under HRSA–19–101, Medical Student Education (MSE) Program, and to fund supplements to current award recipients. In fiscal year 2020, Congress provided $50,000,000 to fund the MSE program. The report language accompanying the appropriation directed HRSA to provide up to $35,000,000 to fund additional applications received from the MSE program in fiscal year 2019. Of the remaining amount, HRSA was directed to make supplementary grant awards to entities funded in fiscal year 2019. HRSA proposes to fund each of the five unfunded applicants $7,000,000 over the four-year project period (July 1, 2020 through June 30, 2024), and to provide $2,827,679 in upfront one year supplements to each of the five currently funded programs.

FOR FURTHER INFORMATION CONTACT: Cynthia Harne, Chief, Medical Training and Geriatrics Branch, Division of Medicine and Dentistry, Bureau of Health Workforce, HRSA, 5600 Fishers Lane, 11N110, Rockville, Maryland 20857, Phone: (301) 443–7661, Email: *charne@hrsa.gov.*

SUPPLEMENTARY INFORMATION:

Intended recipients of the awards	Amount of non-competitive awards
Oklahoma State University	$2,827,679
University of South Alabama	2,827,679
University of Missouri System	2,827,679
University of Oklahoma	2,827,679
University of Arkansas System	2,827,679
University of Missouri System	7,000,000
University of Utah	7,000,000
University of Alabama at Birmingham	7,000,000
University of Mississippi Medical Center	7,000,000
Trustees of Indiana University	7,000,000

Period of Supplemental Funding: July 1, 2020 to June 30, 2021.

CFDA Number: 93.680.

Authority: Division A of the Further Consolidated Appropriations Act, 2020, Departments of Labor, HHS, and Education, and Related Agencies Appropriations Act, 2020 (Pub. L. 116–94).

Justification: The funds will allow five additional institutions in the top quintile of states with a projected primary care provider shortage in 2025 to expand or support graduate education for medical students preparing to become physicians. It will also allow the five programs funded in fiscal year 2019 to receive supplements to support the development of medical school curricula, clinical training site partnerships, and faculty training programs, with the goal of educating medical students who are likely to choose career paths in primary care, especially for tribal communities, rural communities, and/or medically underserved communities.

Thomas J. Engels,

Administrator.

[FR Doc. 2020–08204 Filed 4–17–20; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier OS–0955–New]

Agency Information Collection Request; 30-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

DATES: Comments on the ICR must be received on or before May 20, 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: Sherrette Funn, *Sherrette.Funn@hhs.gov* or (202) 795–7714. When submitting comments or requesting information, please include the document identifier 0990–New–30D and project title for reference.

SUPPLEMENTARY INFORMATION: Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Title of the Collection: United States Core Data for Interoperability New Data Element Submission Form.

Type of Collection: New.

OMB No. 0955–NEW—Office of the National Coordinator for Health IT—OTECH.

Abstract: The Office of the National Coordinator for Health Information Technology is seeking the approval for a new information collection request item the ''United States Core Data for Interoperability (USCDI) New Data Element Submission Form.'' The USCDI is a standardized set of health data classes and constituent data elements used to support nationwide, interoperable health information exchange. When published, the USCDI will become the required standard data elements set to which all health IT developers must conform to obtain ONC certification. This certification is required for participation in some federal healthcare payment plans. In order to insure the USCDI remains current and reflects the needs of the health IT community, ONC has established a predictable, transparent, and collaborative process to solicit broad stakeholder input to expand the USCDI. Anyone, including ONC staff, staff from other federal agencies, and other stakeholders may submit proposals for new data elements and classes. ONC will evaluate each submission and provide feedback to the submitter. ONC will draft a new version of the USCDI based on these submissions and this draft will undergo review by ONC's federal advisory committee, the Health Information Technology Advisory Committee (HITAC), as well as by the general public. Upon approval by the National

Coordinator for Health Information Technology, new data classes and data elements from these submissions will be added to the newest version of the USCDI standard for integration into health information technology products such as electronic health records. ONC is seeking approval to collect this information throughout each year from health IT stakeholders.

The information collected from this submission system is needed as it will comprise the sum total of the items ONC will evaluate for addition to the next version of the USCDI. The requested data will provide supporting documentation to justify addition of the data elements to the USCDI, and, if the documentation does justify addition to the USCDI, to one of several levels of candidate data elements for future development and consideration. The requested data and ONC's evaluation of the data will be publically available for review at any time to provide transparency and predictability in the USCDI expansion process. It will contain information about the submitter to allow ONC to provide direct feedback to submitters on ONC's evaluation of such submission.

Likely respondents to this new submission system will be various health IT stakeholders including health care providers, standards development organizations, health IT developers and vendors as well as members of the HITAC. Respondents have an unlimited amount of submissions as this is a rolling submission.

ESTIMATED ANNUALIZED BURDEN TABLE

Type of respondent	Number of respondents	Number responses per respondent	Average burden per response (in hours)	Total burden hours
Health IT Stakeholders	100	1	20/60	33
Total	100	1	20/60	33

Sherrettte A. Funn,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. 2020–08244 Filed 4–17–20; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS–0990–New]

Agency Information Collection Request: 30-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

DATES: Comments on the ICR must be received on or before May 20, 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: Sherrette Funn, *Sherrette.Funn@hhs.gov* or (202) 795–7714. When submitting comments or requesting information, please include the document identifier 0990–New–30D and project title for reference.

SUPPLEMENTARY INFORMATION: Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Title of the Collection: Subpart C Research Certification Form.

Type of Collection: New.

OMB No. 0990–NEW—Office within OS—Specific program collecting the data (is applicable).

Abstract: The Office for Human Research Protections (OHRP) is requesting a three year approval of the Department of Health and Human Services (HHS) Subpart C Research Certification Form. This form will facilitate the collection of information relevant to an institutional request for OHRP authorization of research involving prisoners; the information in the form will be entered into OHRP's prisoner research database, and will be used by OHRP to draft a response certification letter back to the institution. This is a new information collection request.

The respondents for this collection are institutions or organizations operating Institutional Review Boards (IRBs) that have approved enrollment, or are planning to approve enrollment, of prisoners in human subjects research conducted or supported by HHS.

Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Subpart C Certification Form	40	2	1	80
Total				80

Sherrette A, Funn,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. 2020–08294 Filed 4–17–20; 8:45 am]

BILLING CODE 4150–36–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier OS–0990–0459]

Agency Father Generic Information Collection Request; 60-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

DATES: Comments on the ICR must be received on or before June 19, 2020.

ADDRESSES: Submit your comments to *Sherrette.Funn@hhs.gov* or by calling (202) 795–7714.

FOR FURTHER INFORMATION CONTACT: When submitting comments or requesting information, please include the document identifier 0990-New-60D, and project title for reference, to Sherrette Funn, the Reports Clearance Officer, *Sherrette.funn@hhs.gov,* or call 202–795–7714.

SUPPLEMENTARY INFORMATION: Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Title of the Collection: Fast-Track Generic Clearance for the Collection of Routine Customer Feedback on HHS Communications.

Type of Collection: Father Generic ICR.

OMB No. 0990–0459—Office within OS—Specific program collecting the data (is applicable).

Abstract: This collection of information is necessary to enable HHS to garner customer and stakeholder feedback. Information will be collected from our customers and stakeholders from the concept phase to the end of the product life cycle. This will help ensure that users have an effective, efficient, and satisfying experience with HHS communications products. If this information is not collected, vital feedback on HHS communications will be unavailable, preventing programs from developing communications products that meets the needs of the audience and demonstrating impact of the communications products developed.

Type of respondent; frequency (annual, quarterly, monthly, etc.); and the affected public (individuals, public or private businesses, state or local governments, etc.)

ANNUALIZED BURDEN HOUR TABLE

Forms (if necessary)	Number of respondents	Number of responses per respondents	Average burden per response	Total burden hours
HHS communications products	1,000,000	1	30/60	500,000

Sherrette A. Funn,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. 2020–08245 Filed 4–17–20; 8:45 am]

BILLING CODE 4150–25–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

RIN 0917–AA16

Reimbursement Rates for Calendar Year 2020

AGENCY: Indian Health Service, HHS.

ACTION: Notice.

SUMMARY: Notice is given that the Principal Deputy Director of the Indian Health Service (IHS), under the authority of the Public Health Service Act, and the Indian Health Care Improvement Act, has approved the following rates for inpatient and outpatient medical care provided by IHS facilities for Calendar Year 2020 for Medicare and Medicaid beneficiaries, beneficiaries of other federal programs, and for recoveries under the Federal Medical Care Recovery Act. The inpatient rates for Medicare Part A are excluded from the table below, as Medicare inpatient payments for IHS hospital facilities are made based on the prospective payment system or reasonable costs when IHS facilities are designated as Medicare Critical Access Hospitals. Since the inpatient per diem rates set forth below do not include all physician services and practitioner services, additional payment shall be available to the extent that those services are provided.

Inpatient Hospital Per Diem Rate (Excludes Physician/Practitioner Services)

Calendar Year 2020

Lower 48 States $3,675

Alaska $3,529

Outpatient Per Visit Rate (Excluding Medicare)

Calendar Year 2020

Lower 48 States $479

Alaska $710

Outpatient Per Visit Rate (Medicare)

Calendar Year 2020

Lower 48 States $427

Alaska $683

Medicare Part B Inpatient Ancillary Per Diem Rate

Calendar Year 2020

Lower 48 States $838

Alaska $1,186

Outpatient Surgery Rate (Medicare)

Established Medicare rates for freestanding Ambulatory Surgery Centers.

Effective Date for Calendar Year 2020 Rates

Consistent with previous annual rate revisions, the Calendar Year 2020 rates will be effective for services provided on/or after January 1, 2020, to the extent consistent with payment authorities,

including the applicable Medicaid State plan.

Chris Buchanan,

RADM, Assistant Surgeon General, U.S. Public Health Service, Deputy Director, Indian Health Service.

[FR Doc. 2020–08247 Filed 4–17–20; 8:45 am]

BILLING CODE 4160–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; 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: NIGMS Initial Review Group Training and Workforce Development Subcommittee—A Review of T32 applications and Interventions that Promote the Research Careers (R01) applications.

Date: June 25–26, 2020.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, Room 3AN12, 45 Center Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Isaah S. Vincent, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN12L, Bethesda, MD 20892, (301) 594–2948, *isaah.vincent@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: April 15, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–08285 Filed 4–17–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Nextgen Discovery for Alzheimer's Disease.

Date: May 19, 2020.

Time: 12:00 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Alexander Parsadanian, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, Gateway Building 2C/212, 7201 Wisconsin Avenue, Bethesda, MD 20892, (301) 496–9666, *parsadaniana@nia.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: April 15, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–08281 Filed 4–17–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Lucidity in Dementia.

Date: June 15, 2020.

Time: 11:00 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Dario Dieguez, Jr, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, Gateway Building, Suite 2W200, 7201 Wisconsin Avenue, Bethesda, MD 20892, (301) 827–3101, *dario.dieguez@nih.gov*.

Name of Committee: National Institute on Aging Special Emphasis Panel; Dementia Care.

Date: June 24, 2020.

Time: 11:00 a.m. to 4:15 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Dario Dieguez, Jr, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, Gateway Building, Suite 2W200, 7201 Wisconsin Avenue, Bethesda, MD 20892, (301) 827–3101, *dario.dieguez@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: April 15, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–08282 Filed 4–17–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Council on Drug Abuse.

The meeting will be held as a virtual meeting and is open to the public, as indicated below. Individuals who plan to view the virtual meeting and need

special assistance or other reasonable accommodations to view the meeting, should notify the Contact Person listed below in advance of the meeting. The open session will be videocast and can be accessed from the NIH Videocasting and Podcasting website (*http://videocast.nih.gov/*).

A portion of this will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council on Drug Abuse.

Date: May 12, 2020.

Closed: 11:00 a.m. to 12:15 p.m.

Agenda: To review and evaluate grant applications.

Open: 12:45 p.m. to 4:30 p.m.

Agenda: Presentations and other business of the Council.

Place: National Institutes of Health, National Institute on Drug Abuse, Neurosciences Center Building, 6001 Executive Boulevard, Rockville, MD 20852, (Virtual Meeting).

Contact Person: Susan R.B. Weiss, Ph.D., Director, Division of Extramural Research, Office of the Director, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Boulevard, NSC, Room 5274, MSC 9591, Rockville, MD 20892, 301–443–6487, *sweiss@nida.nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *www.drugabuse.gov/NACDA/NACDAHome.html,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: April 13, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–08196 Filed 4–17–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Asthma Education Prevention Program Coordinating Committee.

The meeting will be open to the public at the WebEx link below. Individuals wishing to attend should refer to the information listed below on the Institute's/Center's home page for any additional information as the meeting approaches.

Name of Committee: National Asthma Education Prevention Program Coordinating Committee.

Date: May 13, 2020.

Time: 12:00 p.m. to 2:00 p.m.

Agenda: Welcome, Guidelines Update and Implementation, and Future Directions/Role of NAEPPCC.

Place: National Institutes of Health, Rockledge I, 6705 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Telephone Access: 1–650–479–3208, Access Code: 625 290 665.

Virtual Access: WebEx Link: *https://nih.webex.com/nih/j.php?MTID=m214553b59a41098134407ebe13ebcf87;* Event number (access code): 299 510 569, Event password: Asthma; Event Call-in toll number (US/Canada): 1–650–479–3208.

Contact Person: Susan Shero, BSN, MS, Program Officer, CTRIS, Center for Translational Research and Implementation Science, National Heart, Lung and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 401–H2, Bethesda, MD 20892, 301–496–1051, *susan.shero@nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person. Information is also available on the Institute's/Center's home page: *https://www.nhlbi.nih.gov/advisory-and-peer-review-committees/national-asthma-education-and-prevention-program-coordinating,* where an agenda and any additional information for the meeting will be posted when available. A summary of the draft Asthma Guidelines will be posted to the website prior to the meeting. Public disclosure of the actual draft Guidelines, at this point in the process, risks the distribution of content, which includes recommendations for medical care, causing potential confusion among those for whom the guidelines are intended to assist. This would likely significantly frustrate implementation of final Guidelines expected to be released later this year.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: April 14, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–08280 Filed 4–17–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; RFA DK19–506: Limited Competition: Competitive Supplement to the Coordinating Center for T1D TrialNet (U01 Clinical Trial Required).

Date: May 27, 2020.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Najma S. Begum, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7349, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8894, *begumn@niddk.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: April 15, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–08283 Filed 4–17–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; 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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Preclinical Services for HIV Therapeutics (Task Area G).

Date: May 11, 2020.

Time: 12:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G33, Rockville, MD 20892, (Telephone Conference Call).

Contact Person: David C. Chang, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G33, Rockville 20852, 301–594–4218, *dchang4@gmail.com.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: April 13, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–08194 Filed 4–17–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute, Special Emphasis Panel; NCI Transition Career Development Award.

Date: May 19, 2020.

Time: 1:00 p.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute, Shady Grove, 9609 Medical Center Drive, Room 7W234, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Adriana Stoica, Ph.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, 7W234, Bethesda, MD 20892–9750, 240–276–6368, *Stoicaa2@mail.nih.gov.*

Name of Committee: National Cancer Institute, Initial Review Group; Subcommittee F—Institutional Training and Education.

Date: June 9, 2020.

Time: 1:00 p.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute, Shady Grove, 9609 Medical Center Drive, Room 7W234, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Adriana Stoica, Ph.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, 7W234, Bethesda, MD 20892–9750, 240–276–6368, *Stoicaa2@mail.nih.gov.*

Name of Committee: National Cancer Institute, Special Emphasis Panel; Collection of Biospecimens and Epidemiologic Profiles.

Date: June 12, 2020.

Time: 10:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Cancer Institute, Shady Grove, 9609 Medical Center Drive, Room 7W608, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Nadeem Khan, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, 9609 Medical Center Drive, Room 7W608, National Cancer Institute, NIH, Bethesda 20892–9745, 240–276–5856, *nadeem.khan@nih.gov.*

Name of Committee: National Cancer Institute, Initial Review Group; Subcommittee J—Career Development.

Date: June 18–19, 2020.

Time: 9:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Shady Grove Medical Center, 9609 Medical Center Drive, Room 7W624, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Tushar Deb, Ph.D., Scientific Review Officer, Resources & Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W624, Rockville, MD 20850, 240–276–6132, *tushar.deb@nih.gov.*

Name of Committee: National Cancer Institute, Special Emphasis Panel; Moonshot: Inherited Cancer Syndromes.

Date: June 19, 2020.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute, Shady Grove, 9609 Medical Center Drive, Room 7W106, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Reed A. Graves, Ph.D., Scientific Review Officer, 9609 Medical Center Drive, Room 7W106, Division of Extramural Activities, Research Technology and Contract Review Branch, National Cancer Institute, NIH, Rockville, MD 20850, 240–276–6384, *gravesr@mail.nih.gov.*

Name of Committee: National Cancer Institute, Special Emphasis Panel; Ruth L. Kirschstein National Research Service Award (NRSA), Institutional Research Training Grant.

Date: June 30, 2020.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute, Shady Grove, 9609 Medical Center Drive, Room 7W234, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Adriana Stoica, Ph.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, 7W234, Bethesda, MD 20892–9750, 240–276–6368, *Stoicaa2@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: April 14, 2020.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–08291 Filed 4–17–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Advisory General Medical Sciences Council, May 21, 2020, 08:30 a.m. to May 21, 2020, 05:00 p.m., National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892 which was published in the **Federal Register** on February 24, 2020, 85 FR 10454.

This notice is being amended to change the meeting time and location from 8:30 a.m. to 5:00 p.m., National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892 to 9:30 a.m. to 4:30 p.m., a virtual meeting. The URL link to this meeting is: *https://www.nigms.nih.gov/about-nigms/what-we-do/advisory-council.* Any member of the public may submit written comments no later than 15 days after the meeting. The meeting is partially Closed to the public.

Dated: April 15, 2020.

Miguelina Perez,

Program Analyst,Office of Federal Advisory Committee Policy.

[FR Doc. 2020–08286 Filed 4–17–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel Pediatric Critical Care Conferences.

Date: July 10, 2020.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH/NICHD, 6710 Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Joanna Kubler-Kielb, Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, 6710B Rockledge Dr., Bethesda, MD, 301–435–6916, *kielbj@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: April 14, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–08195 Filed 4–17–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Cancer Institute Board of Scientific Advisors.

The meeting will be held as a virtual meeting and is open to the public. Individuals who plan to view the virtual meeting and need special assistance or other reasonable accommodations to view the meeting, should notify the Contact Person listed below in advance of the meeting. The meeting will be videocast and can be accessed from the NIH Videocasting and Podcasting Website (*http://videocast.nih.gov/*).

Name of Committee: National Cancer Institute, Board of Scientific Advisors.

Date: May 12, 2020.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: Director's Report; RFA, RFP, and PAR Concept Reviews; and Scientific Presentations.

Place: National Cancer Institute—Shady Grove. 9609 Medical Center Drive. Rockville, MD 20850 (Virtual Meeting).

Contact Person: Paulette S. Gray, Ph.D., Director, Division of Extramural Activities, National Cancer Institute—Shady Grove, National Institutes of Health, 9609 Medical Center Drive, Room 7W444, Bethesda, MD 20892, 240–276–6340, *grayp@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: BSA: *http://deainfo.nci.nih.gov/advisory/bsa/bsa.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: April 15, 2020.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–08292 Filed 4–17–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Meetings; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Literature Selection Technical Review Committee, June 11–12, 2020, 8:30 a.m. to 5:00 p.m., at Building 38, 2nd Floor, The Lindberg Room, 8600 Rockville Pike, Bethesda, MD 20892, which was published in the **Federal Register** on February 4, 2020, 85 FR 23, Page 6209.

This notice is being amended to change the meeting location from Building 38, 2nd Floor, The Lindberg Room, Bethesda, MD 20894 to a video assisted meeting. The meeting will be closed to the public.

Dated: April 14, 2020.

Ronald J. Livingston, Jr.,

Program Analyst,Office of Federal Advisory Committee Policy.

[FR Doc. 2020–08287 Filed 4–17–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; 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: NIGMS Initial Review Group Training and Workforce Development Subcommittee—C Review of PREP and IMSD Applications.

Date: June 22–23, 2020.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, Room 3AN12, 45 Center Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Lee Warren Slice, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institutes of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN18A, Bethesda, MD 20814, (301) 435–0807, *slicelw@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: April 15, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–08284 Filed 4–17–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel NIDCR Clinical Studies SEP.

Date: June 30, 2020.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Dental and Craniofacial Research, National Institutes of Health, 6701 Democracy Boulevard, Room 651, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Yun Mei, MD, Scientific Review Officer, Scientific Review Branch, National Institute of Dental and Craniofacial Research, National Institutes of Health, 6701 Democracy Boulevard, Room 651, Bethesda, MD 20892, (301) 827–4639, *yun.mei@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: April 14, 2020.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–08199 Filed 4–17–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Board of Scientific Counselors, NIDA, May 7, 2020, 8:00 a.m. to May 8, 2020, 3:15 p.m., Intramural Research Program, Biomedical Research Center, Johns Hopkins Bayview Campus, 251 Bayview Boulevard, Room BRC 03C219, Baltimore, MD 21224, which was published in the **Federal Register** on March 13, 2020, 85 FR 14686.

This notice is being amended to change the meeting location from the Intramural Research Program, Biomedical Research Center, Johns Hopkins Bayview Campus, 251 Bayview Boulevard, Room BRC 03C219, Baltimore, MD 21224 to a virtual meeting. The meeting is closed to the public.

Dated: April 13, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–08198 Filed 4–17–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket Number USCG–2020–0042]

Consolidation of Redundant Coast Guard Boat Stations

AGENCY: Coast Guard, DHS.

ACTION: Request for comments; reopen comment period.

SUMMARY: The Coast Guard is reopening the comment period for the planned consolidation of redundant Coast Guard boat stations. In response to the request for comments we published February 14, 2020, an interested person asked that we extend the comment period.

DATES: The reopened comment period will close May 4, 2020. Your comments and related material must reach the Coast Guard on or before May 4, 2020.

ADDRESSES: You may submit comments identified by docket number USCG–2020–0042 using the Federal rulemaking portal at *https://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: For information about this document, please call or email Todd Aikins, Coast Guard Office of Boat Forces, 202–372–2463, *todd.r.aikins@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

DHS Department of Homeland Security
GAO Government Accountability Office

II. Background and Purpose

In the request for comments we published February 14, 2020 (85 FR 8601), we stated that in October of 2017, the Government Accountability Office issued report GAO–18–9, titled ''Actions Needed to Close Stations Identified as Overlapping and Unnecessarily Duplicative.'' This GAO report recommended the consolidation of eighteen boat stations. Due to environmental and operational factors, the Coast Guard is not considering all eighteen boat stations identified in the GAO report for consolidation. Instead, we anticipate consolidating five stations, with implementation notionally scheduled for fiscal year 2021. These stations have been identified because there are other units nearby capable of responding to cases in these areas, and because these five stations respond to a low number of cases. We do not anticipate any adverse effect on Coast Guard response capability. We expect an improvement to the proficiency of boat operators as well as a less complicated response system.

III. Discussion

In response to a request from an interested person the Coast Guard has reopened the comment period to allow additional input from the public. The new due date for comments is close May 4, 2020. The following information was provided in our February 14 request for comments.

Many stations were established at a time when boats lacked engines and were powered by oars and paddles. With modern boat operating speeds and improved direction finding technology, many calls for Coast Guard assistance can be responded to by multiple units significantly faster than when these boat stations were first established. The combination of significantly improved response times, along with an overall reduction in rescue calls due to boating safety improvements throughout the nation, has resulted in a number of boat stations becoming redundant. This consolidation will result in a more robust response system by increasing staffing levels and capacity at select nearby boat stations. Such a consolidation creates synergy and more opportunities for boat operators to properly train instead of missing training opportunities while standing ready to respond to calls that do not come. Station Oxford and Stations-Small Fishers Island, Shark River, Roosevelt Inlet, and Salem have been identified for consolidation with neighboring stations.

IV. Public Participation and Request for Comments

We encourage you to submit comments through the Federal portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. In your submission, please include the docket number for this notice and provide a reason for each suggestion or recommendation.

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Documents mentioned in this notice as being available in the docket, and all public comments, will be in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions.

Dated: April 14, 2020.

Matthew W. Sibley,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Capability.

[FR Doc. 2020–08205 Filed 4–17–20; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4469–DR; Docket ID FEMA–2020–0001]

South Dakota; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of South Dakota (FEMA–4469–DR), dated November 18, 2019, and related determinations.

DATES: This change occurred on March 20, 2020.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Jon K. Huss, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of James R. Stephenson as Federal Coordinating Officer for this disaster.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020–08307 Filed 4–17–20; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4490–DR; Docket ID FEMA–2020–0001]

Missouri; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Missouri (FEMA–4490–DR), dated March 26, 2020, and related determinations.

DATES: The declaration was issued March 26, 2020.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated March 26, 2020, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the emergency conditions in the State of Missouri resulting from the Coronavirus Disease 2019 (COVID–19) pandemic beginning on January 20, 2020, and continuing, are of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of Missouri

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide assistance for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Paul Taylor, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Missouri have been designated as adversely affected by this major disaster:

Emergency protective measures (Category B) not authorized under other Federal statutes, including direct Federal assistance, under the Public Assistance program at 75 percent federal funding for all areas in the State of Missouri.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020–08223 Filed 4–17–20; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4489–DR; Docket ID FEMA–2020–0001]

Illinois; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Illinois (FEMA–4489–DR), dated March 26, 2020, and related determinations.

DATES: This change occurred on April 1, 2020.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, James K. Joseph, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of Steven W. Johnson as Federal Coordinating Officer for this disaster.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020–08311 Filed 4–17–20; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4488–DR; Docket ID FEMA–2020–0001]

New Jersey; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of New Jersey (FEMA–4488–DR), dated March 25, 2020, and related determinations.

DATES: This change occurred on April 7, 2020.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Thomas Von Essen, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of Robert Little III as Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020–08217 Filed 4–17–20; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4440–DR; Docket ID FEMA–2020–0001]

South Dakota; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of South Dakota (FEMA–4440–DR), dated June 7, 2019, and related determinations.

DATES: This change occurred on March 20, 2020.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Jon K. Huss, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of James R. Stephenson as Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020–08296 Filed 4–17–20; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4399–DR; Docket ID FEMA–2020–0001]

Florida; Amendment No. 12 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Florida (FEMA–4399–DR), dated October 11, 2018, and related determinations.

DATES: This change occurred on April 1, 2020.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Brett Howard, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of Thomas J. McCool as Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020–08295 Filed 4–17–20; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4476–DR; Docket ID FEMA–2020–0001]

Tennessee; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Tennessee (FEMA–4476–DR), dated March 5, 2020, and related determinations.

DATES: This amendment was issued March 24, 2020.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Tennessee is hereby amended to include permanent work under the Public Assistance program for those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of March 5, 2020.

Davidson, Putnam, and Wilson Counties for Public Assistance [Categories C–G] (already designated for Individual Assistance and assistance for debris removal and emergency protective measures [Categories A and B], including direct federal assistance, under the Public Assistance program).

Benton, Carroll, and Smith Counties for Public Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020–08308 Filed 4–17–20; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4478–DR; Docket ID FEMA–2020–0001]

Mississippi; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Mississippi (FEMA–4478–DR), dated March 12, 2020, and related determinations.

DATES: This amendment was issued April 8, 2020.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Mississippi is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of March 12, 2020.

Chickasaw, Quitman, and Tallahatchie Counties for Public Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020–08309 Filed 4–17–20; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4491–DR; Docket ID FEMA–2020–0001]

Maryland; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Maryland (FEMA–4491–DR), dated March 26, 2020, and related determinations.

DATES: The declaration was issued March 26, 2020.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated March 26, 2020, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the emergency conditions in the State of Maryland resulting from the Coronavirus Disease 2019 (COVID–19) pandemic beginning on January 20, 2020, and continuing, are of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of Maryland.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide assistance for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, MaryAnn Tierney, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Maryland have been designated as adversely affected by this major disaster:

Emergency protective measures (Category B) not authorized under other Federal statutes, including direct Federal assistance, under the Public Assistance program at 75 percent federal funding for all areas in the State of Maryland.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020–08218 Filed 4–17–20; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4492–DR; Docket ID FEMA–2020–0001]

South Carolina; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of South Carolina (FEMA–4492–DR), dated March 27, 2020, and related determinations.

DATES: The declaration was issued March 27, 2020.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated March 27, 2020, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency

Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the emergency conditions in the State of South Carolina resulting from the Coronavirus Disease 2019 (COVID–19) pandemic beginning on January 20, 2020, and continuing, are of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of South Carolina.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide assistance for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Gracia B. Szczech, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of South Carolina have been designated as adversely affected by this major disaster:

Emergency protective measures (Category B) not authorized under other Federal statutes, including direct Federal assistance, under the Public Assistance program at 75 percent federal funding for all areas in the State of South Carolina.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020–08224 Filed 4–17–20; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4493–DR; Docket ID FEMA–2020–0001]

Puerto Rico; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the Commonwealth of Puerto Rico (FEMA–4493–DR), dated March 27, 2020, and related determinations.

DATES: This change occurred on April 7, 2020.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Thomas Von Essen, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of Alexis Amparo as Federal Coordinating Officer for this disaster.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020–08220 Filed 4–17–20; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4493–DR; Docket ID FEMA–2020–0001]

Puerto Rico; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Commonwealth of Puerto Rico (FEMA–4493–DR), dated March 27, 2020, and related determinations.

DATES: The declaration was issued March 27, 2020.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated March 27, 2020, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the emergency conditions in the Commonwealth of Puerto Rico resulting from the Coronavirus Disease 2019 (COVID–19) pandemic beginning on January 20, 2020, and continuing, are of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the Commonwealth of Puerto Rico.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide assistance for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order

12148, as amended, Alexis Amparo, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the Commonwealth of Puerto Rico have been designated as adversely affected by this major disaster:

Emergency protective measures (Category B) not authorized under other Federal statutes, including direct Federal assistance, under the Public Assistance program at 75 percent federal funding for all areas in the Commonwealth of Puerto Rico.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020–08228 Filed 4–17–20; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4467–DR; Docket ID FEMA–2020–0001]

South Dakota; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of South Dakota (FEMA–4467–DR), dated October 7, 2019, and related determinations.

DATES: This change occurred on March 20, 2020.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Jon K. Huss, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of James R. Stephenson as Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020–08306 Filed 4–17–20; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4480–DR; Docket ID FEMA–2020–0001]

New York; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of New York (FEMA–4480–DR), dated March 20, 2020, and related determinations.

DATES: This change occurred on April 7, 2020.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Thomas Von Essen, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of Seamus K. Leary as Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020–08222 Filed 4–17–20; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4479–DR; Docket ID FEMA–2020–0001]

South Carolina; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of South Carolina (FEMA–4479–DR), dated March 17, 2020, and related determinations.

DATES: This amendment was issued March 30, 2020.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of South Carolina is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of March 17, 2020.

Bamberg, Barnwell, and Hampton Counties for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020–08310 Filed 4–17–20; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4513–DR; Docket ID FEMA–2020–0001]

Virgin Islands; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the territory of the U.S. Virgin Islands (FEMA–4493–DR), dated April 2, 2020, and related determinations.

DATES: This change occurred on April 7, 2020.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Thomas Von Essen, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of William L. Vogel as Federal Coordinating Officer for this disaster.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020–08227 Filed 4–17–20; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4463–DR; Docket ID FEMA–2020–0001]

South Dakota; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of South Dakota (FEMA–4463–DR), dated September 23, 2019, and related determinations.

DATES: This change occurred on March 20, 2020.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Jon K. Huss, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of James R. Stephenson as Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020–08303 Filed 4–17–20; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAZ920000.L13400000.PQ0000.20X; AZA–09973]

Notice of Application for Withdrawal Extension; Notice of Application for Withdrawal Addition; Notice of Segregation; and, Opportunity for Public Meeting for the Barry M. Goldwater Range, Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of withdrawal applications.

SUMMARY: The United States Department of the Air Force (USAF) and the United States Department of the Navy (USN) have filed applications to extend and expand existing Federal-land withdrawals in Maricopa, Pima, and Yuma counties, Arizona. They have requested an extension of the existing 1,743,426.42-acre withdrawal, along with the withdrawal of an additional 2,366 acres of public lands at Gila Bend airfield from all forms of appropriation under the public land laws, including the mining laws, the mineral leasing laws, and the geothermal leasing laws, subject to valid existing rights for an indefinite period. The decision about these applications will be made by Congress.

DATES: Comments on the withdrawal applications, including their environmental consequences, should be received on or before July 20, 2020. In addition, the USAF, the USN, and the Bureau of Land Management (BLM) will host a public meeting addressing the withdrawal applications and the associated environmental review process. The date and venue for the public meeting is listed in the **SUPPLEMENTARY INFORMATION** section.

ADDRESSES: Comments pertaining to the USAF and USN withdrawal extension proposal or the USAF withdrawal

expansion proposal should be sent to the BLM, Arizona State Office; Attention: Eddie Arreola, One North Central Avenue, Suite 800, Phoenix, AZ 85004. Comments pertaining to this notice may be submitted by any of the following methods:

- *Email: BLM_AZ_AZSO_BMGRWithdrawal@blm.gov.*
- *Fax:* 602–417–9454.
- *Mail:* BLM Arizona State Office, Attn: Eddie Arreola, One North Central Avenue, Suite 800, Phoenix, AZ 85004.

Copies of the legal descriptions and the maps depicting the lands that are the subject of the USAF and USN's application are available for public inspection at the following offices: State Director, BLM Arizona State Office, One North Central Avenue, Suite 800, Phoenix, Arizona 85004; District Manager, BLM Phoenix District Office, 21605 North 7th Avenue, Phoenix, Arizona 85027; and Field Office Manager, BLM Yuma Field Office, 7341 E 30th Street, Yuma, Arizona 85365.

FOR FURTHER INFORMATION CONTACT: Eddie Arreola, Supervisory Project Manager, at 602–417–9505 or email at *earreola@blm.gov* or at the above addresses. Information on the proposed action (withdrawal extension and addition), including the environmental review process, can be viewed at the project's website at *www.barry-m-goldwater-leis.com.* 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, seven 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 United States Department of the Air Force (USAF) and the United States Department of the Navy (USN), acting on behalf of the United States Marine Corps, have filed an application to extend the current withdrawal of 1,743,426.42 acres of Federal lands from all forms of appropriation under the public land laws, including the mining laws, the mineral leasing laws, and the geothermal leasing laws, subject to valid existing rights, for military use of the Barry M. Goldwater Range (BMGR) in Maricopa, Pima, and Yuma counties, Arizona for an indefinite period (withdrawal extension). In accordance with the Engle Act (43 U.S.C. 155–158), because it exceeds 5000 acres, this withdrawal extension requires an Act of Congress. The USAF has also requested the withdrawal of an additional 2,366 acres of public lands at Gila Bend airfield from all forms of appropriation under the public land laws, including the mining laws, the mineral leasing laws, and the geothermal leasing laws, subject to valid existing rights for an indefinite period (withdrawal expansion). These additional acres are adjacent and contiguous to the existing withdrawal, and therefore, under the Engle Act (43 U.S.C. 155–158), their withdrawal, too, requires an Act of Congress. This notice segregates the 2,366 acres for 2 years from all forms of appropriation under the public land laws, including the mining laws, the mineral leasing laws, and the geothermal leasing laws; initiates an opportunity for the public to comment on the proposed withdrawal extension and withdrawal expansion; and announces the date, time, and location of public meetings on both the extension and the expansion.

The BMGR was withdrawn under the Military Land Withdrawal Act (MLWA) of 1999 (Pub. L. 106–65). The existing withdrawal expires on October 4, 2024. In accordance with MLWA, the USAF and USN notified Congress of a continuing military need for the BMGR withdrawn lands. The USAF and USN are jointly preparing a Legislative Environmental Impact Statement (LEIS). The USAF and USN anticipate **Federal Register** publication of a separate Notice of Intent to prepare the LEIS.

As required by section 204(b)(1) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(b)(1), and the BLM regulations at 43 CFR part 2300, the BLM is publishing the notice of the USAF and USN application. While the BLM and the Department of the Interior assist the USAF and USN with the processing of withdrawal applications, and the Secretary of the Interior makes a recommendation to Congress on the proposed withdrawals, it will be Congress that will make the final decision regarding whether to extend the existing BMGR withdrawal and/or expand it to add 2,366 acres at Gila Bend Airfield.

The USAF and USN are requesting that Congress extend the BMGR land withdrawal for an indefinite period due to the anticipated continuation of national defense requirements.

Extension Request: The application requests an extension of the existing BMGR withdrawal of 1,650,246 acres of Federal land in accordance with the Engle Act, (43 U.S.C. 155–158).

The November 30, 2001, **Federal Register** publication (66 FR 59813) identified 1,650,246 acres of public lands and 83,675 acres of former State and private non-contiguous parcels acquired by the military, for a total withdrawal of 1,733,921 acres.

Since 2001, the BLM has surveyed the western portion of the withdrawal used by the USN and has produced a more accurate acreage than was originally provided in the 2001 **Federal Register** publication. The total calculated acres of Federal interest and acquired lands is 1,743,426.42 acres, of which 1,659,364.92 acres are public lands and 84,061.51 acres are acquired lands. There is a difference of 9,505.89 acres between the 2001 acreage and the resurveyed acreage, even though there is no change in the existing boundary and the legal description remains the same, as noted below. The difference in acreage is due to an accumulation of fractions of acres within the boundary of the existing withdrawal due to more recent and accurate geographic information system mapping.

Legal Description of Withdrawal Extension

Gila and Salt River Meridian, Arizona

T. 8 S., R. 1 W.,
  Sec. 30, lots 3 and 4 and E½SW¼;
  Sec. 31;
  Sec. 32, NW¼, SW¼, and SE¼;
  Sec. 33, SW¼.
T. 9 S., R. 1 W.,
  Sec. 3, SW¼ and SE¼;
  Secs. 4 thru 11;
  Sec. 12, SW¼;
  Secs. 13 thru 36.
T. 8 S., R. 2 W.,
  Sec. 7, lots 1 thru 4, E½NW¼, E½SW¼, and SE¼;
  Sec. 8, SW¼;
  Sec. 16, SW¼ and SE¼;
  Secs. 17 thru 22;
  Sec. 23, SW¼ and SE¼;
  Sec. 25, NW¼, SW¼, and SE¼;
  Secs. 26 thru 36.
T. 9 S., R. 2 W.
T. 7 S., R. 3 W.,
  Sec. 19, lots 3 and 4 and E½SW¼;
  Sec. 28, SW¼;
  Sec. 29, NW¼, SW¼, and SE¼;
  Secs. 30 thru 33;
  Sec. 34, SW¼ and SE¼.
T. 8 S., R. 3 W.,
  Sec. 1, SW¼;
  Secs. 2 thru 36.
T. 9 S., R. 3 W.
T. 10 S., R. 3 W.,
  Secs. 4 thru 9;
  Secs. 16 thru 21;
  Secs. 28 thru 33.
T. 7 S., R. 4 W.,
  Sec. 14, SW¼ and SE¼;
  Secs. 15 thru 23;
  Sec. 24, NW¼, SW¼, and SE¼;
  Secs. 25 thru 36.
Tps. 8, 9, and 10 S., R. 4 W.
T. 6 S., R. 5 W.,
  Sec. 13;
  Sec. 14, NE¼, S½NW¼, SW¼, and SE¼;
  Secs. 15 thru 17;
  Sec. 18, lots 3 and 4, E½NE¼, SW¼NE¼, SE¼NW¼, E½SW¼, and SE¼;

Secs. 19 thru 36.
Tps. 7 thru 10 S., R. 5 W.
T. 6 S., R. 6 W.,
Sec. 13, E½SE¼, SW¼SE¼, and SE¼SW¼;
Sec. 22, E½SE¼, SW¼SE¼, and S½SW¼;
Sec. 23, E½NE¼, SW¼NE¼, SE¼NW¼, SW¼, and SE¼;
Secs. 24 thru 27;
Secs. 34 thru 36.
T. 7 S., R. 6 W.,
Secs. 1 thru 3;
Secs. 10 thru 36.
Tps. 8 thru 10 S., R. 6 W.
T. 11 S., R. 6 W.,
Secs. 5 thru 8;
Secs. 4, 9, 10, and 15, all those portions lying west of the westerly boundaries of the State Route 85 (100 feet) and detention basin (700 feet) rights-of-way, as more particularly identified and described on the official BLM plat maps;
Secs. 16 thru 21;
Secs. 22 and 27, all those portions lying west of the westerly boundary of the State Route 85 (100 feet) right-of-way, as more particularly identified and described on the official BLM plat maps;
Secs. 28 thru 30.
T. 7 S., R. 7 W.,
Secs. 13 thru 36.
Tps. 8 thru 10 S., R. 7W.
T. 7 S., R. 8 W.,
Secs. 13 thru 15;
Sec. 16, SW¼ and SE¼;
Sec. 17, SW¼ and SE¼;
Sec. 18, lots 3 and 4, E½SW¼, and SE¼;
Secs. 19 thru 36.
Tps. 8 and 9 S., R. 8 W., unsurveyed.
T. 10 S., R. 8 W.
T. 7 S., R. 9 W.
Sec. 13, SW¼ and SE¼;
Sec. 14, SW¼ and SE¼;
Secs. 19 thru 36.
Tps. 8 thru 11 S., R. 9 W., unsurveyed.
Tps. 8 and 9 S., R. 10 W.
Tps. 10 and 11 S., R. 10 W., unsurveyed.
Tps. 8 thru 10 S., R. 11 W.
T. 11 S., R. 11 W., unsurveyed.
T. 8 and 9 S., R. 11 ½ W and 12 W.
T. 10 S., R. 12 W.
T. 11 S., R. 12 W., unsurveyed.
T. 8 S., R. 13 W.,
Secs. 1 thru 3;
Secs. 4 thru 7, all of those portions lying south of the southerly boundary of the railroad right-of-way, as more particularly identified and described on the official BLM plat maps.
Secs. 8 thru 36.
Tps. 9 and 10 S., R. 13 W.
T. 11 S., R. 13 W., unsurveyed.
T. 8 S., R. 14 W.,
Secs. 11, 12, 14, 15, 16, and 21, all those portions lying south of the southerly boundary of the railroad right-of-way, as more particularly identified and described on the official BLM plat maps;
Sec. 20, all those portions lying south of the southerly boundaries of the railroad right-of-way and the Interstate Highway 8 right-of-way, as more particularly identified and described on the official BLM plat maps;
Sec. 13 and 22 thru 36;
Tps. 9 and 10 S., R. 14 W.
T. 11 S., R. 14 W., unsurveyed.
T. 8 S. R. 15 W.,
Secs. 33 thru 36.
Tps. 9 and 10 S., R. 15W.
T. 11 S., R. 15 W., unsurveyed.
T. 9 S., R. 16 W.,
Secs. 1 and 2;
Secs. 7 thru 36.
T. 10 S., R. 16 W.
T. 11 S., R. 16 W., unsurveyed.
T. 9 S., R. 17 W., partially surveyed.
Secs. 12 thru 14;
Secs. 15 and 16, partially surveyed;
Sec. 17, SW¼ and SE¼;
Secs. 19 thru 36.
T. 10 S., R. 17 W.,
Tps. 11 thru 14 S., R. 17 W., unsurveyed.
T. 9 S., R. 18 W.,
Sec. 21, SE¼;
Sec. 22, SW¼ and SE¼;
Secs. 23 thru 36.
T. 10 S., R. 18 W.
Tps. 11 thru 13 S., R. 18 W., unsurveyed.
T. 9 S., R. 19 W.,
Secs. 25 thru 36.
Tps. 10 thru 13 S., R. 19 W., unsurveyed.
T. 9 S., R. 20 W.,
Secs. 25 thru 36.
Tps. 10 thru 12 S., R. 20 W., unsurveyed.
T. 9 S., R. 21 W.,
Secs. 25 thru 36.
Tps. 10 thru 12 S., R. 21 W.
T. 9 S., R. 22 W.,
Secs. 25 thru 28;
Sec. 29, NE¼, E½NW¼, SW¼, and SE¼;
Secs. 32 thru 36.
T. 10 S., R. 22 W.,
Secs. 1 thru 5;
Sec. 6, lots 1 and 2, S½NE¼, and SE¼;
Secs. 7 thru 36.
Tps. 11 and 12 S., R. 22 W.
The areas described aggregate 1,743,426.42 acres.

Addition Request: In accordance with the Engle Act, (43 U.S.C. 155–158), the USAF filed an application requesting withdrawal and reservation of 2,366 acres of additional Federal lands for military training exercises involving the BMGR, Maricopa County, Arizona (the ''Addition area''). The USAF requests that the land be withdrawn from all forms of appropriation under the public land laws, including the mining laws, the mineral leasing laws, and the geothermal leasing laws, subject to valid existing rights, and reserved for use of the USAF for testing and training, consistent with the purpose of the BMGR.

Legal Description of Addition Lands

Gila and Salt River Meridian, Arizona

T. 6 S. R. 4 W.,
Sec. 19, lots 3 and 4, and E½SW¼;
Sec. 31; Lots 1 and 2, and E½NW¼.
T. 7 S., R. 4 W.,
Sec. 5, SW¼ SW¼ SW¼;
Secs. 6, Lots 3 thru 7, SE¼NW¼, E½SW¼, and SE¼;
Secs. 7 and 8;
Sec. 9, SW¼ and SE¼.
The areas described aggregate 2,366 acres.

In the event any non-federally owned lands within the requested withdrawal area return or pass to Federal ownership in the future, they would be subject to the terms and conditions described above.

The purpose of the requested withdrawal extension and expansion is to withdraw and reserve the lands for use by the USAF and USN for military testing and training.

For a period until July 20, 2020, all persons who wish to submit comments, suggestions, or objections in connection with the withdrawal application may present their comments in writing to the persons and offices listed in the **ADDRESSES** section above. All comments received will be considered before the Secretary of the Interior makes any recommendation for withdrawal to Congress.

As a direct result of the National Emergency declared by the President on Friday, March 13, 2020, in response to the coronavirus (COVID–19) pandemic, no in-person public meeting will be held. Instead, a virtual (online) public meeting will be conducted on Thursday, May 26 at 5:00 p.m. and Thursday, May 28 at 3:00 p.m. via a virtual meeting. The BLM will publish the date and instructions on how to access the online public meeting in the *Arizona Daily Star* (Tucson), *Ajo Copper News, Gila Bend Sun, Arizona Republic* (Phoenix Metropolitan area), *Casa Grande Dispatch, The Glendale Star, Yuma Sun, Baja El Sol* (Yuma), *La Voz* (Phoenix), and *The Runner* (Tohono O'odham Nation) newspapers for a minimum of 15 days prior to the meetings.

Comments, including names and street addresses of respondents, will be available for public review at the project website noted above. 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 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.

Subject to valid existing rights, the 2366 acres of Federal lands that are the subject of the USAF application for addition of the withdrawal and reservation for USAF military use, and that are described in this notice, will be segregated from all forms of appropriation under the public land

laws, including the mining laws, the mineral leasing laws, and the geothermal leasing laws. The segregation will continue for a period of 2 years from date of publication in the **Federal Register**, unless the applications/proposal are denied or cancelled, or the withdrawal is approved prior to that date. Licenses, permits, cooperative agreements, or discretionary land use authorizations may be allowed during the period of segregation, but only with the approval of the authorized officer and, as appropriate, with the concurrence of the USAF.

The applications for withdrawal and reservation will be processed in accordance with the regulations at 43 CFR part 2300.

(Authority: 43 U.S.C. 1714(b)(1) and 43 CFR 2300)

Raymond Suazo,

Arizona State Director.

[FR Doc. 2020–08298 Filed 4–17–20; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0030082; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: Robert S. Peabody Institute of Archaeology, Andover, MA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Robert S. Peabody Institute of Archaeology, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, has determined that the cultural items listed in this notice meet the definition of unassociated funerary objects. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to the Robert S. Peabody Institute of Archaeology. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to the Robert S. Peabody Institute of Archaeology at the address in this notice by May 20, 2020.

ADDRESSES: Ryan Wheeler, Robert S. Peabody Institute of Archaeology, Phillips Academy, 180 Main Street, Andover, MA 01810, telephone (978) 749–4490, email *rwheeler@andover.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the Robert S. Peabody Institute of Archaeology, Andover, MA, that meet the definition of unassociated funerary objects under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Item(s)

In 1891 and 1892, 385 cultural items were removed by Ernest Volk during excavations at the lowlands village and at Lalor Field in Mercer County, NJ, which today form part of the Abbott Farm National Historic Landmark. Volk was a German archeologist who came to the United States in 1867, and worked for Frederic Ward Putnam of the Harvard Peabody Museum of Archaeology and Ethnology. It is unclear how Volk's collections might have come to the Robert S. Peabody Institute of Archaeology (RSPIA), though possibly via Frederic Ward Putnam, who was associated with curator Warren K. Moorehead and honorary director Charles Peabody during the early twentieth century. The collection at RSPIA was not accessioned or cataloged until recently. Volk's excavation notes detail the graves and proveniences from which the objects were removed. The 385 unassociated funerary objects are two unmodified bone fragments, one mica fragment, 198 ceramic sherds, and 184 stone fragments (consisting of points, bifaces, flakes, scrapers, and round stone).

Consultation with the Delaware Nation, Oklahoma and the Delaware Tribe of Indians has determined affiliation through geographical, archeological, linguistic, historical, and oral traditional information. Scholarly publications and information provided during consultation documents use of the Lowlands/Abbott Farm area by the Delaware Tribes. Linguistic connections through the Unami language persist from the Early Woodland period to today.

Determinations Made by the Robert S. Peabody Institute of Archaeology

Officials of the Robert S. Peabody Institute of Archaeology have determined that:

- Pursuant to 25 U.S.C. 3001(3)(B), the 385 cultural items described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects and the Delaware Nation, Oklahoma; Delaware Tribe of Indians; and the Stockbridge Munsee Community, Wisconsin.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Ryan Wheeler, Robert S. Peabody Institute of Archaeology, Phillips Academy, 180 Main Street, Andover, MA 01810, telephone (978) 749–4490, email *rwheeler@andover.edu,* by May 20, 2020. After that date, if no additional claimants have come forward, transfer of control of the unassociated funerary objects to the Delaware Nation, Oklahoma; Delaware Tribe of Indians; and the Stockbridge Munsee Community, Wisconsin may proceed.

The Robert S. Peabody Institute of Archaeology is responsible for notifying the Delaware Nation, Oklahoma; Delaware Tribe of Indians; and the Stockbridge Munsee Community, Wisconsin that this notice has been published.

Dated: March 25, 2020.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2020–08321 Filed 4–17–20; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0030077; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: City of Traverse City, Traverse City, MI

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The City of Traverse City has completed an inventory of human remains, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations and has determined that there is no cultural affiliation between the human remains and any present-day Indian Tribes or Native Hawaiian organizations. Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the City of Traverse City. If no additional requestors come forward, transfer of control of the human remains to the Indian Tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the City of Traverse City at the address in this notice by May 20, 2020.

ADDRESSES: Penny Hill, Assistant City Manager, City of Traverse City, 400 Boardman Avenue, Traverse City, MI 49684, telephone (231) 922–4440, email *phill@traversecitymi.gov.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003 of the completion of an inventory of human remains under the control of the City of Traverse City, Traverse City, MI. The human remains were removed from Emmet County, MI.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the City of Traverse City professional staff in consultation with representatives of the Bay Mills Indian Community, Michigan; Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Little Traverse Bay Bands of Odawa Indians, Michigan; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Saginaw Chippewa Indian Tribe of Michigan; and the Sault Ste. Marie Tribe of Chippewa Indians, Michigan. Through those consultations, information was relayed to the other member Tribes of the Michigan Anishinaabek Cultural Preservation & Repatriation Alliance (MACPRA), including the Hannahville Indian Community, Michigan; Keweenaw Bay Indian Community, Michigan; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Little River Band of Ottawa Indians, Michigan; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; and the Nottawaseppi Huron Band of the Potawatomi, Michigan (previously listed as the Huron Potawatomi, Inc.), hereafter referred to as ''The Aboriginal Land Tribes Located in Michigan''. The two State Historic MACPRA-member Tribes are the Burt Lake Band of Ottawa and Chippewa Indians and the Grand River Band of Ottawa Indians.

Indian Tribes currently located in states other than Michigan that were invited to consult and offered disposition are the Absentee-Shawnee Tribe of Indians of Oklahoma; Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Chippewa Cree Indians of the Rocky Boy's Reservation, Montana (previously listed as the Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana); Citizen Potawatomi Nation, Oklahoma; Delaware Nation, Oklahoma; Delaware Tribe of Indians; Eastern Shawnee Tribe of Oklahoma; Forest County Potawatomi Community, Wisconsin; Kickapoo Traditional Tribe of Texas; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; Kickapoo Tribe of Oklahoma; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Miami Tribe of Oklahoma; Minnesota Chippewa Tribe, Minnesota (Six component reservations: Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band; Mille Lacs Band; White Earth Band); Ottawa Tribe of Oklahoma; Peoria Tribe of Indians of Oklahoma; Prairie Band Potawatomi Nation (previously listed as the Prairie Band of Potawatomi Nation, Kansas); Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Shawnee Tribe; Sokaogon Chippewa Community, Wisconsin; St. Croix Chippewa Indians of Wisconsin; Stockbridge Munsee Community, Wisconsin; Turtle Mountain Band of Chippewa Indians of North Dakota; and the Wyandotte Nation. Hereafter, these Tribes are referred to as ''The Aboriginal Land Tribes currently located in States other than Michigan''.

History and Description of the Remains

According to Con Foster Museum records on an unknown date, human remains representing, at minimum, one individual were removed from Fort Michilimackinac, Emmet County, MI, by N.L. Bregg and a Mr. Herrick. No known individual was identified. No associated funerary objects are present.

Determinations Made by the City of Traverse City

Officials of the City of Traverse City have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American, based a non-invasive examination conducted by Dr. Jennifer Amadeaus Scott of the University of Michigan, on August 1, 2019.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian Tribe.
- According to final judgments of the Indian Claims Commission or the Court of Federal Claims, the land from which the Native American human remains were removed is the aboriginal land of the Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Bay Mills Indian Community, Michigan; Chippewa Cree Indians of the Rocky Boy's Reservation, Montana (previously listed as the Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana); Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Keweenaw Bay Indian Community, Michigan; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of

Wisconsin; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Little River Band of Ottawa Indians, Michigan; Little Traverse Bay Bands of Odawa Indians, Michigan; Minnesota Chippewa Tribe, Minnesota (Six component reservations: Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band; Mille Lacs Band; White Earth Band); Ottawa Tribe of Oklahoma; Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Saginaw Chippewa Indian Tribe of Michigan; Sault Ste. Marie Tribe of Chippewa Indians, Michigan; Sokaogon Chippewa Community, Wisconsin; St. Croix Chippewa Indians of Wisconsin; and the Turtle Mountain Band of Chippewa Indians of North Dakota.

• Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains were removed is the aboriginal land of the Absentee-Shawnee Tribe of Indians of Oklahoma; Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Bay Mills Indian Community, Michigan; Chippewa Cree Indians of the Rocky Boy's Reservation, Montana (previously listed as the Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana); Citizen Potawatomi Nation, Oklahoma; Delaware Nation, Oklahoma; Delaware Tribe of Indians; Eastern Shawnee Tribe of Oklahoma; Forest County Potawatomi Community, Wisconsin; Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Hannahville Indian Community, Michigan; Keweenaw Bay Indian Community, Michigan; Kickapoo Traditional Tribe of Texas; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; Kickapoo Tribe of Oklahoma; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Little River Band of Ottawa Indians, Michigan; Little Traverse Bay Bands of Odawa Indians, Michigan; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; Miami Tribe of Oklahoma; Minnesota Chippewa Tribe, Minnesota (Six component reservations: Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band; Mille Lacs Band; White Earth Band); Nottawaseppi Huron Band of the Potawatomi, Michigan (previously listed as the Huron Potawatomi, Inc.); Ottawa Tribe of Oklahoma; Peoria Tribe of Indians of Oklahoma; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Prairie Band Potawatomi Nation (previously listed as the Prairie Band of Potawatomi Nation, Kansas); Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Saginaw Chippewa Indian Tribe of Michigan; Sault Ste. Marie Tribe of Chippewa Indians, Michigan; Shawnee Tribe; Sokaogon Chippewa Community, Wisconsin; St. Croix Chippewa Indians of Wisconsin; Stockbridge Munsee Community, Wisconsin; Turtle Mountain Band of Chippewa Indians of North Dakota; and the Wyandotte Nation (hereafter referred to as ''The Tribes.'')

• Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains may be to The Tribes.

Additional Requestors and Disposition

Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wishes to request transfer of control of these human remains should submit a written request with information in support of the request to Penny Hill, Assistant City Manager, City of Traverse City, 400 Boardman Avenue, Traverse City, MI 49684, telephone (231) 922–4440, email *phill@traversecitymi.gov,* by May 20, 2020. After that date, if no additional requestors have come forward, transfer of control of the human remains to The Tribes may proceed.

The City of Traverse City is responsible for notifying The Aboriginal Land Tribes Located in Michigan and the Aboriginal Land Tribes Located in States Other than Michigan that this notice has been published.

Dated: March 25, 2020.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2020–08325 Filed 4–17–20; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0030081; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Robert S. Peabody Institute of Archaeology, Andover, MA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Robert S. Peabody Institute of Archaeology has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Robert S. Peabody Institute of Archaeology. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Robert S. Peabody Institute of Archaeology at the address in this notice by May 20, 2020.

ADDRESSES: Ryan Wheeler, Robert S. Peabody Institute of Archaeology, Phillips Academy, 180 Main Street, Andover, MA 01810, telephone (978) 749–4490, email *rwheeler@andover.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Robert S. Peabody Institute of Archaeology, Andover, MA. The human remains and associated funerary objects were removed from the Lowlands site (28ME1), also known as Abbott Farm, Trenton, Mercer County, NJ.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains and associated funerary objects was made by the Robert S. Peabody Institute of Archaeology professional

staff in consultation with representatives of the Delaware Nation, Oklahoma and the Delaware Tribe of Indians.

History and Description of the Remains

In 1891 and 1892, human remains representing, at minimum, five individuals were removed by Ernest Volk during excavations at the lowlands village and Lalor Field in Mercer County, NJ, which today form part of the Abbott Farm National Historic Landmark. Volk (1845–1919) was a German archeologist who came to the United States in 1867, and worked for Frederic Ward Putnam of the Harvard Peabody Museum of Archaeology and Ethnology. Volk worked closely with Charles Conrad Abbott, and focused much of his 22 year-long investigation on components of the Abbott Farm site, including the ''Lowlands,'' and other sites of the Delaware Valley. Volk's work was detailed in *The Archaeology of the Delaware Valley* (1911). The glacial deposits, known as the Trenton Gravels, figured prominently in his ideas about the earliest settlement of the Americas. It is unclear how some of Volk's collections might have come to the Robert S. Peabody Institute of Archaeology, though possibly via Frederic Ward Putnam, who was associated with curator Warren K. Moorehead and honorary directory Charles Peabody during the early twentieth century. The collection at RSPIA was not accessioned or cataloged until recently. Examination by physical anthropologists Michael Gibbons and Harley Erikson identified a minimum of five individuals: Two adult females, one sub-adult female, and two individuals of indeterminate sex and age. No known individuals were identified. The 218 associated funerary objects are 12 mica fragments; 10 wood fragments (some have been burned); one shell fragment; three unmodified stone fragments; 13 burned unidentified bone fragments; 32 stone fragments; one bone fragment; 102 chipped stone fragments; 43 ceramic sherds; and one triangular projectile point.

Geographic affiliation is consistent with the historically documented territory of the Delaware Tribes (also called the *Lenape*). Archeological evidence is consistent with documented use of the area by the Delaware Tribes. Linguistic, historical, and oral traditional information provide additional lines of evidence of a shared group identity between the Delaware Tribes and the Lowlands site at Abbott Farm.

Determinations Made by the Robert S. Peabody Institute of Archaeology

Officials of the Robert S. Peabody Institute of Archaeology have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of five individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 218 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Delaware Nation, Oklahoma; Delaware Tribe of Indians; and the Stockbridge Munsee Community, Wisconsin (hereafter referred to as ''The Tribes'').

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Ryan Wheeler, Robert S. Peabody Institute of Archaeology, Phillips Academy, 180 Main Street, Andover, MA 01810, telephone (978) 749–4490, email *rwheeler@andover.edu,* by May 20, 2020. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Tribes may proceed.

The Robert S. Peabody Institute of Archaeology is responsible for notifying The Tribes that this notice has been published.

Dated: March 25, 2020.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2020–08320 Filed 4–17–20; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0030075; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Longyear Museum of Anthropology, Colgate University, Hamilton, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Longyear Museum of Anthropology has completed an inventory of human remains, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the Longyear Museum of Anthropology. If no additional requestors come forward, transfer of control of the human remains to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the Longyear Museum of Anthropology at the address in this notice by May 20, 2020.

ADDRESSES: Jordan Kerber, Curator of Archaeological Collections, Longyear Museum of Anthropology, Colgate University, Hamilton, NY 13346, telephone (315–228–7559), email *jkerber@colgate.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the Longyear Museum of Anthropology, Colgate University, Hamilton, NY. The human remains were removed from Madison County, NY.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Longyear Museum of Anthropology professional staff in consultation with representatives of the Cayuga Nation; Delaware Nation, Oklahoma; Delaware Tribe of Indians; Mohegan Tribe of Indians of Connecticut (previously

listed as Mohegan Indian Tribe of Connecticut); Oneida Nation (previously listed as Oneida Tribe of Indians of Wisconsin); Oneida Indian Nation (previously listed as Oneida Nation of New York); Onondaga Nation; Saint Regis Mohawk Tribe (previously listed as St. Regis Band of Mohawk Indians of New York); Seneca Nation of Indians (previously listed as Seneca Nation of New York); Seneca-Cayuga Nation (previously listed as Seneca-Cayuga Tribe of Oklahoma); Shinnecock Indian Nation; Stockbridge Munsee Community, Wisconsin; Tonawanda Band of Seneca (previously listed as Tonawanda Band of Seneca Indians of New York); and the Tuscarora Nation (hereafter referred to as ''The Consulted Tribes'').

History and Description of the Remains

At an unknown date before 1960, human remains representing, at minimum, one individual were removed from the Thurston site, Stockbridge, Madison County, NY, by Herbert Bigford, Sr. In 1959, the Longyear Museum of Anthropology purchased the artifact collection of Mr. Bigford from his widow. The human remains consist of a phalanx. It is more likely than not that the phalanx is of a Native American. These human remains were removed from ''Burial 14?,'' as recorded in Mr. Bigford's catalogue. No known individual was identified. No associated funerary objects are present.

At an unknown date before 1981, human remains representing, at minimum, two individuals were removed from the Thurston site, Stockbridge, Madison County, NY, by Theodore Whitney. In 1980, Mr. Whitney donated his collection to the Longyear Museum of Anthropology. The human remains of individual 1 consist of one clavicle and one scapula. The human remains of individual 2 consist of two cranial fragments. One cranial fragment is possibly a piece of an occipital, and the other cranial fragment is possibly a piece of a temporal or an occipital. No known individuals were identified. No associated funerary objects are present.

The Thurston site dates to A.D. 1625–1640 based on recovered European artifacts, such as glass beads, a snuff box dated 1634, kaolin smoking pipes, and Jesuit rings. These objects were recovered by members of the Chenango Chapter of the New York State Archaeological Association. The Thurston site is located in the aboriginal territory of the Oneida Iroquois (Haudenosaunee), and the dates of occupation correspond to a time when the Oneida Iroquois are known, from historical sources and oral history, to have occupied the region.

At an unknown date before 1966, human remains representing, at minimum, one individual were removed from Site #49, near the southwest shore of Poolville Lake (aka Poolville Pond), Poolville, Madison County, NY, by Walter (''Bud'') Bennett. In 1965, the estate of Mr. Bennett donated his collection to the Longyear Museum of Anthropology. The human remains consist of one cranial fragment. The cranial fragment is possibly a piece of a temporal or an occipital. No known individual was identified. No associated funerary objects are present.

The age of Site #49 dates to ca. 5000 years ago and was occupied intermittently until colonial times based on recovered archeological materials, such as dated projectile points and European artifacts. These objects were recovered by members of the Chenango Chapter of the New York State Archaeological Association. Site #49 site is located in the aboriginal territory of the Oneida Iroquois (Haudenosaunee), and the dates of occupation correspond to a time when the Oneida Iroquois are known, from historical sources and oral history, to have occupied the region.

At an unknown date prior to 2001, human remains representing, at minimum, two individuals were removed from one or more unknown sites likely located in Madison County, NY, by Gordon Ginther. In 2000, Mr. Ginther donated his collection to the Longyear Museum of Anthropology. The human remains of individual 1 consist of three tibia fragments. The human remains of individual 2 consist of a cranial fragment. No known individuals were identified. No associated funerary objects are present.

Mr. Ginther was an avocational archeologist who excavated several Oneida sites in Madison County, NY, during the 1980s and in 1990. The known sites represented in the Ginther Collection at the Longyear Museum of Anthropology are all Oneida sites. They include Bach (ca. 1550), Diable (ca. 1570), Dungey (ca. 1650), Marshall (ca. 1630), Primes Hill (ca. 1696), Stone Quarry (ca. 1640), Thurston (ca. 1625), and Vaillancourt (ca. 1525). Thus, all of the human remains removed by Mr. Ginther likely derive from one or more Oneida sites in Madison County, NY.

Madison County is located in the aboriginal territory of the Oneida Iroquois (Haudenosaunee), and the period of occupation of the sites that Mr. Ginther excavated correspond to a time when the Oneida Iroquois are known, from historical sources and oral history, to have occupied the region.

Determinations Made by the Longyear Museum of Anthropology

Officials of the Longyear Museum of Anthropology have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of six individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Oneida Indian Nation (previously listed as Oneida Nation of New York).

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Jordan Kerber, Curator of Archaeological Collections, Longyear Museum of Anthropology, Colgate University, Hamilton, NY 13346, telephone (315–228–7559), email *jkerber@colgate.edu,* by May 20, 2020. After that date, if no additional requestors have come forward, transfer of control of the human remains to the Oneida Indian Nation (previously listed as Oneida Nation of New York) may proceed.

The Longyear Museum of Anthropology is responsible for notifying The Consulted Tribes that this notice has been published.

Dated: March 25, 2020.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2020–08326 Filed 4–17–20; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0030086; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: Thomas Burke Memorial Washington State Museum, University of Washington, Seattle, WA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Thomas Burke Memorial Washington State Museum (Burke Museum), in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, has determined

that the cultural items listed in this notice meet the definition of sacred objects and objects of cultural patrimony. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to the Burke Museum. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to the Burke Museum at the address in this notice by May 20, 2020.

ADDRESSES: Sven Haakanson, Curator of Native American Anthropology, Burke Museum, University of Washington, Box 353010, Seattle, WA 98195, telephone (206) 543–3210, email *svenh@uw.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the Thomas Burke Memorial Washington State Museum, University of Washington, Seattle, WA, that meet the definition of sacred objects and objects of cultural patrimony under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Item(s)

Between 1920–1953, five cultural items were removed from Wrangell, AK, by Mr. Walter C. Waters. In 1953, the items were sold to the Burke Museum by his widow. The five sacred objects/objects of cultural patrimony are Keet S'aaxw, Killerwhale hat (catalog number 1–1436), a Aankáawu Wóodzagaa, Rich Man's Cane, also known as Keet Wóodzakaa, Killerwhale Cane (catalog number 1–1443), Sáax, L'axkeit, Marmot Mask (catalog number 1–1442), Xoots Shakee.át, Bear Headdress (catalog number 1–1447) and Xoots Koodás', Bear Shirt (catalog number 1–1493).

At an unknown date, one cultural item was removed from Wrangell, AK. The item, a Gunakadeit s'eik daakeit, Sea Monster Pipe (catalog number 2.5E561), was acquired by Leonard M. Lasser of Windsor, CT, who donated the pipe to the Burke Museum in 1972.

Sometime between 1926–1937, one cultural item was collected by Axel Rasmussen in Wrangell AK. In 1948, the Portland Art Museum purchased Axel Rasmussen's collection, including the Xoots L'axkeit, Grizzly Bear Mask (catalog number 2.5E604). They later deaccessioned the piece, and it was acquired by Bill Holm, who then donated it to the Burke Museum in 1974.

These seven objects all originate from Wrangell AK. This area is the home of Naanya.áayí Clan of the Tlingit people of Southeastern Alaska. Several of these objects are visible in historic photographs including a photograph of Chief Shakes V (Kaawishté) laying in state ca. 1878, and a photograph of Chief Shakes VI (Gush Tlein) along with the possessions of the Naanya.áayí clan inside X'atgoo Hít (Mudshark House) around 1900. Information provided by the Tribes indicates that the Naa Shaadeihani, (head man) or Hit s'aasti (House Leader) were caretakers of these objects, but the objects were communally owned by the clan. These leaders and their relatives were not allowed to make independent decisions to dispose of or alienate clan property. Additionally, these objects are an integral part of ceremonial practices of the Tlingit people and are used during ceremonial activities to represent and unify clan members. Today the Naanya.áayí clan is represented by the Wrangell Cooperative Association and the Central Council of the Tlingit & Haida Indian Tribes.

Determinations Made by the Burke Museum

Officials of the Burke Museum have determined that:

- Pursuant to 25 U.S.C. 3001(3)(C), the seven cultural items described above are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents.
- Pursuant to 25 U.S.C. 3001(3)(D), the seven cultural items described above have ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the sacred objects, and objects of cultural patrimony and the Central Council of the Tlingit & Haida Indian Tribes and the Wrangell Cooperative Association.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Sven Haakanson, Curator of Native American Anthropology, Burke Museum, University of Washington, Box 353010, Seattle, WA 98195, telephone (206) 543–3210, email *svenh@uw.edu,* by May 20, 2020. After that date, if no additional claimants have come forward, transfer of control of the sacred objects and objects of cultural patrimony to the Central Council of the Tlingit & Haida Indian Tribes and the Wrangell Cooperative Association may proceed.

The Burke Museum is responsible for notifying Central Council of the Tlingit & Haida Indian Tribes and the Wrangell Cooperative Association that this notice has been published.

Dated: March 25, 2020.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2020–08322 Filed 4–17–20; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[EEE500000 20XE1700DX EX1SF0000.EAQ000]

Proposed Transfer and Re-Use of Abandoned Pipelines

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Notice of intent and request for submissions of competing interest.

SUMMARY: The Bureau of Safety and Environmental Enforcement (BSEE) is considering whether to authorize the transfer of ownership and reuse of certain pipelines that were decommissioned-in-place in the Gulf of Mexico (GOM).

DATES: Submissions of competing interest are due by May 20, 2020.

ADDRESSES: GOM Regional Supervisor, Regional Field Operations, Bureau of Safety & Environmental Enforcement, 1201 Elmwood Park Blvd., New Orleans, LA 70123–2394. You may also file submissions of competing interest

electronically using a subject reference ''Submission of Competing Interest—DIP Pipelines'' at *pipelines@bsee.gov.*

FOR FURTHER INFORMATION CONTACT: Kevin Karl, Bureau of Safety and Environmental Enforcement, Deputy Regional Director, at (504) 736–2632, or by email to: *kevin.karl@bsee.gov*.

Background: BSEE recently received written requests to reuse five separate pipeline segments in the GOM that were previously decommissioned-in-place (DIP) in accordance with regulatory authority currently found at 30 CFR 250.1750 and 250.1751. The relevant pipeline segments were DIP by prior right-of-way (ROW) holders between August 2003 and December 2010. None of the parties requesting reuse were prior ROW holders of these segments.

BSEE has determined that, pursuant to regulation, Outer Continental Shelf (OCS) pipelines and related infrastructure, which are DIP for more than one year, become property of the United States and may be transferred to private parties. BSEE received requests from private parties seeking to acquire various pipeline segments from the United States, as set forth in the table below:

PENDING APPLICATIONS REQUESTING TO ACQUIRE AND RE-USE DIP PIPELINES

Previous ROW holder	Previous PSN	Previous ROW	DIP date
Chevron	431	G06386	08/23/03
Conoco	6236	G04854	09/09/10
W&T	882	G13423	09/09/10
Chevron PL	4244	G1857B	12/10/10
Energy XXI	9785	G1857	12/27/10

Purpose: The Department of the Interior has determined that the subject pipeline segments are subject to disposition pursuant to 40 U.S.C. 701 and General Services Administration Federal Management Regulations at part 102–36. BSEE is providing notice that, until May 20, 2020, we will accept submissions of competing interest for acquisition of the listed segments.

While a request for a ROW will eventually be required pursuant to 30 CFR part 250 Subpart J to maintain and re-use the pipeline segment(s), your response to this Notice should focus on proposed terms, conditions, and appropriate instruments to be used to transfer ownership of the pipeline from the United States to you in a manner that shifts responsibility for the pipeline and any future operations and maintenance, as well as all decommissioning obligations.

Purpose of a Notice of Intent (NOI)

This NOI serves to inform interested parties of BSEE's intent to transfer ownership and authorize re-use of select pipelines that were previously decommissioned in place on the OCS, and to set forth BSEE's process for accepting submissions of competing interest.

BSEE will evaluate and respond to all submissions received pursuant to this NOI. If BSEE receives future requests to reuse other previously DIP pipelines, it will issue similar NOIs to solicit statements of competing interest.

Instructions for the NOI

Parties interested in acquiring the aforementioned pipeline(s) should submit the information outlined in the Purpose section above to the GOM Regional Supervisor for Regional Field Operations or electronically as provided in the **ADDRESSES** section no later than May 20, 2020.

Scott Angelle,

Director, Bureau of Safety and Environmental Enforcement.

[FR Doc. 2020–08272 Filed 4–17–20; 8:45 am]

BILLING CODE 4310–VH–P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Docket ID BSEE–2019–0010; EEEE500000 20XE1700DX EX1SF0000.EAQ000; OMB Control Number 1014–0025]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Application for Permit To Drill (APD), Revised APD, Supplemental APD Information Sheet, and All Supporting Documentation

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Bureau of Safety and Environmental Enforcement (BSEE) are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before May 20, 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. Please provide a copy of your comments to Kye Mason, BSEE ICCO, 45600 Woodland Road, Sterling, VA 20166; or by email to *kye.mason@bsee.gov.* Please reference OMB Control Number 1014–0025 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Kye Mason by email at *kye.mason@bsee.gov,* or by telephone at (703) 787–1607. 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 (PRA), 44 U.S.C. 3501 *et seq.* 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.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on January 22, 2020 (85 FR 3716). One comment was received but was not germane to the collection of information.

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 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: Throughout the regulations in 30 CFR part 250, BSEE requires the submissions of an Application for Permit to Drill (APD), Revised APD, Supplemental APD Information Sheet, and all supporting documentation on Forms BSEE–0123 and BSEE–0123S. The BSEE uses the information to ensure safe drilling operations and to protect the human, marine, and coastal environment. Among other things, BSEE specifically uses the information to ensure: the drilling unit is fit for the intended purpose; the lessee or operator will not encounter geologic conditions that present a hazard to operations; equipment is maintained in a state of readiness and meets safety standards; each drilling crew is properly trained and able to promptly perform well-control activities at any time during well operations; compliance with safety standards; and the current regulations will provide for safe and proper field or reservoir development, resource evaluation, conservation, protection of correlative rights, safety, and environmental protection. We also review well records to ascertain whether drilling operations have encountered hydrocarbons or H2S and to ensure that H2S detection equipment, personnel protective equipment, and training of the crew are adequate for safe operations in zones known to contain H2S and zones where the presence of H2S is unknown. Furthermore, we use the information to evaluate the adequacy of a lessee's or operator's plan and equipment for drilling, sidetracking, or deepening operations. This includes the adequacy of the proposed casing design, casing setting depths, drilling fluid (mud) programs, cementing programs, and blowout preventer (BOP) systems to ascertain that the proposed operations will be conducted in an operationally safe manner that provides adequate protection for the environment. BSEE also reviews the information to ensure conformance with specific provisions of the lease. In addition, except for proprietary data, BSEE is required by the Outer Continental Shelf Lands Act to make available to the public certain information submitted on Forms BSEE–0123 and –0123S.

Title of Collection: 30 CFR part 250, Application for Permit to Drill (APD), Revised APD, Supplemental APD Information Sheet, and all supporting documentation.

OMB Control Number: 1014–0025.

Form Number: BSEE–0123 and BSEE–0123S.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Potential respondents are comprised of Federal OCS oil, gas, and sulfur lessees/operators and holders of pipeline rights-of-way.

Total Estimated Number of Annual Respondents: Not all the potential respondents will submit information at any given time, and some may submit multiple times.

Total Estimated Number of Annual Responses: 11,327.

Estimated Completion Time per Response: .5 hour to 150 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 77,937.

Respondent's Obligation: Most responses are mandatory; while others are required to obtain or retain benefits.

Frequency of Collection: On occasion and varies by section.

Total Estimated Annual Nonhour Burden Cost: $4,400,470.

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*).

Amy White,

Acting Chief, Regulations and Standards Branch.

[FR Doc. 2020–08305 Filed 4–17–20; 8:45 am]

BILLING CODE 4310–VH–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0099]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Currently Approved Collection; ATF Adjunct Instructor Data Form—ATF Form 6140.3

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is being revised to correct grammatical errors, update numerical fields, and include additional instructions to ensure proper form completion. The proposed IC is also being published to obtain comments from the public and affected agencies

DATES: Comments are encouraged and will be accepted for 60 days until June 19, 2020.

FOR FURTHER INFORMATION CONTACT: If you have additional comments regarding the estimated public burden or associated response time, have suggestions, or need a copy of the proposed information collection instrument with instructions, or desire any additional information, please contact: Teresa Marshall, Training Accreditation Branch, either by mail at ATF National Academy, Building 681, 1131 Chapel Crossing Road, Room A–204, Brunswick, GA 31520, by email at *ATFTab@atf.gov,* or by telephone at 202–495–9715.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should

address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection (check justification or form 83):* Revision of a currently approved collection.

2. *The Title of the Form/Collection:* ATF Adjunct Instructor Data Form.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number (if applicable): ATF Form 6140.3.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Federal Government.

Other (if applicable): Individuals or households, Business or other for-profit, Not-for-profit institutions, and State, Local or Tribal Government.

Abstract: The Adjunct Instructor Data Form—ATF Form 6140.3 will be used to collect the necessary personally identifiable information (PII) from non-ATF employees, in order to document and evaluate their qualifications to serve as an ATF instructor.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 20 respondents will utilize the form annually, and it will take each respondent approximately 30 minutes to complete their responses.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 10 hours, which is equal to 20 (# of respondents) * 1 (# of responses per respondent) * .5 (30 minutes).

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: April 15, 2020.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2020–08251 Filed 4–17–20; 8:45 am]

BILLING CODE 4410–14–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–617]

Importer of Controlled Substances Application: United States Pharmacopeial Convention

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before May 20, 2020. Such persons may also file a written request for a hearing on the application on or before May 20, 2020.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA **Federal Register** Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All request for a hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA **Federal Register** Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on March 4, 2020, United States Pharmacopeial Convention, 12601 Twinbrook Parkway, Rockville, Maryland 20852, applied to be registered as an importer of the following basic class(es) of controlled substances:

Controlled substance	Drug code	Schedule
Methamphetamine	1105	II
Cathinone	1235	I
Phenmetrazine	1631	II
Methylphenidate	1724	II
Amobarbital	2125	II
Pentobarbital	2270	II
Secobarbital	2315	II
Glutethimide	2550	II
Methaqualone	2565	I
Lysergic acid diethylamide	7315	I
4-Methyl-2,5-dimethoxyamphetamine	7395	I
3,4-Methylenedioxyamphetamine	7400	I
4-Methoxyamphetamine	7411	I
Phencyclidine	7471	II
ANPP (4-Anilino-N-phenethyl-4-piperidine)	8333	II
Phenylacetone	8501	II
Alphaprodine	9010	II
Anileridine	9020	II
Cocaine	9041	II
Codeine-N-oxide	9053	I

Controlled substance	Drug code	Schedule
Dihydrocodeine	9120	II
Difenoxin	9168	I
Diphenoxylate	9170	II
Heroin	9200	I
Levomethorphan	9210	II
Levorphanol	9220	II
Meperidine	9230	II
Dextropropoxyphene, bulk (non-dosage forms)	9273	II
Morphine-N-oxide	9307	I
Thebaine	9333	II
Norlevorphanol	9634	I
Oxymorphone	9652	II
Noroxymorphone	9668	II
Alfentanil	9737	II
Sufentanil	9740	II

The company plans to import the bulk control substances for distribution of analytical reference standards to its customers for analytical testing of raw materials.

William T. McDermott,

Assistant Administrator.

[FR Doc. 2020–08269 Filed 4–17–20; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–624]

Importer of Controlled Substances Application: VHG Labs DBA LGC Standards

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before May 20, 2020. Such persons may also file a written request for a hearing on the application on or before May 20, 2020.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All request for a hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on March 12, 2020, VHG Labs DBA LGC Standards, 3 Perimeter Road, Manchester, New Hampshire 03103, applied to be registered as an importer of the following basic class(es) of controlled substances:

Controlled substance	Drug code	Schedule
Cathinone	1235	I
Methcathinone	1237	I
Naphyrone	1258	I
N-Ethylamphetamine	1475	I
JWH–250 (1-Pentyl-3-(2-methoxyphenylacetyl) indole)	6250	I
SR–18 (Also known as RCS–8) (1-Cyclohexylethyl-3-(2-methoxyphenylacetyl) indole)	7008	I
APINACA and AKB48 N-(1-Adamantyl)-1-pentyl-1H-indazole-3-carboxamide	7048	I
JWH–081 (1-Pentyl-3-(1-(4-methoxynaphthoyl) indole)	7081	I
SR–19 (Also known as RCS–4) (1-Pentyl-3-[(4-methoxy)-benzoyl] indole	7104	I
JWH–018 (also known as AM678) (1-Pentyl-3-(1-naphthoyl)indole)	7118	I
JWH–122 (1-Pentyl-3-(4-methyl-1-naphthoyl) indole)	7122	I
UR–144 (1-Pentyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone	7144	I
JWH–203 (1-Pentyl-3-(2-chlorophenylacetyl) indole)	7203	I
Ibogaine	7260	I
Lysergic acid diethylamide	7315	I
Marihuana Extract	7350	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I
Mescaline	7381	I
JWH–398 (1-Pentyl-3-(4-chloro-1-naphthoyl) indole)	7398	I
3,4-Methylenedioxymethamphetamine	7405	I
5-Methoxy-N-N-dimethyltryptamine	7431	I
Psilocyn	7438	I
4-Methyl-alphapyrrolidinopropiophenone (4-MePPP)	7498	I
MDPV (3,4-Methylenedioxypyrovalerone)	7535	I
Methylone (3,4-Methylenedioxy-N-methylcathinone)	7540	I
Butylone	7541	I
Pentylone	7542	I
Codeine-N-oxide	9053	I

Controlled substance	Drug code	Schedule
Desomorphine	9055	I
Dihydromorphine	9145	I
Heroin	9200	I
Morphine-N-oxide	9307	I
Normorphine	9313	I
Tilidine	9750	I
Alpha-methylfentanyl	9814	I
Acetyl Fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide)	9821	I
Methamphetamine	1105	II
Phenmetrazine	1631	II
Methylphenidate	1724	II
Amobarbital	2125	II
Pentobarbital	2270	II
Secobarbital	2315	II
Glutethimide	2550	II
Phencyclidine	7471	II
Phenylacetone	8501	II
Codeine	9050	II
Dihydrocodeine	9120	II
Diphenoxylate	9170	II
Ecgonine	9180	II
Ethylmorphine	9190	II
Hydrocodone	9193	II
Levorphanol	9220	II
Meperidine	9230	II
Meperidine intermediate-B	9233	II
Meperidine intermediate-C	9234	II
Dextropropoxyphene, bulk (non-dosage forms)	9273	II
14-Hydroxmorphone	9665	II
Noroxymorphone	9668	II
Sufentanil	9740	II
Fentanyl	9801	II

The company plans to import the listed controlled substances for sale to research facilities for drug testing and analysis. In reference to drug codes 7360 (Marihuana) and 7370 (Tetrahydrocannabinols) the company plans to import a synthetic cannabidiol and a synthetic tetrahydrocannabinols. No other activities for these drug codes are authorized for this registration.

William T. McDermott,

Assistant Administrator.

[FR Doc. 2020–08328 Filed 4–17–20; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–621]

Bulk Manufacturer of Controlled Substances Application: Bulk Manufacturer of Marihuana: Groff NA Hemplex LLC

ACTION: Notice of application.

SUMMARY: The Drug Enforcement Administration (DEA) is providing notice of an application it has received from an entity applying to be registered to manufacture in bulk basic class(es) of controlled substances listed in schedule I. DEA intends to evaluate this and other pending applications according to proposed regulations that, if finalized, would govern the program of growing marihuana for scientific and medical research under DEA registration.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefor, may file written comments on or objections to the issuance of the proposed registration on or before June 19, 2020.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW 8701 Morrissette Drive, Springfield, Virginia 22152. To ensure proper handling of comments, please reference Docket No. DEA–621 in all correspondence, including attachments.

SUPPLEMENTARY INFORMATION: The Controlled Substances Act (CSA) prohibits the cultivation and distribution of marihuana except by persons who are registered under the CSA to do so for lawful purposes. In accordance with the purposes specified in 21 CFR 1301.33(a), DEA is providing notice that the entity identified below has applied for registration as a bulk manufacturer of schedule I controlled substances. In response, registered bulk manufacturers of the affected basic class(es), and applicants therefor, may file written comments on or objections of the requested registration, as provided in this notice. This notice does not constitute any evaluation or determination of the merits of the application submitted.

The applicant plans to manufacture bulk active pharmaceutical ingredients (APIs) for product development and distribution to DEA-registered researchers. If the application for registration is granted, the registrant would not be authorized to conduct other activity under this registration aside from those coincident activities specifically authorized by DEA regulations. DEA will evaluate the application for registration as a bulk manufacturer for compliance with all applicable laws, treaties, and regulations and to ensure adequate safeguards against diversion are in place.

As this applicant has applied to become registered as a bulk manufacturer of marihuana, the application will be evaluated under the criteria of 21 U.S.C. 823(a). DEA proposes to conduct this evaluation in the manner described in the rule proposed at 85 FR 16292, published on March 23, 2020, if finalized.

In accordance with 21 CFR 1301.33(a), DEA is providing notice that on February 28, 2020, Groff NA Hemplex LLC, 100 Redco Avenue, Suite

A, Red Lion, Pennsylvania 17356–1436, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substances:

Controlled substance	Drug code	Schedule
marihuana	7360	I
tetrahydrocannabinols	7370	I

The applicant's notice above applied to become registered with DEA to grow marihuana as a bulk manufacturer subsequent to a 2016 DEA policy statement that provided information on how it intended to expand the number of registrations, and described in general terms the way it would oversee those additional growers. In order to complete the evaluation and registration process for applicants to grow marihuana, DEA has proposed regulations that, if finalized, would supersede the 2016 policy statement and govern persons seeking to become registered with DEA to grow marihuana as a bulk manufacturer, consistent with applicable law. The proposed regulations are available at 85 FR 16292.

William T. McDermott,

Assistant Administrator.

[FR Doc. 2020–08334 Filed 4–17–20; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–622]

Bulk Manufacturer of Controlled Substances Application: AMRI Rensselaer, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before June 19, 2020.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on March 9, 2020, AMRI Rensselaer, Inc., 33 Riverside Avenue, Rensselaer, New York 12144–2951, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substances:

Controlled substance	Drug code	Schedule
Marihuana	7360	I
Tetrahydrocannabinols	7370	I
Amphetamine	1100	II
Lisdexamfetamine	1205	II
Pentobarbital	2270	II
ANPP (4-Anilino-N-phenethyl-4-piperidine).	8333	II
Codeine	9050	II
Oxycodone	9143	II
Hydromorphone	9150	II
Hydrocodone	9193	II
Meperidine	9230	II
Morphine	9300	II
Fentanyl	9801	II

The company plans to manufacture the above controlled substances as bulk active pharmaceutical ingredients (APIs) for use in product development and for distribution to its customers. In reference to drug codes 7360 (Marihuana) and 7370 (Tetrahydrocannabinols), the company plans to bulk manufacture these drugs as synthetics. No other activities for these drug codes are authorized for this registration.

William T. McDermott,

Assistant Administrator.

[FR Doc. 2020–08330 Filed 4–17–20; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–609]

Importer of Controlled Substances Application: Purisys, LLC

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before May 20, 2020. Such persons may also file a written request for a hearing on the application on or before May 20, 2020.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All request for a hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on January 30, 2020, Purisys, LLC, 1550 Olympic Drive, Athens, Georgia 30601–1602 applied to be registered as an importer of the following basic class(es) of controlled substances:

Controlled substance	Drug code	Schedule
Marihuana Extract	7350	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I
Nabilone	7379	II
Phenylacetone	8501	II
Levorphanol	9220	II
Thebaine	9333	II
Poppy Straw Concentrate.	9670	II
Tapentadol	9780	II

The company plans to import drug code 8501, Phenylacetone and drug code 9670, Poppy Straw Concentrate to bulk manufacture other controlled substances for distribution to its customers. The company plans to import impurities of buprenorphine that have been determined by DEA to be captured under drug code 9333, Thebaine. In reference to drug codes 7360, Marihuana and 7370, Tetrahydrocannabinols the company plans to import a Synthetic Cannabidiol and a Synthetic Tetrahydrocannabinol. No other activity for these drug codes is authorized for this registration. Placement of these drugs codes on the company's registration does not translate into automatic approval of subsequent permit applications to import controlled substances. Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of FDA-approved or non-approved finished dosage forms for commercial sale.

William T. McDermott,

Assistant Administrator.

[FR Doc. 2020–08270 Filed 4–17–20; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–627]

Bulk Manufacturer of Controlled Substances Application: Bulk Manufacturer of Marihuana: Absolute Standards, Inc.

ACTION: Notice of application.

SUMMARY: The Drug Enforcement Administration (DEA) is providing notice of an application it has received from an entity applying to be registered to manufacture in bulk basic class(es) of controlled substances listed in schedule I. DEA intends to evaluate this and other pending applications according to proposed regulations that, if finalized, would govern the program of growing marihuana for scientific and medical research under DEA registration.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefor, may file written comments on or objections to the issuance of the proposed registration on or before June 19, 2020.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. To ensure proper handling of comments, please reference Docket No. DEA–627 in all correspondence, including attachments.

SUPPLEMENTARY INFORMATION: The Controlled Substances Act (CSA) prohibits the cultivation and distribution of marihuana except by persons who are registered under the CSA to do so for lawful purposes. In accordance with the purposes specified in 21 CFR 1301.33(a), DEA is providing notice that the entity identified below has applied for registration as a bulk manufacturer of schedule I controlled substances. In response, registered bulk manufacturers of the affected basic class(es), and applicants therefor, may file written comments on or objections of the requested registration, as provided in this notice. This notice does not constitute any evaluation or determination of the merits of the application submitted.

The applicant plans to manufacture bulk active pharmaceutical ingredients (APIs) for product development and distribution to DEA registered researchers. If its application for registration is granted, the registrant would not be authorized to conduct other activity under this registration aside from those coincident activities specifically authorized by DEA regulations. DEA will evaluate the application for registration as a bulk manufacturer for compliance with all applicable laws, treaties, and regulations and to ensure adequate safeguards against diversion are in place.

As this applicant has applied to become registered as a bulk manufacturer of marihuana, the application will be evaluated under the criteria of 21 U.S.C. 823(a). DEA proposes to conduct this evaluation in the manner described in the rule proposed at 85 FR 16292, published on March 23, 2020, if finalized.

In accordance with 21 CFR 1301.33(a), DEA is providing notice that on February 7, 2020, Absolute Standards, Inc., 44 Rossotto Drive Hamden, Connecticut 06514, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substances:

Controlled substance	Drug code	Schedule
Marihuana	7360	I
Marihuana Extract	7350	I
Tetrahydrocannabinols	7370	I

The applicant noticed above applied to become registered with DEA to grow marihuana as a bulk manufacturer subsequent to a 2016 DEA policy statement that provided information on how it intended to expand the number of registrations, and described in general terms the way it would oversee those additional growers. In order to complete the evaluation and registration process for applicants to grow marihuana, DEA has proposed regulations that, if finalized, would supersede the 2016 policy statement and govern persons seeking to become registered with DEA to grow marihuana as a bulk manufacturer, consistent with applicable law. The proposed regulations are available at 85 FR 16292.

William T. McDermott,

Assistant Administrator.

[FR Doc. 2020–08332 Filed 4–17–20; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–625]

Importer of Controlled Substances Application: AMRI Rensselaer, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturer of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before May 20, 2020. Such persons may also file a written request for a hearing on the application on or before May 20, 2020.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on March 9, 2020, AMRI Rensselaer, Inc., 33 Riverside Avenue, Rensselaer, New York 12144, applied to be registered as an importer of the following basic class(es) of a controlled substance:

Controlled substance	Drug code	Schedule
Poppy Straw Concentrate	9670	II

The company plans to import the listed controlled substance to manufacture a bulk controlled substance for distribution to its customers.

William T. McDermott,

Assistant Administrator.

[FR Doc. 2020–08271 Filed 4–17–20; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–615]

Importer of Controlled Substances Application: Lipomed

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before May 20, 2020. Such persons may also file a written request for a

hearing on the application on or before May 20, 2020.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on March 13, 2020, Lipomed, 150 Cambridge Park Drive, Suite 705, Cambridge, Massachusetts 02140–2300 applied to be registered as an importer of the following basic class(es) of controlled substances:

Controlled substance	Drug code	Schedule
3-Fluoro-N-methylcathinone (3-FMC)	1233	I
Cathinone	1235	I
Methcathinone	1237	I
4-Fluoro-N-methylcathinone (4-FMC)	1238	I
Pentedrone (α-methylaminovalerophenone)	1246	I
Mephedrone (4-Methyl-N-methylcathinone)	1248	I
4-Methyl-N-ethylcathinone (4-MEC)	1249	I
Naphyrone	1258	I
N-Ethylamphetamine	1475	I
N,N-Dimethylamphetamine	1480	I
Fenethylline	1503	I
Aminorex	1585	I
4-Methylaminorex (cis isomer)	1590	I
Gamma Hydroxybutyric Acid	2010	I
Methaqualone	2565	I
Mecloqualone	2572	I
JWH–250 (1-Pentyl-3-(2-methoxyphenylacetyl) indole)	6250	I
SR–18 (Also known as RCS–8) (1-Cyclohexylethyl-3-(2-methoxyphenylacetyl) indole)	7008	I
ADB–FUBINACA (N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide)	7010	I
5-Fluoro-UR-144 and XLR11 ([1-(5-Fluoro-pentyl)1H-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)methanone)	7011	I
AB–FUBINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide)	7012	I
JWH–019 (1-Hexyl-3-(1-naphthoyl)indole)	7019	I
MDMB–FUBINACA (Methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate)	7020	I
FUB–;AMB, MMB–FUBINACA, AMB–FUBINACA (2-(1-(4-fluorobenzyl)-1Hindazole-3-carboxamido)-3-methylbutanoate).	7021	I
AB–PINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide)	7023	I
THJ–2201 ([1-(5-fluoropentyl)-1H-indazol-3-yl](naphthalen-1-yl)methanone)	7024	I
5F–AB–PINACA (N-(1-amino-3methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide)	7025	I
AB–CHMINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide)	7031	I
MAB–CHMINACA (N-(1-amino-3,3dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide)	7032	I
5F–AMB (Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate)	7033	I
5F–ADB; 5F–MDMB–PINACA (Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate)	7034	I
ADB–PINACA (N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide)	7035	I
MDMB–CHMICA, MMB–CHMINACA (Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate).	7042	I
MMB–CHMICA, AMB–CHMICA (methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3-methylbutanoate)	7044	I
APINACA and AKB48 (N-(1-Adamantyl)-1-pentyl-1H-indazole-3-carboxamide)	7048	I
5F–APINACA, 5F–AKB48 (N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide)	7049	I
JWH–081 (1-Pentyl-3-(1-(4-methoxynaphthoyl) indole)	7081	I
5F–CUMYL–P7AICA (1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-pyrrolo[2,3-b]pyridine-3-carboxamide)	7085	I
4–CN–CUMYL–BUTINACA, 4-cyano-CUMYL-BUTINACA, 4-CN-CUMYL BINACA, CUMYL-4CN-BINACA, SGT–78 (1-(4-cyanobutyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboximide).	7089	I
SR–19 (Also known as RCS–4) (1-Pentyl-3-[(4-methoxy)-benzoyl] indole)	7104	I
JWH–018 (also known as AM678) (1-Pentyl-3-(1-naphthoyl)indole)	7118	I
JWH–122 (1-Pentyl-3-(4-methyl-1-naphthoyl) indole)	7122	I
UR–144 (1-Pentyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone)	7144	I
JWH–073 (1-Butyl-3-(1-naphthoyl)indole)	7173	I
JWH–200 (1-[2-(4-Morpholinyl)ethyl]-3-(1-naphthoyl)indole)	7200	I
AM2201 (1-(5-Fluoropentyl)-3-(1-naphthoyl) indole)	7201	I
JWH–203 (1-Pentyl-3-(2-chlorophenylacetyl) indole)	7203	I
NM2201, CBL2201 (Naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate)	7221	I
PB–22 (Quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate)	7222	I
5F–PB–22 (Quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate)	7225	I
Alpha-ethyltryptamine	7249	I
Ibogaine	7260	I
CP–47,497 (5-(1,1-Dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl-phenol)	7297	I
CP–47,497 C8 Homologue (5-(1,1-Dimethyloctyl)-2-[(1R,3S)3-hydroxycyclohexyl-phenol)	7298	I
Lysergic acid diethylamide	7315	I
2,5-Dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7)	7348	I
Marihuana extract	7350	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I

Controlled substance	Drug code	Schedule
Parahexyl	7374	I
Mescaline	7381	I
2C–T-2, (2-(4-Ethylthio-2,5-dimethoxyphenyl) ethanamine)	7385	I
3,4,5-Trimethoxyamphetamine	7390	I
4-Bromo-2,5-dimethoxyamphetamine	7391	I
4-Bromo-2,5-dimethoxyphenethylamine	7392	I
4-Methyl-2,5-dimethoxyamphetamine	7395	I
2,5-Dimethoxyamphetamine	7396	I
JWH–398 (1-Pentyl-3-(4-chloro-1-naphthoyl) indole)	7398	I
2,5-Dimethoxy-4-ethylamphetamine	7399	I
3,4-Methylenedioxyamphetamine	7400	I
5-Methoxy-3,4-methylenedioxyamphetamine	7401	I
N-Hydroxy-3,4-methylenedioxyamphetamine	7402	I
3,4-Methylenedioxy-N-ethylamphetamine	7404	I
3,4-Methylenedioxymethamphetamine	7405	I
4-Methoxyamphetamine	7411	I
5-Methoxy-N-N-dimethyltryptamine	7431	I
Alpha-methyltryptamine	7432	I
Bufotenine	7433	I
Diethyltryptamine	7434	I
Dimethyltryptamine	7435	I
Psilocybin	7437	I
Psilocyn	7438	I
5-Methoxy-N,N-diisopropyltryptamine	7439	I
N-Ethyl-1-phenylcyclohexylamine	7455	I
1-(1-Phenylcyclohexyl)pyrrolidine	7458	I
1-[1-(2-Thienyl)cyclohexyl]piperidine	7470	I
1-[1-(2-Thienyl)cyclohexyl]pyrrolidine	7473	I
N-Ethyl-3-piperidyl benzilate	7482	I
N-Methyl-3-piperidyl benzilate	7484	I
N-Benzylpiperazine	7493	I
4-MePPP (4-Methyl-alphapyrrolidinopropiophenone)	7498	I
2C–D (2-(2,5-Dimethoxy-4-methylphenyl) ethanamine)	7508	I
2C–E (2-(2,5-Dimethoxy-4-ethylphenyl) ethanamine)	7509	I
2C–H (2-(2,5-Dimethoxyphenyl) ethanamine)	7517	I
2C–I (2-(4-iodo-2,5-dimethoxyphenyl) ethanamine)	7518	I
2C–C (2-(4-Chloro-2,5-dimethoxyphenyl) ethanamine)	7519	I
2C–N (2-(2,5-Dimethoxy-4-nitro-phenyl) ethanamine)	7521	I
2C–P (2-(2,5-Dimethoxy-4-(n)-propylphenyl) ethanamine)	7524	I
2C–T–4 (2-(4-Isopropylthio)-2,5-dimethoxyphenyl) ethanamine)	7532	I
MDPV (3,4-Methylenedioxypyrovalerone)	7535	I
25B-NBOMe (2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine)	7536	I
25C-NBOMe (2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine)	7537	I
25I-NBOMe (2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine)	7538	I
Methylone (3,4-Methylenedioxy-N-methylcathinone)	7540	I
Butylone	7541	I
Pentylone	7542	I
N-Ethylpentylone, ephylone (1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-pentan-1-one)	7543	I
α-PVP (alpha-pyrrolidinopentiophenone)	7545	I
α-PBP (alpha-pyrrolidinobutiophenone)	7546	I
AM-694 (1-(5-Fluoropentyl)-3-(2-iodobenzoyl) indole)	7694	I
Acetyldihydrocodeine	9051	I
Benzylmorphine	9052	I
Codeine-N-oxide	9053	I
Cyprenorphine	9054	I
Desomorphine	9055	I
Etorphine (except HCl)	9056	I
Codeine methylbromide	9070	I
Dihydromorphine	9145	I
Difenoxin	9168	I
Heroin	9200	I
Hydromorphinol	9301	I
Methyldesorphine	9302	I
Methyldihydromorphine	9304	I
Morphine methylbromide	9305	I
Morphine methylsulfonate	9306	I
Morphine-N-oxide	9307	I
Myrophine	9308	I
Nicocodeine	9309	I
Nicomorphine	9312	I
Normorphine	9313	I
Pholcodine	9314	I
Thebacon	9315	I
Acetorphine	9319	I

Controlled substance	Drug code	Schedule
Drotebanol	9335	I
U–47700 (3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide)	9547	I
AH–7921 (3,4-dichloro-N-[(1-dimethylamino)cyclohexylmethyl]benzamide))	9551	I
MT–45 (1-cyclohexyl-4-(1,2-diphenylethyl)piperazine))	9560	I
Acetylmethadol	9601	I
Allylprodine	9602	I
Alphacetylmethadol except levo-alphacetylmethadol	9603	I
Alphameprodine	9604	I
Alphamethadol	9605	I
Benzethidine	9606	I
Betacetylmethadol	9607	I
Betameprodine	9608	I
Betamethadol	9609	I
Betaprodine	9611	I
Clonitazene	9612	I
Dextromoramide	9613	I
Diampromide	9615	I
Diethylthiambutene	9616	I
Dimenoxadol	9617	I
Dimepheptanol	9618	I
Dimethylthiambutene	9619	I
Dioxaphetyl butyrate	9621	I
Dipipanone	9622	I
Ethylmethylthiambutene	9623	I
Etonitazene	9624	I
Etoxeridine	9625	I
Furethidine	9626	I
Hydroxypethidine	9627	I
Ketobemidone	9628	I
Levomoramide	9629	I
Levophenacylmorphan	9631	I
Morpheridine	9632	I
Noracymethadol	9633	I
Norlevorphanol	9634	I
Normethadone	9635	I
Norpipanone	9636	I
Phenadoxone	9637	I
Phenampromide	9638	I
Phenoperidine	9641	I
Piritramide	9642	I
Proheptazine	9643	I
Properidine	9644	I
Racemoramide	9645	I
Trimeperidine	9646	I
Phenomorphan	9647	I
Propiram	9649	I
1-Methyl-4-phenyl-4-propionoxypiperidine	9661	I
1-(2-Phenylethyl)-4-phenyl-4-acetoxypiperidine	9663	I
Tilidine	9750	I
Acryl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacrylamide)	9811	I
Para-Fluorofentanyl	9812	I
3-Methylfentanyl	9813	I
Alpha-Methylfentanyl	9814	I
Acetyl-alpha-methylfentanyl	9815	I
N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)propionamide	9816	I
Acetyl Fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide)	9821	I
Butyryl Fentanyl	9822	I
Para-fluorobutyryl fentanyl	9823	I
4-Fluoroisobutyryl fentanyl (N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide)	9824	I
2-methoxy-N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide	9825	I
Para-chloroisobutyryl fentanyl	9826	I
Isobutyryl fentanyl	9827	I
Beta-hydroxyfentanyl	9830	I
Beta-hydroxy-3-methylfentanyl	9831	I
Alpha-methylthiofentanyl	9832	I
3-Methylthiofentanyl	9833	I
Furanyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-2-carboxamide)	9834	I
Thiofentanyl	9835	I
Beta-hydroxythiofentanyl	9836	I
Para-methoxybutyryl fentanyl	9837	I
Ocfentanil	9838	I
Valeryl fentanyl	9840	I
N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide)	9843	I
Cyclopropyl Fentanyl	9845	I

Controlled substance	Drug code	Schedule
Cyclopentyl fentanyl	9847	I
Fentanyl related-compounds as defined in 21 CFR 1308.11(h)	9850	I
Amphetamine	1100	II
Methamphetamine	1105	II
Lisdexamfetamine	1205	II
Phenmetrazine	1631	II
Methylphenidate	1724	II
Amobarbital	2125	II
Pentobarbital	2270	II
Secobarbital	2315	II
Glutethimide	2550	II
Dronabinol in an oral solution in a drug product approved for marketing by the U.S. Food and Drug Administration	7365	II
Nabilone	7379	II
1-Phenylcyclohexylamine	7460	II
Phencyclidine	7471	II
ANPP (4-Anilino-N-phenethyl-4-piperidine)	8333	II
Phenylacetone	8501	II
1-Piperidinocyclohexanecarbonitrile	8603	II
Alphaprodine	9010	II
Anileridine	9020	II
Cocaine	9041	II
Codeine	9050	II
Etorphine HCl	9059	II
Dihydrocodeine	9120	II
Oxycodone	9143	II
Hydromorphone	9150	II
Diphenoxylate	9170	II
Ecgonine	9180	II
Ethylmorphine	9190	II
Hydrocodone	9193	II
Levomethorphan	9210	II
Levorphanol	9220	II
Isomethadone	9226	II
Meperidine	9230	II
Meperidine-intermediate-A	9232	II
Meperidine intermediate-B	9233	II
Meperidine intermediate-C	9234	II
Metazocine	9240	II
Methadone	9250	II
Methadone intermediate	9254	II
Metopon	9260	II
Dextropropoxyphene, bulk (non-dosage forms)	9273	II
Morphine	9300	II
Oripavine	9330	II
Thebaine	9333	II
Dihydroetorphine	9334	II
Levo-alphacetylmethadol	9648	II
Oxymorphone	9652	II
Noroxymorphone	9668	II
Phenazocine	9715	II
Thiafentanil	9729	II
Piminodine	9730	II
Racemethorphan	9732	II
Racemorphan	9733	II
Alfentanil	9737	II
Remifentanil	9739	II
Sufentanil	9740	II
Carfentanil	9743	II
Tapentadol	9780	II
Bezitramide	9800	II
Fentanyl	9801	II
Moramide-intermediate	9802	II

The company plans to import analytical reference standards for distribution to its customers for research and analytical purposes. Placement of these drug codes onto the company's registration does not translate into automatic approval of subsequent permit applications to import controlled substances. Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized in 21 U.S.C. 952(a)(2). Authorization will not extend to the import of FDA-approved or non-approved finished dosage forms for commercial sale.

William T. McDermott,

Assistant Administrator.

[FR Doc. 2020–08341 Filed 4–17–20; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

[OMB Number 1103–0016]

Agency Information Collection Activities: Proposed Collection; Comments Requested: Certification of Identity

AGENCY: Office of Information Policy, Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Justice Management Division, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted for 30 days until May 20, 2020.

FOR FURTHER INFORMATION CONTACT: 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.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Certification of Identity

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form DOJ–361. Facilities and Administrative Services Staff, Justice Management Division, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: American Citizens. Other: Federal Government. The information collection will be used by the Department to identify individuals requesting certain records under the Privacy Act. Without this form an individual cannot obtain the information requested.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 70,000 respondents will complete each form within approximately 30 minutes.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated total of 35,000 annual burden hours associated with this collection.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, Suite 2E–502, Washington, DC 20530.

Dated: April 15, 2020.

Melody Braswell,

Department Clearance Officer for PRA, Department of Justice.

[FR Doc. 2020–08317 Filed 4–17–20; 8:45 am]

BILLING CODE 4410–CW–P

DEPARTMENT OF JUSTICE

[OMB Number 1105–0102]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Guam World War II Loyalty Recognition Program Statement of Claim

AGENCY: Foreign Claims Settlement Commission, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Foreign Claims Settlement Commission (Commission), Department of Justice (DOJ), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until June 19, 2020.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Jeremy LaFrancois, Foreign Claims Settlement Commission, 600 E Street NW, Suite 6002, Washington, DC 20579.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Foreign Claims Settlement Commission, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1 *Type of Information Collection:* Extension.

2 *The Title of the Form/Collection:* Statement of Claim for filing of Claims in the Guam Claims Program Pursuant to the Guam World War II Loyalty Recognition Act, Title XVII, Public Law 114–328 (December 23, 2016)

3 *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* FCSC–2. Foreign Claims Settlement Commission, Department of Justice.

4 *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Individuals.

Other: Estates.

Abstract: Information will be used as a basis for the Commission to receive, examine, adjudicate and render final decisions with respect to claims for compensation of claims pursuant to the Guam World War II Loyalty Recognition Act, Title XVII, Public Law 114–328 (December 23, 2016).

5 *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 5,000 individual respondents will complete the application, and that the amount of time estimated for an average respondent to reply is approximately two hours each.

6 *An estimate of the total public burden (in hours) associated with the collection:* 10,000 annual burden hours.

If additional information is required contact: Melody D. Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N street NE, 3E.405A, Washington, DC 20530.

Dated: April 15, 2020.

Melody D. Braswell,

Department Clearance Officer for PRA,U.S. Department of Justice.

[FR Doc. 2020–08323 Filed 4–17–20; 8:45 am]

BILLING CODE 4410–BA–P

NATIONAL SCIENCE FOUNDATION

Notice of Intent To Seek Approval To Renew an Information Collection

AGENCY: National Science Foundation.

ACTION: Notice and request for comments.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request clearance of this collection. In accordance with the requirements of the Paperwork Reduction Act of 1995, we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting that OMB approve clearance of this collection for no longer than three years.

DATES: Written comments on this notice must be received by June 19, 2020 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Contact Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Avenue, Suite W18200, Alexandria, Virginia 22314; telephone (703) 292–7556; or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays). You also may obtain a copy of the data collection instrument and instructions from Ms. Plimpton.

SUPPLEMENTARY INFORMATION:

Title of Collection: NSF Surveys to Measure Customer Service Satisfaction.

OMB Number: 3145–0157.

Expiration Date of Approval: August 31, 2020.

Type of Request: Intent to seek approval to renew an information collection.

Abstract

Proposed Project: On September 11, 1993, President Clinton issued Executive Order 12862, ''Setting Customer Service Standards,'' which calls for Federal agencies to provide service that matches or exceeds the best service available in the private sector. Section 1(b) of that order requires agencies to ''survey customers to determine the kind and quality of services they want and their level of satisfaction with existing services.'' The National Science Foundation (NSF) has an ongoing need to collect information from its customer community (primarily individuals and organizations engaged in science and engineering research and education) about the quality and kind of services it provides and use that information to help improve agency operations and services.

Estimate of Burden: The burden on the public will change according to the needs of each individual customer satisfaction survey; however, each survey is estimated to take approximately 30 minutes per response.

Respondents: Will vary among individuals or households; business or other for-profit; not-for-profit institutions; farms; federal government; state, local or tribal governments.

Estimated Number of Responses per Survey: This will vary by survey.

Comments: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: April 15, 2020.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2020–08314 Filed 4–17–20; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2020–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of April 20, 27, May 4, 11, 18, 25, 2020.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public.

Week of April 20, 2020

There are no meetings scheduled for the week of April 20, 2020.

Week of April 27, 2020—Tentative

There are no meetings scheduled for the week of April 27, 2020.

Week of May 4, 2020—Tentative

There are no meetings scheduled for the week of May 4, 2020.

Week of May 11, 2020—Tentative

There are no meetings scheduled for the week of May 11, 2020.

Week of May 18, 2020—Tentative

There are no meetings scheduled for the week of May 18, 2020.

Week of May 25, 2020—Tentative

There are no meetings scheduled for the week of May 25, 2020.

CONTACT PERSON FOR MORE INFORMATION: For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.* The schedule for Commission meetings is subject to change on short notice.

The NRC Commission Meeting Schedule can be found on the internet at: *https://www.nrc.gov/public-involve/public-meetings/schedule.html.*

The NRC provides reasonable accommodation to individuals with

disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Anne Silk, NRC Disability Program Specialist, at 301–287–0745, by videophone at 240–428–3217, or by email at *Anne.Silk@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or by email at *Wendy.Moore@nrc.gov* or *Tyesha.Bush@nrc.gov.*

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: April 16, 2020.

For the Nuclear Regulatory Commission.

/RA/

Denise L. McGovern,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2020–08462 Filed 4–16–20; 4:15 pm]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2020–116 and CP2020–123; CP2020–124]

New Postal Products

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 22, 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).:* MC2020–116 and CP2020–123; *Filing Title:* USPS Request to Add First-Class Package Service Contract 109 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* April 14, 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 22, 2020.

2. *Docket No(s).:* CP2020–124; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Reseller Expedited Package 2 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* April 14, 2020; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Curtis E. Kidd; *Comments Due:* April 22, 2020.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2020–08342 Filed 4–17–20; 8:45 am]

BILLING CODE 7710–FW–P

[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).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–197, OMB Control No. 3235–0200]

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:
Rule 15c3–1

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (''PRA''), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 15c3–1 (17 CFR 240.15c3–1) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 15c3–1 requires brokers-dealers to have at all times sufficient liquid assets to meet their current liabilities, particularly the claims of customers. The rule facilitates the monitoring of the financial condition of broker-dealers by the Commission and the various self-regulatory organizations. It is estimated that broker-dealer respondents registered with the Commission and subject to the collection of information requirements of Rule 15c3–1 incur an aggregate annual burden of approximately 76,981 hours to comply with this rule and an aggregate annual external cost of approximately $299,000.

Rule 15c3–1 does not contain record retention requirements. Compliance with the rule is mandatory. The required records are available only to the examination staff of the Commission and the self-regulatory organization of which the broker-dealer is a member.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: April 15, 2020.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–08339 Filed 4–17–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:

Rule 104; SEC File No. 270–411, OMB Control No. 3235–0465

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 104 of Regulation M (17 CFR 242.104), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 104 permits stabilizing by a distribution participant during a distribution so long as the distribution participant discloses information to the market and investors. This rule requires disclosure in offering materials of the potential stabilizing transactions and that the distribution participant inform the market when a stabilizing bid is made. It also requires the distribution participants (*i.e.,* the syndicate manager) to maintain information regarding syndicate covering transactions and penalty bids and disclose such information to the Self-Regulatory Organization.

There are approximately 805 respondents per year that require an aggregate total of 161 hours to comply with this rule. Each respondent makes an estimated 1 annual response. Each response takes approximately 0.20 hours (12 minutes) to complete. Thus, the total compliance burden per year is 161 hours. The total internal labor cost of compliance for the respondents is approximately $11,270.00 per year, resulting in an internal cost of compliance per respondent of approximately $14.00 (*i.e.,* $11,270.00/805 respondents).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: April 15, 2020.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–08338 Filed 4–17–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88630; File No. SR–NYSE–2020–26]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend its Price List To Eliminate Certain Obsolete Fees

April 14, 2020.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act''),[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on March 31, 2020, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Price List to eliminate certain obsolete fees. The Exchange proposes to implement the fee changes effective April 1, 2020. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Price List to eliminate certain obsolete fees. The Exchange proposes to implement the fee changes effective April 1, 2020.

Proposed Rule Change

The Exchange proposes to eliminate obsolete fees for trading Floor booth reservations, radio paging services and cellular phones, as follows.

Next Generation Trading Floor Reservation Fee

The Exchange offers a fee of $12,000 per position, subject to a cap of $240,000 per member organization, to reserve Next Generation Trading Floor booth trading positions.[4] The fee was adopted in 2010 on connection with the creation of the Exchange's ''Next Generation Trading Floor.'' The Exchange has not charged the fee in over seven years. The Exchange accordingly proposes to delete the Next Generation Trading Floor Reservation Fee as obsolete.

Radio Paging Service

The Exchange offers radio paging service fees to support Floor broker beepers of $408.50 for the unit and first channel and $139.75 for each additional channel. Floor brokers no longer use beepers, and the Exchange has not charged the fee in over two years. The Exchange accordingly proposes to delete the radio paging service fee as obsolete.

Cellular Phones

The Exchange offers an annual ongoing maintenance fee for using Exchange-approved and provided portable phones on the trading Floor of $240.00 per phone, plus sales tax. In 2017, the Exchange amended Rule 36 to permit Floor brokers to use non-Exchange approved and provided portable phones properly registered with the Exchange on the trading Floor.[5] Exchange approved and provided portable phones were disabled as of September 18, 2017,[6] and the fee has not been charged since that time. The Exchange accordingly proposes to delete the annual portable phone maintenance fee as obsolete.

The proposed change is not otherwise intended to address other issues, and the Exchange is not aware of any significant problems that market participants would have in complying with the proposed changes.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[8] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers, and because it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Proposed Rule Change Is Reasonable

The Exchange believes that it is reasonable to delete fees from the Price List because the related services are no longer offered and the fees are accordingly no longer charged. Deleting obsolete fees for services the Exchange no longer offers would add greater clarity of the Exchange's rules and enable market participants to more easily navigate the Exchange's Price List.

The Proposed Rule Change Is an Equitable Allocation of Fees

The Exchange believes the proposal equitably allocates fees among its market participants because elimination of obsolete fees would apply to all similarly-situated member organizations on an equal basis. All such member organizations would continue to be subject to the same fee structure, and access to the Exchange's market would continue to be offered on fair and nondiscriminatory terms.

The Proposed Change Is Not Unfairly Discriminatory and Would Protect Investors and the Public Interest

The Exchange believes that the proposal is not unfairly discriminatory. The proposal is not unfairly discriminatory because it neither targets nor will it have a disparate impact on any particular category of market participant. The proposal does not permit unfair discrimination because elimination of obsolete fees would apply to all similarly situated member organizations on an equal basis. In addition, the Exchange believes that the proposed elimination of obsolete fees would remove impediments to and perfect the mechanism of a free and open market by eliminating references to services that are no longer offered, thereby improving the clarity of the Exchange's rules and enabling market participants to more easily navigate the Exchange's Price List. The Exchange also believes that the proposed change would protect investors and the public interest because the deletion of obsolete fees would make the Price List more accessible and transparent and facilitate market participants' understanding of the fees charged for services currently offered by the Exchange.

For the foregoing 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,[9] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the proposal relates solely to elimination of obsolete fees and, as such, would not have any impact on intra- or inter-market competition because the proposed change is solely designed to accurately reflect the services that the Exchange currently offers, thereby adding clarity to the Price List.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[10] of the Act and subparagraph (f)(2) of Rule 19b–4[11] thereunder, because it establishes a due,

[4] *See* Securities Exchange Act Release No. 61672 (March 8, 2010), 75 FR 12321 (March 15, 2010) (SR–NYSE–2010–16).

[5] *See* Securities Exchange Act Release No. 81103 (July 7, 2017), 82 FR 32396 (July 13, 2017) (SR–NYSE–2017–07).

[6] *See* NYSE RB 17–03, dated July 21, 2017, available at *https://www.nyse.com/publicdocs/nyse/markets/nyse/rule-interpretations/2017/NYSE%20RB%2017-03%20%20Date%20Revision.pdf.*

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4) & (5).

[9] 15 U.S.C. 78f(b)(8).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(2).

fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [12] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2020–26 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2020–26. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2020–26, and should be submitted on or before May 11, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–08209 Filed 4–17–20; 8:45 am]

BILLING CODE 8011–01–P

[12] 15 U.S.C. 78s(b)(2)(B).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–312, OMB Control No. 3235–0354]

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:
Rule 19b–1

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 350l–3520), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

Section 19(b) of the Investment Company Act of 1940 (the ''Act'') (15 U.S.C. 80a–19(b)) authorizes the Commission to regulate registered investment company (''fund'') distributions of long-term capital gains made more frequently than once every twelve months. Accordingly, rule 19b–1 under the Act (17 CFR 270.19b–1) regulates the frequency of fund distributions of capital gains. Rule 19b–1(c) states that the rule does not apply to a unit investment trust (''UIT'') if it is engaged exclusively in the business of investing in certain eligible securities (generally, fixed-income securities), provided that: (i) The capital gains distribution falls within one of five categories specified in the rule [1] and (ii) the distribution is accompanied by a report to the unitholder that clearly describes the distribution as a capital gains distribution (the ''notice requirement'').[2] Rule 19b–1(e) permits a fund to apply to the Commission for permission to distribute long-term capital gains that would otherwise be prohibited by the rule if the fund did not foresee the circumstances that created the need for the distribution. The application must set forth the pertinent facts and explain the circumstances that justify the distribution.[3] An application that meets those requirements is deemed to be granted unless the Commission denies the request within 15 days after the Commission receives the application.

Commission staff estimates that three funds will file an application under rule 19b–1(e) each year.[4] The staff understands that if a fund files an application it generally uses outside counsel to prepare the application. The cost burden of using outside counsel is discussed in Item 13 below. The staff estimates that, on average, a fund's investment adviser would spend approximately 4 hours to review an application, including 3.5 hours by an assistant general counsel at a cost of $466 per hour and 0.5 hours by an administrative assistant at a cost of $81 per hour, and the fund's board of directors would spend an additional 1 hour at a cost of $4,465 per hour, for a total of 5 hours.[5] Thus, the staff

[1] 17 CFR 270.19b–1(c)(1).

[2] The notice requirement in rule 19b–1(c)(2) supplements the notice requirement of section 19(a) [15 U.S.C. 80a-19(a)], which requires any distribution in the nature of a dividend payment to be accompanied by a notice disclosing the source of the distribution.

[3] Rule 19b–1(e) also requires that the application comply with rule 0–2 [17 CFR 270.02] under the Act, which sets forth the general requirements for papers and applications filed with the Commission pursuant to the Act and rules thereunder.

[4] This estimate is based on the average number of applications filed with the Commission pursuant to rule 19b–1(e) in the prior three-year period.

[5] The estimate for assistant general counsels is from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for an 1800-hour work-year and inflation and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead. The estimate for administrative assistants is from SIFMA's Office Salaries in the Securities Industry 2013, modified by Commission staff to account for an 1800-hour work-year and inflation and multiplied by 2.93 to account for bonuses, firm size, employee benefits and overhead. The staff previously estimated in 2009 that the average cost of board of director time was $4,000 per hour for the board as a whole, based on information received from funds and their counsel. Adjusting for inflation, the staff estimates that the current average cost of board of director time is approximately $4,465.

estimates that the annual hour burden of the collection of information imposed by rule 19b–1(e) would be approximately five hours per fund, at a cost of $6,136.50.[6] Because the staff estimates that, each year, three funds will file an application pursuant to rule 19b–1(e), the total burden for the information collection is 15 hours at a cost of $18,409.50.[7]

Commission staff estimates that there is no hour burden associated with complying with the collection of information component of rule 19b–1(c).

As noted above, Commission staff understands that funds that file an application under rule 19b–1(e) generally use outside counsel to prepare the application.[8] The staff estimates that, on average, outside counsel spends 10 hours preparing a rule 19b–1(e) application, including eight hours by an associate and two hours by a partner. Outside counsel billing arrangements and rates vary based on numerous factors, but the staff has estimated the average cost of outside counsel as $400 per hour, based on information received from funds, intermediaries, and their counsel. The staff therefore estimates that the average cost of outside counsel preparation of the rule 19b–1(e) exemptive application is $4,000.[9] Because the staff estimates that, each year, five funds will file an application pursuant to rule 19b–1(e), the total annual cost burden imposed by the exemptive application requirements of rule 19b–1(e) is estimated to be $12,000.[10]

The Commission staff estimates that there are approximately 2,230 UITs [11] that may rely on rule 19b–1(c) to make capital gains distributions. The staff estimates that, on average, these UITs rely on rule 19b–1(c) once a year to make a capital gains distribution.[12] In most cases, the trustee of the UIT is responsible for preparing and sending the notices that must accompany a capital gains distribution under rule 19b–1(c)(2). These notices require limited preparation, the cost of which accounts for only a small, indiscrete portion of the comprehensive fee charged by the trustee for its services to the UIT. The staff believes that as a matter of good business practice, and for tax preparation reasons, UITs would collect and distribute the capital gains information required to be sent to unitholders under rule 19b–1(c) even in the absence of the rule. The staff estimates that the cost of preparing a notice for a capital gains distribution under rule 19b–1(c)(2) is approximately $50. There is no separate cost to mail the notices because they are mailed with the capital gains distribution. Thus, the staff estimates that the capital gains distribution notice requirement imposes an annual cost on UITs of approximately $111,500.[13] The staff therefore estimates that the total cost imposed by rule 19b–1 is $123,500.[14]

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 control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: April 15, 2020.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–08340 Filed 4–17–20; 8:45 am]

BILLING CODE 8011–01–P

[6] This estimate is based on the following calculations: $1,631 (3.5 hours × $466 = $1,631) plus $40.5 (0.5 hours × $81 = $40.5) plus $4,465 equals $6,136.50 (cost of one application).

[7] This estimate is based on the following calculation: $6,136.50 (cost of one application) multiplied by 3 applications = $18,409.50 total cost.

[8] This understanding is based on conversations with representatives from the fund industry.

[9] This estimate is based on the following calculation: 10 hours multiplied by $400 per hour equals $4,000.

[10] This estimate is based on the following calculation: $4,000 multiplied by 3 funds equals $12,000.

[11] *See* 2019 Investment Company Fact Book, Investment Company Institute, *available at https://www.ici.org/pdf/2019_factbook.pdf.*

[12] The number of times UITs rely on the rule to make capital gains distributions depends on a wide range of factors and, thus, can vary greatly across years and UITs. UITs may distribute capital gains biannually, annually, quarterly, or at other intervals. Additionally, a number of UITs are organized as grantor trusts, and therefore do not generally make capital gains distributions under rule 19b–1(c), or may not rely on rule 19b–1(c) as they do not meet the rule's requirements.

[13] This estimate is based on the following calculation: 2,230 UITs multiplied by $50 equals $111,500.

[14] $111,500 (total cost associated with rule 19b–1(c)) + $12,000 (total cost associated with rule 19b–1(e)) = $123,500.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88632; File No. SR–CboeBZX–2020–033]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Amend its Fee Schedule

April 14, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 8, 2020, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend its Fee Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its fee schedule for its equity options platform (''BZX Options'').[3]

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 16 options venues to which market participants may direct their order flow. Based on publicly available information, no single options exchange has more than 21% of the market share and currently the Exchange represents only 12% of the market share.[4] Thus, in such a low-concentrated and highly competitive market, no single options exchange, including the Exchange, possesses significant pricing power in the execution of option order flow. The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue to reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain the Exchange's transaction fees, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable. The Exchange's fee schedule sets forth standard rebates and rates applied per contract. For example, the Exchange assesses a standard rebate of $0.29 per contract for Market Maker orders that add liquidity in Penny Pilot Securities and a standard rebate of $0.40 per contract in Non-Penny Pilot Securities. Additionally, the Exchange assesses a standard fee of $0.50 per contract for non-Customer orders that remove liquidity in Penny Pilot Securities and a standard fee of $1.07 per contract in Non-Penny Pilot Securities. Additionally, in response to the competitive environment, the Exchange also offers tiered pricing, as discussed in further detail in the following paragraphs, which provides Members opportunities to qualify for higher rebates or reduced fees where certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for Members to strive for higher tier levels, which provides increasingly higher benefits or discounts for satisfying increasingly more stringent criteria.

Non-Customer Penny Pilot Take Volume Tiers

The Exchange currently offers three Non-Customer Penny Pilot Take Volume Tiers under footnote 3 of the Fee Schedule which provides reduced fees between $0.44 and $0.47 per contract for qualifying non-Customer orders which meet certain add liquidity thresholds and yield fee code PP.[5]

Under current Non-Customer Penny Pilot Take Volume Tier 1, a Member receives a reduced fee of $0.44 per contract where the Member (1) has an average daily added volume (''ADAV'')[6] in Customer orders greater than or equal to 0.80% of average options consolidated volume (''OCV''),[7] (2) has an ADAV in Market Maker orders greater than or equal to 0.35% of average OCV; (3) has on BZX Equities an ADAV[8] greater than or equal to 0.30% of average total consolidated volume (''TCV'');[9] and (4) has an ADAV in Customer Non-Penny orders greater than or equal to 0.05% of average OCV. Now, the Exchange proposes to increase the applicable fee and modify thresholds (3) and (4) of Tier 1 listed previously. Accordingly, under the proposed thresholds for Tier 1 a Member would receive a reduced fee of $0.45 per contract where the Member (1) has an ADAV in Customer orders greater than or equal to 0.80% of average OCV; (2) has an ADAV in Market Maker orders greater than or equal to 0.35% of average OCV; (3) has on BZX Equities an ADAV or greater than or equal to 1.00% of average TCV; and (4) has an ADAV in Customer Non-Penny orders greater than or equal to 0.10% of average OCV.

Under current Non-Customer Penny Take Volume Tier 3, a Member receives a reduced fee of $0.44 per contract where the Member has (1) an ADAV in Customer orders equal to or greater than 1.70% of average OCV; and (2) has an ADAV in Customer Non-Penny orders equal to or greater than 0.30% of average OCV. Now, the Exchange proposes to increase the fee and modify thresholds (1) and (2) associated with Tier 3. Accordingly, under the proposed thresholds for Tier 3 a Member would receive a reduced fee of $0.45 per contract where the Member has (1) an ADAV in Customer orders equal to or greater than 2.00% of average OCV; and (2) has an ADAV in Customer Non-Penny orders equal to or greater than 0.40% of average OCV.

Although the proposed fees and thresholds under Tier 1 and 3 of the Non-Customer Penny Take Volume Tiers are higher and more stringent than the current fees for such tiers, Members will still have an opportunity to receive a reduced fee for meeting the applicable tier thresholds which are in line with similar fees for non-Customer orders in place on other options exchanges.[10]

Based on the above proposed changes, the Exchange also proposes to make corresponding changes to the Standard Rates table included in the Exchange's Fee Schedule.

Market-Maker Penny Pilot Add Volume Tiers

The Exchange currently offers 10 Market Maker Penny Pilot Add Volume Tiers under footnote 6 of the fee schedule which provide rebates between $0.33 and $0.46 per contract for qualifying Market Maker orders which meet certain add liquidity thresholds and yield fee code PM.[11]

Under current Tier 9 of the Market Maker Penny Pilot Add Volume Tiers, a Member receives a rebate of $0.44 per contract where the Member (1) has an ADAV in Market Maker orders greater than or equal to 0.10% of average OCV; (2) has on BZX Equities an ADV of equal to or greater than 0.60% of average TCV; and (3) has a step-up ADAV in Market maker orders from December 2019 of equal to or greater than 0.05% of average OCV. Now, the Exchange proposes to modify existing thresholds (1) and (2), eliminate threshold (3), and

[3] The Exchange initially filed the proposed fee changes on April 1, 2020 (SR–CboBZX–2020–030). On April 8, 2020, the Exchange withdrew that filing and submitted this filing.

[4] *See* Cboe Global Markets U.S. Options Market Volume Summary (March 27, 2020), available at *https://markets.cboe.com/us/options/market_statistics/*.

[5] Orders yielding fee code PP are non-Customer orders that remove liquidity in Penny Pilot securities.

[6] ADAV means average daily added volume calculated as the number of contracts added per day.

[7] OCV means the total equity and ETF options volume that clears in the Customer range at the Options Clearing Corporation (''OCC'') for the month for which the fees apply, excluding volume on any day that the exchange experiences an Exchange System Disruption and on any day with a scheduled early market close.

[8] ADAV on BZX Equities means average daily added volume calculated as the number of shares added per day.

[9] TCV on BZX Equities means average daily added volume calculated as the number of displayed shares added that establish a new National Best Bid and Offer (''NBBO'') as a percentage of TCV [sic].

[10] *See e.g.*, NYSE Arca imposes a fee of $0.50 per contract for non-Customer orders that remove liquidity. Similarly, Nasdaq imposes a fee ranging from $0.48 up to $0.50 for non-customer orders that remove liquidity.

[11] Orders yielding fee code PM are Market Maker orders that add liquidity in Penny Pilot securities.

add a new threshold. Specifically, under the proposed thresholds for Tier 9, a Member would receive a rebate of $0.44 per contract where the Member (1) has an ADAV in Market Maker orders equal to or greater than 0.50% of average OCV; (2) has an ADAV in Market Maker Non-Penny orders of equal to or greater than 0.15% of average OCV; and (3) has on BZX Equities an ADV of equal to or greater than 1.00% of average TCV.

Although the proposed changes to Tier 9 of the Market Maker Penny Pilot Add Volume Tiers is more stringent than the current tier, the Exchange believes it provides an incremental incentive proportionate to the proposed rebate. Furthermore, the proposed criteria is similar to existing criteria on the Exchange.[12]

In addition to the above, the Exchange proposes to modify Tiers 3, 6, and 8 of the Market Maker Penny Pilot Add Volume Tiers in order to clarify that the applicable average daily removed volume (''ADRV'')[13] criteria is applicable only to Market Maker orders.[14]

Market Maker Non-Penny Add Volume Tier

The Exchange currently offers three Market Maker Non-Penny Pilot Add Volume Tiers under footnote 7 of the fee schedule which provides enhanced rebates between $0.45 and $0.86 per contract for qualifying Market Maker orders which meet certain add liquidity thresholds and yield fee code NM.[15]

Under the current Tier 3 of the Market Maker Non-Penny Pilot Add Volume Tiers, a Member receives an enhanced rebate of $0.86 per contract where the Member has (1) an ADAV in Market Maker orders greater or equal to 1.00% of average OCV and an ADAV in Market Maker non-penny orders of greater or equal to a 0.20% of average OCV. Now, the Exchange proposes to modify the rebate and threshold (2) of Tier 3. Specifically, under the proposal a Member would receive a rebate of $0.88 per contract where the Member (1) has an ADAV in Market Maker orders greater than or equal to 1.00% of average OCV; and (2) has an ADAV in Market Maker Non-Penny orders of greater than or equal to 0.10% of average OCV. Additionally, the Exchange proposes to make corresponding changes to the Standard Rates table included in the Exchange's Fee Schedule.

The proposed changes to Tier 3 of the Market Maker Non-Penny Pilot Add Volume Tiers are designed to encourage a Market Maker's liquidity adding volume in Non-Penny orders, and moreover to encourage Members to increase their order flow, thereby contributing to a deeper and more liquid market, which benefits all market participants and provides greater execution opportunities on the Exchange.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act,[16] in general, and furthers the requirements of Section 6(b)(4),[17] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers. The Exchange operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The proposed rule changes reflect a competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange, which the Exchange believes would enhance market quality to the benefit of all Members.

In particular, the Exchange believes the proposed modifications to the Non-Customer Penny Pilot Take Volume Tiers, Market Maker Penny Pilot Add Volume Tiers, and Market Maker Non-Penny Add Volume Tiers is reasonable because it provides an additional opportunity for Members to receive a higher rebate or lower fee by providing additional criteria they can reach for. The Exchange notes that volume-based incentives and discounts have been widely adopted by exchanges,[18] including the Exchange,[19] and are reasonable, equitable and non-discriminatory because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to (i) the value to an exchange's market quality and (ii) associated higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns. Additionally, as noted above, the Exchange operates in highly competitive market. The Exchange is only one of several options venues to which market participants may direct their order flow, and it represents a small percentage of the overall market. Competing options exchanges offer similar tiered pricing structures to that of the Exchange, including schedules of rebates and fees that apply based upon Members achieving certain volume and/or growth thresholds. These competing pricing schedules, moreover, are presently comparable to those that the Exchange provides.

Moreover, the Exchange believes the proposed changes are a reasonable means to encourage Members to increase their liquidity on the Exchange. The Exchange believes that the modified criteria to certain of the existing Non-Customer Penny Pilot Take Volume Tiers, Market Maker Penny Pilot Add Volume Tiers, and Market Maker Non-Penny Add Volume Tiers may encourage Members to increase their order flow on the Exchange. Increased liquidity benefits all investors by deepening the Exchange's liquidity pool, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection. The Exchange also believes that proposed changes are reasonable based on the difficulty of satisfying each tier's criteria and ensures the proposed rebate/fee and threshold appropriately reflects the incremental difficulty to achieve the applicable tier.

The Exchange believes that the proposal represents an equitable allocation of fees and is not unfairly discriminatory because it applies uniformly to either non-Customer or Market Maker orders, as applicable. Further, the Exchange provides for similar standard fees to Customer[20] orders for liquidity removing volume in Penny Pilot securities as compared to proposed modified Tiers 1 and 3 of the Non-Customer Penny Pilot Take Volume

[12] *See* Tier 2 [sic] of the Market Maker Non-Penny Pilot Add Volume Tiers (footnote 7).

[13] ADRV means average daily removed volume calculated as the number of contracts removed.

[14] The Exchange notes it inadvertently failed to specify in the Fees Schedule that the ADRV volume was applicable to Market Maker orders only, but did address the requirement in the rule filing when Tiers 3, 6 and 8 were adopted. *See* Securities Exchange Act No. 85846 (May 13, 2019) 84 FR 22546 (May 17, 2019) (SR–CboeBZX–2019–038).

[15] Orders yielding fee code NM are Market Maker orders that add liquidity in Non-Penny Pilot securities.

[16] 15 U.S.C. 78f.

[17] 15 U.S.C. 78f(b)(4).

[18] *See e.g.,* Cboe EDGX U.S. Options Exchange Fee Schedule, Footnote 2, Market Maker Volume Tiers, which provide reduced fees between $0.01 and $0.17 per contract for Market Maker Penny and Non-Penny orders where Members meet certain volume thresholds.

[19] *See e.g.,* Cboe BZX U.S. Options Exchange Fee Schedule, Footnotes 6 and 7, Market Maker Penny Pilot and Non-Penny Pilot Volume Tiers which provide enhanced rebates for Market Maker orders where Members meet certain volume thresholds.

[20] *See* the Standard Rates table which provides that Customer orders that remove liquidity in Penny Pilot securities incur a fee of $0.50 per contract.

Tiers. Similarly, the Exchange offers similar tiers to Joint-Back Office,[21] Away Market Maker,[22] and Customer[23] orders for liquidity adding volume in both Penny Pilot and Non-Penny Pilot securities as compared to proposed modified Tier 9 of the Market Maker Penny Pilot Add Volume Tiers and Tier 3 of the Market Maker Non-Penny Pilot Add Volume Tiers.

Additionally, a number of Non-Customers have a reasonable opportunity to satisfy the proposed modified Tier 1 and Tier 3 of the Non-Customer Penny Pilot Take Volume Tiers, which the Exchange believes are more stringent than existing Tier 1 and Tier 3. While the Exchange has no way of knowing whether this proposed rule change would definitively result in any particular Non-Customer qualifying for the proposed modified tiers, the Exchange anticipates at least two Members to compete for and reasonably achieve each the proposed modified tiers; however, the proposed modified tiers are open to any Non-Customer that satisfies the applicable tier's criteria. The Exchange believes the proposed tier could provide an incentive for other Members to submit additional liquidity on the Exchange to qualify for the proposed enhanced rebate.

Similarly, a number of Market Makers have a reasonable opportunity to satisfy the proposed modified Tier 9 of the Market Maker Penny Pilot Add Volume Tiers (footnote 6) and Tier 3 of the Market Maker Non-Penny Pilot Add Volume Tiers (footnote 7). While the Exchange has no way of knowing whether this proposed rule change would definitively result in any particular Market Maker qualifying for the proposed modified tiers, the Exchange anticipates at least three Market Makers to compete for and reasonably achieve proposed modified Tier 9 of the Market Maker Penny Pilot Add Volume Tiers and at least one Market Maker to compete for and reasonably achieve proposed modified Tier 3 of the Market Maker Non-Penny Pilot Add Volume Tiers; however, the proposed modified tiers are open to any Non-Customer that satisfies the applicable tier's criteria. The Exchange believes the proposed modified tiers could provide an incentive for other Members to submit additional liquidity on the Exchange to qualify for the proposed enhanced rebate.

The Exchange also notes that the proposal will not adversely impact any Member's pricing or their ability to qualify for other tiers. Rather, should a Member not meet the proposed criteria, the Member will merely not receive the proposed enhanced rebate or reduced fee. Furthermore, the proposed enhanced rebate or reduced fee would apply to all Members that meet the required criteria under the applicable proposed tier of Non-Customer Penny Pilot Take Volume Tiers, Market Maker Penny Pilot Add Volume Tiers, and Market Maker Non-Penny Add Volume Tiers.

Lastly, the Exchange notes that the proposed changes to Tiers 3, 6, and 8 of the Market Maker Penny Pilot Add Volume Tiers is non-substantive and is merely intended to provide clarity to market participants that the ADRV criteria is applied based on Market Maker orders. As such, the Exchange believes that the proposed changes would eliminate any potential confusion.

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 intramarket or intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, as discussed above, the Exchange believes that the proposed changes would encourage the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for all Members. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.''[24]

The Exchange believes the proposed rule change does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Particularly, the proposed changes apply to all Members equally in that all Members are eligible for the proposed modified tiers, have a reasonably opportunity to meet each tier's criteria and will all receive the proposed reduced fee or enhanced rebate if such criteria is met. Although the proposed changes to the Non-Customer Penny Pilot Take Volume Tiers 1 and 3 and Tier 9 of the Market Maker Penny Pilot Add Volume Tiers are more stringent than the current applicable tier, the Exchange believes they provide an incremental incentive proportionate to the proposed rebate or reduced fee. Furthermore, the Exchange believes the proposed modifications to Tier 3 of the Market Maker Non-Penny Pilot Add Volume Tiers will encourage Members to increase their order flow in Non-Penny Pilot securities on the Exchange. Increased liquidity benefits all investors by deepening the Exchange's liquidity pool, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection. The Exchange believes the proposed rule changes to Tiers 3, 6, and 8 will have no impact on intramarket competition as the proposed changes are non-substantive.

Next, the Exchange believes the proposed rule changes do not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, the Exchange operates in a highly competitive market. Members have numerous alternative venues that they may participate on and director their order flow, including 15 other options exchanges and off-exchange venues. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single options exchange has more than 21% of the market share.[25] Therefore, no exchange possesses significant pricing power in the execution of option order flow. Indeed, participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to

[21] *See e.g.,* the Firm, Broker Dealer, and Joint Back Office Non-Penny Pilot Add Volume Tiers in the Exchange's Fee Schedule. Tier 4 offers a rebate of up to $0.82 per contract to Members satisfying the tier.

[22] *See e.g.,* the Away Market Maker Non-Penny Pilot Add Volume Tiers in the Exchange's Fee Schedule. Tier 2 offers a rebate of up to $0.52 per contract to Members satisfying the tier.

[23] *See e.g.,* the Customer Non-Penny Pilot Add Volume Tiers in the Exchange's Fee Schedule. Tier 4 offers a rebate of up $1.05 per contract to Members satisfying the tier.

[24] Securities Exchange Act Release No. 51808, 70 FR 37495, 37498–99 (June 29, 2005) (S7–10–04) (Final Rule).

[25] *Supra* note 3 [sic].

investors and listed companies.'' [26] The fact that this market is competitive has also long been recognized by the courts. In NetCoalition v. Securities and Exchange Commission, the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. 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' . . ..''.[27] Accordingly, the Exchange does not believe its proposed fee changes impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [28] and paragraph (f) of Rule 19b–4 [29] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

[26] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[27] *NetCoalition* v. *SEC*, 615 F.3d 525, 539 (DC Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[28] 15 U.S.C. 78s(b)(3)(A).

[29] 17 CFR 240.19b–4(f).

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBZX–2020–033 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeBZX–2020–033. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBZX–2020–033 and should be submitted on or before May 11, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[30]

J. Matthew DeLesDernier,

Assistant Secretary.

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[30] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88634; File No. SR–BOX–2019–19]

Self-Regulatory Organizations; BOX Exchange LLC; Notice of Designation of Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 2, To Adopt Rules Governing the Trading of Equity Securities on the Exchange Through a Facility of the Exchange Known as the Boston Security Token Exchange LLC

April 14, 2020.

On September 27, 2019, BOX Exchange LLC (the ''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 rules governing the listing and trading of equity securities that would be NMS stocks on the Exchange through a facility of the Exchange known as the Boston Security Token Exchange LLC. The proposed rule change was published for comment in the **Federal Register** on October 18, 2019.[3]

On November 29, 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 approve or disapprove the proposed rule change.[5] On December 26, 2019, the Exchange filed Amendment No. 1 to the proposed rule change, which amended the proposed rule change as originally filed.[6] On January 16, 2020, the Commission published Amendment No. 1 for notice and comment and instituted proceedings to determine whether to approve or disapprove the proposed

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 87287 (October 11, 2019), 84 FR 56022 (October 18, 2019) (''Original Notice'').

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 87641 (November 29, 2019), 84 FR 66701 (December 5, 2019). The Commission designated January 16, 2020, as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to approve or disapprove, the proposed rule change.

[6] When the Exchange filed Amendment No. 1 to BOX–2019–19, it also submitted the text of the partial amendment as a comment letter to the filing, which the Commission made publicly available at *https://www.sec.gov/comments/sr-box-2019-19/srbox201919-6613675-202939.pdf* (''Amendment No. 1'').

rule change, as modified by Amendment No. 1.[7] On February 19, 2020, the Exchange filed Amendment No. 2 to the proposed rule change, which replaced and superseded the proposed rule change as originally filed.[8] The Commission published the proposed rule change, as modified by Amendment No. 2, for comment in the **Federal Register** on March 6, 2020.[9]

Section 19(b)(2) of the Act [10] provides that, after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for notice and comment in the **Federal Register** on October 18, 2019.[11] April 15, 2020 is 180 days from that date, and June 14, 2020 is 240 days from that date.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[12] designates June 14, 2020 as the date by which the Commission shall either approve or disapprove the proposed rule change (File No. SR–BOX–2019–19).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

J. Matthew DeLesDernier,

Assistant Secretary.

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[7] *See* Securities Exchange Act Release No. 88002 (January 16, 2020), 85 FR 4040 (January 23, 2020) (''Order Instituting Proceedings'' or ''OIP'').

[8] In filing Amendment No. 2, the Exchange responded to questions raised in comment letters and OIP. *See* Letter from Lisa Fall, President, BOX Exchange LLC, to Vanessa Countryman, Secretary, Commission, dated February 19, 2020, *available at https://www.sec.gov/comments/sr-box-2019-19/srbox201919-6840937-208871.pdf.*

[9] *See* Securities Exchange Act Release No. 88300 (February 28, 2020), 85 FR 13242 (March 6, 2020). Comments on the proposed rule change can be found at: *https://www.sec.gov/comments/sr-box-2019-19/srbox201919.htm.* The Exchange submitted a response to comment letters and OIP, which the Commission made publicly available at *https://www.sec.gov/comments/sr-box-2019-19/srbox201919-7055631-215391.pdf.*

[10] 15 U.S.C. 78s(b)(2).

[11] *See* Original Notice, *supra* note 3.

[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88628; File No. SR–ICC–2020–007]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Proposed Rule Change Relating to the ICC Clearing Rules

April 14, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 [1] and Rule 19b–4, [2] notice is hereby given that on April 10, 2020, ICE Clear Credit LLC (''ICC'') filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by ICC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the proposed rule change is to revise the ICC Clearing Rules (the ''Rules'') related to ICC membership requirements.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICC included statements concerning the purpose of and basis for the proposed rule change, security-based swap submission, or advance notice and discussed any comments it received on the proposed rule change, security-based swap submission, or advance notice. The text of these statements may be examined at the places specified in Item IV below. ICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

ICC proposes amendments to Chapter 2 of the ICC Rules relating to membership requirements. ICC believes that such revisions will facilitate the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts, and transactions for which it is responsible. ICC proposes to make such changes effective following Commission approval of the proposed rule change. The proposed revisions are described in detail as follows.

ICC proposes to amend ICC Rule 201(b), which contains membership requirements of ICC and includes fitness criteria, financial standards, operational standards, and registration qualifications with applicable regulatory authorities. ICC proposes to add new subsection (xiv) to ICC Rule 201(b) to require Clearing Participants (''CPs'') to participate in default management simulations, new technology testing and other exercises, as notified by ICC from time to time.

ICC proposes further updates to ICC Rule 206, which contains certain notice requirements for CPs. Currently, under ICC Rule 206(a), a CP must immediately notify ICC, orally and in writing, if it is subject to an event described in ICC Rule 206(a). Such events include material adverse changes in financial condition, restrictions or limitations on certain business conducted by the CP, and becoming insolvent, among others. Amended ICC Rule 206(a) removes the oral notification requirement and only requires written notification to ICC. ICC proposes to amend ICC Rule 206(c) which requires CPs that are broker-dealers to notify ICC of any matter required to be notified to FINRA under FINRA Rule 3070, as well as any matter required to be notified to the Commission if a broker-dealer and to the Commodity Futures Trading Commission (''CFTC'') if a futures commission merchant under applicable Commission and CFTC regulations. ICC proposes replacing ''FINRA Rule 3070'' with ''FINRA Rule 4530(a)(1)(A),(C),(E) and 4530(b) (or any similar rules),'' as FINRA Rule 3070 is no longer applicable and has been superseded by FINRA Rule 4530.

(b) Statutory Basis

Section 17A(b)(3)(F) of the Act [3] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, and to the extent applicable, derivative agreements, contracts and transactions, to assure the safeguarding of securities and funds which are in the custody or control of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78q–1(b)(3)(F).

the clearing agency or for which it is responsible, in general, to protect investors and the public interest, and to comply with the provisions of the Act and the rules and regulations thereunder. ICC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to ICC, in particular, to Section 17(A)(b)(3)(F),[4] because ICC believes that the proposed rule change will promote the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions, contribute to the safeguarding of securities and funds associated with security-based swap transactions in ICC's custody or control, or for which ICC is responsible, and to protect investors and the public interest. The proposed changes amend the membership requirements in Chapter 2 of the ICC Rules. ICC has no concerns with the current level of CP participation in default management testing or other exercises. The proposed changes formalize the requirement in the ICC Rules that CPs partake in default management simulations, new technology testing and other exercises, as notified by ICC from time to time, in amended ICC Rule 201(b). The proposed changes continue to ensure effective and coordinated default testing with participation from relevant stakeholders, which augments ICC's ability to withstand defaults and continue providing clearing services, thereby promoting the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions, the safeguarding of securities and funds which are in the custody or control of ICC or for which it is responsible, and the protection of investors and the public interest. The proposed revisions to ICC Rule 206 ensure that the ICC Rules remain effective, clear and up-to-date by removing the oral notification requirement, which ICC considers no longer necessary, and replacing ''FINRA Rule 3070'' with ''FINRA Rule 4530(a)(1)(A),(C),(E) and 4530(b) (or any similar rules),'' as FINRA Rule 3070 is no longer applicable, to clarify the ICC membership requirements and help members understand and remain complaint. As such, the proposed rule change is designed to promote the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions, to contribute to the safeguarding of securities and funds associated with security-based swap transactions in ICC's custody or control, or for which ICC is responsible, and, in general, to protect investors and the public interest within the meaning of Section 17A(b)(3)(F) of the Act.[5]

Section 17A(b)(3)(F) of the Act[6] further requires that the rules of ICC are not designed to permit unfair discrimination in the admission of participants or among participants in the use of the clearing agency. ICC believes that requiring CPs to participate in default management simulations, new technology testing and other exercises, as notified by ICC from time to time, in proposed ICC Rule 201(b)(xiv) ensures effective and coordinated testing with participation from relevant stakeholders. For example, in ICC's view, participation in periodic testing is necessary and reasonable since successful default management will involve coordination with CPs. Moreover, the changes to the notice requirements in ICC Rule 206 consist of clarification and clean-up changes that do not significantly impact the rights or obligations of CPs under the ICC Rules. As such, the proposed changes are not designed to permit unfair discrimination in the admission of participants or among participants in the use of the clearing agency.

In addition, the proposed rule change is consistent with the relevant requirements of Rule 17Ad–22.[7] Rule 17Ad–22(b)(3)[8] requires ICC to establish, implement, maintain and enforce written policies and procedures reasonably designed to maintain sufficient financial resources to withstand, at a minimum, a default by the two CP families to which it has the largest exposures in extreme but plausible market conditions. ICC believes that the proposed revisions to ICC Rule 201(b) continue to ensure practical and effective default management procedures, as verified by effective and coordinated testing with CP participation, which enhances ICC's ability to manage financial stress from CP defaults, thereby ensuring that ICC continues to maintain sufficient financial resources to withstand, at a minimum, a default by the two CP families to which it has the largest exposures in extreme but plausible market conditions, consistent with the requirements of Rule 17Ad–22(b)(3).[9]

Rule 17Ad–22(d)(2)[10] requires ICC to establish, implement, maintain and enforce written policies and procedures reasonably designed to require participants to have sufficient financial resources and robust operational capacity to meet obligations arising from participation in the clearing agency; have procedures in place to monitor that participation requirements are met on an ongoing basis; and have participation requirements that are objective and publicly disclosed, and permit fair and open access. As discussed above, the proposed amendments to ICC Rule 201(b) promote effective and coordinated testing with participation from relevant stakeholders to ensure operational readiness by ICC and its CPs. The proposed changes to Rule 206 provide clarity and transparency in the ICC Rules regarding ICC membership requirements. Replacing the no longer applicable ''FINRA Rule 3070'' with ''FINRA Rule 4530(a)(1)(A),(C),(E) and 4530(b) (or any similar rules)'' helps members understand and remain complaint with the notice requirements in Rule 206. Removing the oral notification requirement that ICC considers no longer necessary in ICC Rule 206(a) further ensures that the ICC Rules remain practical and effective. Moreover, ICC publicly discloses its membership requirements in the ICC Rules on its website. Thus, ICC believes that the proposed changes promote effective and coordinated testing with participation from relevant stakeholders while facilitating fair and open access and provide greater transparency and clarity regarding the ICC membership requirements that are objective and publicly disclosed, consistent with the requirements of Rule 17Ad–22(d)(2).[11]

Rule 17Ad–22(d)(8)[12] requires ICC to establish, implement, maintain and enforce written policies and procedures reasonably designed to have governance arrangements that are clear and transparent to fulfill the public interest requirements in Section 17A of the Act[13] applicable to clearing agencies, to support the objectives of owners and participants, and to promote the effectiveness of ICC's risk management procedures. The ICC Rules clearly assign and document responsibility and accountability for reviewing membership applications and compliance with membership requirements and require consultation with or approval from the Risk Management Subcommittee, the Risk Committee, and the Board. As described above, the proposed amendments ensure that the ICC Rules remain

[4] *Id.*

[5] *Id.*

[6] *Id.*

[7] 17 CFR 240.17Ad–22.

[8] 17 CFR 240.17Ad–22(b)(3).

[9] *Id.*

[10] 17 CFR 240.17Ad–22(d)(2).

[11] *Id.*

[12] 17 CFR 240.17Ad–22(d)(8).

[13] 15 U.S.C. 78q–1.

effective, clear and up-to-date, including by requiring CP participation in default management simulations, new technology testing and other exercises to promote operational readiness and practical and effective policies and procedures, removing the oral notification requirement that is no longer necessary, and removing and replacing ''FINRA Rule 3070'' that is no longer applicable in Chapter 2. The governance arrangements in the ICC Rules thus continue to be clear and transparent, such that information relating to the assignment of responsibilities and the requisite involvement of relevant stakeholders is clearly documented, support the objectives of owners and participants, and promote the effectiveness of ICC's risk management procedures, consistent with the requirements of Rule 17Ad–22(d)(8).[14]

In addition, the amendments are intended to facilitate compliance with the requirements for covered clearing agencies, namely Rule 17Ad–22(e)(13)[15] which requires each covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to ensure that the covered clearing agency has the authority and operational capacity to take timely action to contain losses and liquidity demands and continue to meet its obligations by, at a minimum, requiring the covered clearing agency's participants and, when practicable, other stakeholders to participate in the testing and review of its default procedures, including any close-out procedures, at least annually and following material changes thereto. As such, ICC proposes amended Rule 201(b) that requires ICC's CPs to participate in the testing and review of its default procedures, as notified by ICC from time to time, to be consistent with the requirements of Rule 17Ad–22(e)(13).[16]

(B) Clearing Agency's Statement on Burden on Competition

ICC does not believe the proposed amendments would have any impact, or impose any burden, on competition. The proposed changes to the ICC Rules will apply uniformly across all market participants. Therefore, ICC does not believe the proposed rule change imposes any burden on competition that is inappropriate in furtherance of the purposes of the Act.

[14] 17 CFR 240.17Ad–22(d)(8).

[15] 17 CFR 240.17Ad–22(e)(13).

[16] *Id.*

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. ICC will notify the Commission of any written comments received by ICC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ICC–2020–007 on the subject line.

Paper Comments

Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–ICC–2020–007. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Credit and on ICE Clear Credit's website at *https://www.theice.com/clear-credit/regulation.*

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–ICC–2020–007 and should be submitted on or before May 11, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–08208 Filed 4–17–20; 8:45 am]

BILLING CODE 8011–01–P

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 11:00 a.m. on Wednesday, April 22, 2020.

PLACE: The meeting will be held via remote means and/or at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.sec.gov.*

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B)

and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topic:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims;

General counsel matter; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION: For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Dated: April 15, 2020.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2020–08389 Filed 4–16–20; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:

Rule 17a–22; SEC File No. 270–202, OMB Control No. 3235–0196

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 17a–22 (17 CFR 240.17a–22) under the Securities Exchange Act of 1934 (''Exchange Act'') (15 U.S.C. 78a *et seq.*).

Rule 17a–22 requires all registered clearing agencies to file with the Commission three copies of all materials they issue or make generally available to their participants or other entities with which they have a significant relationship, such as pledges, transfer agents, or self-regulatory organizations. Such materials include manuals, notices, circulars, bulletins, lists, and periodicals. The filings with the Commission must be made within ten days after the materials are issued or made generally available. When the Commission is not the clearing agency's appropriate regulatory agency, the clearing agency must file one copy of the material with its appropriate regulatory agency.

The Commission is responsible for overseeing clearing agencies and uses the information filed pursuant to Rule 17a–22 to determine whether a clearing agency is implementing procedural or policy changes. The information filed aides the Commission in determining whether such changes are consistent with the purposes of Section 17A of the Exchange Act. Also, the Commission uses the information to determine whether a clearing agency has changed its rules without reporting the actual or prospective change to the Commission as required under Section 19(b) of the Exchange Act.

The respondents to Rule 17a–22 are registered clearing agencies. The frequency of filings made by clearing agencies pursuant to Rule 17a–22 varies but on average there are approximately 120 filings per year per active clearing agency. There are nine registered clearing agencies, but only seven active registered clearing agencies are expected to submit filings pursuant to the rule. The Commission staff estimates that each response requires approximately .25 hours (fifteen minutes), which represents the time it takes for a staff person at the clearing agency to properly identify a document subject to the rule, print and make copies, and mail that document to the Commission. Thus, the total annual burden for all active clearing agencies is approximately 210 hours (7 clearing agencies multiplied by 120 filings per clearing agency multiplied by .25).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: April 15, 2020.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–08336 Filed 4–17–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:

Rule 102; SEC File No. 270–409, OMB Control No. 3235–0467

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 102 of Regulation M (17 CFR 242.102), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 102 prohibits distribution participants, issuers, and selling security holders from purchasing activities at specified times during a distribution of securities. Persons otherwise covered by this rule may seek to use several applicable exceptions such as an exclusion for actively traded reference securities and the maintenance of policies regarding information barriers between their affiliates.

There are approximately 955 respondents per year that require an aggregate total of 1,855 hours to comply with this rule. Each respondent makes an estimated 1 annual response. Each response takes on average approximately 1.942 hours to complete. Thus, the total compliance burden per year is 1,855 burden hours. The total internal compliance cost for all respondents is approximately $129,850.00, resulting in an internal cost of compliance per respondent of approximately $135.97 (*i.e.,* $129,850.00/955 respondents).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information

collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: April 15, 2020.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–08337 Filed 4–17–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88633; File No. SR–ICC–2020–006]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice Relating to ICC's Treasury Operations Policies and Procedures

April 14, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 [1] and Rule 19b–4 [2] notice is hereby given that on April 8, 2020, ICE Clear Credit LLC (''ICC'') filed with the Securities and Exchange Commission the proposed rule change, security-based swap submission, or advance notice as described in Items I, II and III below, which Items have been prepared by ICC. The Commission is publishing this notice to solicit comments on the proposed rule change, security-based swap submission, or advance notice from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change, Security-Based Swap Submission, or Advance Notice

The principal purpose of the proposed rule change is to revise the ICC Treasury Operations Policies and Procedures (''Treasury Policy''). These revisions do not require any changes to the ICC Clearing Rules (the ''Rules'').

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change, Security-Based Swap Submission, or Advance Notice

In its filing with the Commission, ICC included statements concerning the purpose of and basis for the proposed rule change, security-based swap submission, or advance notice and discussed any comments it received on the proposed rule change, security-based swap submission, or advance notice. The text of these statements may be examined at the places specified in Item IV below. ICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change, Security-Based Swap Submission, or Advance Notice

(a) Purpose

ICC proposes to revise its Treasury Policy. Specifically, ICC proposes clarification changes related to ICC's approval process for new banking relationships, ICC's minimum criteria applicable to settlement banks, and ICC's backup settlement banks. ICC believes that such revisions will facilitate the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts, and transactions for which it is responsible. ICC proposes to make such changes effective following Commission approval of the proposed rule change. The proposed revisions are described in detail as follows.

ICC proposes amendments to the ''Direct Settlement'' section of the ICC Treasury Policy. With respect to banking relationships, ICC proposes to clarify that approval of the Credit Review Subcommittee of the Participant Review Committee (''CRS'') is required before ICC may begin using the bank's services. The CRS is comprised of ICC staff, including the ICC President, ICC Chief Operating Officer, and representatives from various departments, and is tasked with counterparty review responsibilities. Further, ICC proposes to set forth the minimum criteria applicable to ICC's settlement banks in the Treasury Policy, which includes criteria related to regulation and supervision, completion of required documentation to allow ICC to assess financial stability and credit/counterparty risk, and operational capability, among others. With respect to settlement banks, ICC maintains one primary banking relationship and two backup banking relationships. Currently, the Treasury Policy notes ICC's primary banking relationship and one backup banking relationship. The proposed changes incorporate reference to the second backup banking relationship, which was inadvertently excluded and does not represent a new banking relationship.

(b) Statutory Basis

Section 17A(b)(3)(F) of the Act [3] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, and to the extent applicable, derivative agreements, contracts and transactions; to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible; and to comply with the provisions of the Act and the rules and regulations thereunder. ICC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to ICC, in particular, to Section 17(A)(b)(3)(F),[4] because ICC believes that the proposed rule change will promote the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions, and contribute to the safeguarding of securities and funds associated with security-based swap transactions in ICC's custody or control, or for which ICC is responsible. The proposed changes clarify ICC's approval process for new banking relationships, ICC's minimum criteria for its settlement banks, and ICC's backup settlement banks. The clarifications related to the approval process for new banking relationships and the minimum criteria for ICC's settlement banks ensure that ICC has clear and comprehensive procedures for approving new banking relationships and is following its process for review and approval of new banking relationships. The incorporation of the second backup banking relationship corrects an omission to ensure that ICC's policies and procedures clearly and accurately document ICC's banking relationships. The proposed updates thus ensure that the documentation of ICC's Treasury Policy remains up-to-date, transparent, and focused on clearly articulating the policies and procedures used to support ICC's treasury functions, which promotes the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions and

[3] 15 U.S.C. 78q–1(b)(3)(F).

[4] *Id.*

contributes to the safeguarding of securities and funds which are in the custody or control of ICC or for which it is responsible. As such, the proposed rule change is designed to promote the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions and to contribute to the safeguarding of securities and funds associated with security-based swap transactions in ICC's custody or control, or for which ICC is responsible within the meaning of Section 17A(b)(3)(F) of the Act.[5]

In addition, the proposed rule change is consistent with the relevant requirements of Rule 17Ad–22.[6] Rule 17Ad–22(b)(3)[7] requires ICC to establish, implement, maintain and enforce written policies and procedures reasonably designed to maintain sufficient financial resources to withstand, at a minimum, a default by the two CP families to which it has the largest exposures in extreme but plausible market conditions. The proposed changes enhance ICC's ability to manage its financial resources, including by clearly articulating its approval process for new banking relationships and the minimum criteria applicable to ICC's settlement banks. Such changes ensure financial health and the ability to fulfill obligations by ICC's banking relationships, which promotes and strengthens ICC's own financial condition and supports ICC's ability to maintain sufficient financial resources to withstand, at a minimum, a default by the two CP families to which it has the largest exposures in extreme but plausible market conditions, consistent with the requirements of Rule 17Ad–22(b)(3).[8]

Rule 17Ad–22(d)(3)[9] requires ICC to establish, implement, maintain and enforce written policies and procedures reasonably designed to hold assets in a manner that minimizes risk of loss or of delay in its access to them and to invest assets in instruments with minimal credit, market, and liquidity risks. The proposed changes strengthen ICC's ability to safeguard assets and limit the potential for loss or delay in access to such assets by ensuring that ICC has clear and comprehensive procedures that describe the minimum criteria applicable to ICC's settlement banks and the approval process for new banking relationships. ICC believes that having policies and procedures that clearly and accurately document ICC's treasury functions are an important component to the effectiveness of ICC's treasury operations, which promote ICC's ability to hold assets in a manner that minimizes risk of loss or of delay in its access to them and to invest assets in instruments with minimal credit, market, and liquidity risks. Such changes are therefore reasonably designed to meet the requirements of Rule 17Ad–22(d)(3).[10]

Rule 17Ad–22(d)(5)[11] requires ICC to establish, implement, maintain and enforce written policies and procedures reasonably designed to employ money settlement arrangements that eliminate or strictly limit ICC's settlement bank risks and require funds transfers to ICC to be final when effected. The proposed changes enhance ICC's ability to manage and limit its credit and liquidity risk arising from its settlement banks, including by establishing the minimum criteria applicable to ICC's settlement banks, including criteria related to regulation and supervision, completion of required documentation to allow ICC to assess financial stability and credit/counterparty risk, and operational capability, among others, and by clarifying that approval of the CRS is required before ICC may begin using the bank's services, consistent with the requirements of Rule 17Ad–22(d)(5).[12]

Rule 17Ad–22(d)(8)[13] requires ICC to establish, implement, maintain and enforce written policies and procedures reasonably designed to have governance arrangements that are clear and transparent to fulfill the public interest requirements in Section 17A of the Act[14] applicable to clearing agencies, to support the objectives of owners and participants, and to promote the effectiveness of ICC's risk management procedures. The proposed revisions allow for feedback from, and notification to, the CRS, which is comprised of ICC staff, including the ICC President, ICC Chief Operating Officer, and representatives from various departments, prior to using the bank's services. These governance arrangements are clear and transparent, such that information relating to the assignment of responsibilities and the requisite involvement of ICC personnel is clearly documented, and also promote the effectiveness of ICC's risk management procedures by detailing the responsibilities of relevant stakeholders in the review and approval of new banking relationships, consistent with the requirements of Rule 17Ad–22(d)(8).[15]

(B) Clearing Agency's Statement on Burden on Competition

ICC does not believe the proposed rule change would have any impact, or impose any burden, on competition. The proposed changes to ICC's Treasury Policy will apply uniformly across all market participants. Therefore, ICC does not believe the proposed rule change imposes any burden on competition that is inappropriate in furtherance of the purposes of the Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change, Security-Based Swap Submission, or Advance Notice Received From Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. ICC will notify the Commission of any written comments received by ICC.

III. Date of Effectiveness of the Proposed Rule Change, Security-Based Swap Submission, or Advance Notice and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, security-based swap submission, or advance notice 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–ICC–2020–006 on the subject line.

[5] *Id.*

[6] 17 CFR 240.17Ad–22.

[7] 17 CFR 240.17Ad–22(b)(3).

[8] *Id.*

[9] 17 CFR 240.17Ad–22(d)(3).

[10] *Id.*

[11] 17 CFR 240.17Ad–22(d)(5).

[12] *Id.*

[13] 17 CFR 240.17Ad–22(d)(8).

[14] 15 U.S.C. 78q–1.

[15] 17 CFR 240.17Ad–22(d)(8).

Paper Comments

Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–ICC–2020–006. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change, security-based swap submission, or advance notice that are filed with the Commission, and all written communications relating to the proposed rule change, security-based swap submission, or advance notice 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 such filings will also be available for inspection and copying at the principal office of ICE Clear Credit and on ICE Clear Credit's website at *https://www.theice.com/clear-credit/regulation.*

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–ICC–2020–006 and should be submitted on or before May 11, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–08211 Filed 4–17–20; 8:45 am]

BILLING CODE 8011–01–P

[16] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Docket No. SBA–2020–0014]

Class Waiver of the Nonmanufacturer Rule

AGENCY: U.S. Small Business Administration.

ACTION: Notice of intent to waive the Nonmanufacturer Rule for diabetic test strips.

SUMMARY: The U.S. Small Business Administration (SBA) is considering granting a request for a class waiver of the Nonmanufacturer Rule (NMR) for diabetic test stripes under North American Industry Classification (NAICS) code 325413 and Product Service Code (PSC) 6515. If granted, the class waiver would allow otherwise qualified regular dealers to supply the waived item on certain small business contracts, regardless of the business size of the manufacturer.

DATES: Comments and source information must be submitted by May 20, 2020.

ADDRESSES: You may submit comments and source information via the Federal Rulemaking Portal at *https://www.regulations.gov.* If you wish to submit confidential business information (CBI) as defined in the User Notice at *https://www.regulations.gov,* please submit the information to Carol Hulme, Attorney Advisor, Office of Government Contracting, U.S. Small Business Administration, 409 Third Street SW, 8th Floor, Washington, DC 20416. Highlight the information that you consider to be CBI and explain why you believe this information should be held confidential. SBA will review the information and make a final determination as to whether the information will be published.

FOR FURTHER INFORMATION CONTACT: Carol Hulme, Attorney Advisor, by telephone at 202–205–6347; or by email at *Carol-Ann.Hulme@sba.gov.*

SUPPLEMENTARY INFORMATION: Sections 8(a)(17) and 46 of the Small Business Act (Act), 15 U.S.C. 637(a)(17) and 657s, and SBA's implementing regulations, found at 13 CFR 121.406(b), require that recipients of Federal supply contracts provide the product of a small business manufacturer or processor if the recipient of the set-aside contract is not the actual manufacturer or processor of the product, This requirement is commonly referred to as the Nonmanufacturer Rule (NMR). 13 CFR 121.406(b). The NMR applies to a contract issued as a small business set-aside (except as stated below); a service-disabled veteran-owned small business (SDVOSB) set-aside or sole-source contract; a Historically Underutilized Business Zone (HUBZone) set-aside or sole source contract; a women-owned small business (WOSB) or economically disadvantaged women-owned small business (EDWOSB) set-aside or sole source contract; or 8(a) set-aside or sole source contract; a partial set-aside; or a set-aside of an order against a multiple award contract. The NMR does not apply to small business set-aside acquisitions with an estimated value between the micro-purchase threshold and the simplified acquisition threshold.

Sections 8(a)(17)(B)(iv)(II) and 46(a)(4)(B) of the Act authorize SBA to waive the NMR for a ''class of products'' for which there are no small business manufacturers or processors available to participate in the Federal market. The SBA defines ''class of products'' based on a combination of (1) the six-digit NAICS code, (2) the four-digit PSC, and (3) a description of the class of products. A waiver would not have any effect on the requirements in 13 CFR 121.406(b)(1)(i) through (iii) or on requirements external to the Act that involve domestic sources of supply, such as the Buy American Act, 41 U.S.C. 8301–8305, or the Trade Agreements Act, 19 U.S.C. 2501 *et. seq.*

As implemented in SBA's regulations at 13 CFR 121.1202(c), in order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or been awarded a contract to supply the class of products within the last 24 months.

SBA has received a request for a class waiver for diabetic testing strips. The applicable NAICS Code is 325413 and the PSC is 6515 as there are no small businesses that manufacturer this product. A search of the Federal marketplace revealed there are no small business manufacturers that can manufacture and supply this product to the Federal government.

SBA invites the public to comment on this pending request to waive the NMR for diabetic testing strips. The public may comment or provide source information on any small business manufacturers of this class of products that are available to participate in the Federal market. The public comment period will run for 30 days after the date of publication in the **Federal Register**.

More information on the NMR and class waivers can be found at *https://www.sba.gov/contracting/contracting-*

officials/non-manufacturer-rule/non-manufacturer-waivers.

David Loines,

Director, Office of Government Contracting.

[FR Doc. 2020–08304 Filed 4–17–20; 8:45 am]

BILLING CODE 8026–03–P

SUSQUEHANNA RIVER BASIN COMMISSION

Public Hearing

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: The Susquehanna River Basin Commission will hold a public hearing on May 14, 2020. Due to the COVID–19 crises and the relevant orders in place in the Commission's member jurisdictions, the Commission will hold this meeting telephonically. At this public hearing, the Commission will hear testimony on the projects listed in the Supplementary Information section of this notice. The Commission will also hear testimony on amendments to the *Comprehensive Plan for the Water Resources of the Susquehanna River Basin.* Such projects and proposals are intended to be scheduled for Commission action at its next business meeting, tentatively scheduled for June 19, 2020, which will be noticed separately. The public should take note that this public hearing will be the only opportunity to offer oral comment to the Commission for the listed projects and proposals. The deadline for the submission of written comments is May 27, 2020.

DATES: The public hearing will convene on May 14, 2020, at 2:30 p.m. The public hearing will end at 5:00 p.m. or at the conclusion of public testimony, whichever is sooner. The deadline for the submission of written comments is May 27, 2020.

ADDRESSES: This hearing will be held by telephone rather than at a physical location. Conference Call # 1–888–387–8686, the Conference Room Code # 9179686050.

FOR FURTHER INFORMATION CONTACT: Jason Oyler, General Counsel and Secretary to the Commission, telephone: (717) 238–0423; fax: (717) 238–2436. Information concerning the applications for these projects is available at the Commission's Water Application and Approval Viewer at *https://www.srbc.net/waav.* Additional supporting documents are available to inspect and copy in accordance with the Commission's Access to Records Policy at *www.srbc.net/regulatory/policies-guidance/docs/access-to-records-policy-2009-02.pdf.*

SUPPLEMENTARY INFORMATION: The public hearing will cover the following projects.

Projects Scheduled for Action

1. Project Sponsor and Facility: Cabot Oil & Gas Corporation, Eaton Township, Wyoming County, Pa. Application for renewal of groundwater withdrawal of up to 0.864 mgd (30-day average) from the Hatchery Wellfield (Wells 1, 2, and 3) (Docket No. 20160610).

2. Project Sponsor and Facility: Chesapeake Appalachia, L.L.C. (Susquehanna River), Windham Township, Wyoming County, Pa. Application for surface water withdrawal of up to 3.000 mgd (peak day).

3. Project Sponsor and Facility: Chesapeake Appalachia, L.L.C. (Wyalusing Creek), Wyalusing Township, Bradford County, Pa. Application for surface water withdrawal of up to 3.000 mgd (peak day).

4. Project Sponsor and Facility: Green Leaf Water LLC (Lycoming Creek), Lewis Township, Lycoming County, Pa. Application for renewal of surface water withdrawal of up to 0.900 mgd (peak day) (Docket No. 20160601).

5. Project Sponsor: Pennsylvania—American Water Company. Project Facility: Susquehanna District, Great Bend Township, Susquehanna County, Pa. Application for renewal of groundwater withdrawal of up to 0.144 mgd (30-day average) from Well 2 (Docket No. 19900303).

6. Project Sponsor and Facility: Shippensburg Borough Authority, Southampton Township, Cumberland County, Pa. Application for renewal of groundwater withdrawal of up to 1.280 mgd (30-day average) from Well 1 (Docket No. 19900713).

Commission-Initiated Project Approval Modifications

1. Project Sponsor and Facility: The Municipal Authority of the Borough of Berlin, Allegheny Township, Somerset County, Pa. Conforming the grandfathering amount with the forthcoming determination for a groundwater withdrawal up to 0.030 mgd (30-day average) from Well 6 (Docket No. 19980702).

2. Project Sponsor and Facility: Iron Masters Country Club, Bloomfield Township, Bedford County, Pa. Conforming the grandfathering amount with the forthcoming determination for groundwater withdrawals up to 0.051 mgd (30-day average) from Well 10 and up to 0.061 mgd (30-day average) from Well 14 (Docket No. 20020813).

3. Project Sponsor and Facility: Sinking Valley Country Club, Tyrone Township, Blair County, Pa. Conforming the grandfathering amount with the forthcoming determination for groundwater withdrawals up to 0.081 mgd (30-day average) from the 14th Fairway Well and up to 0.099 mgd (30-day average) from the 8th Tee Well (Docket No. 20020811).

Opportunity To Appear and Comment

Interested parties may call into the hearing to offer comments to the Commission on any business listed above required to be subject of a public hearing. The presiding officer reserves the right to limit oral statements in the interest of time and to otherwise control the course of the hearing. Access to the hearing via telephone will begin at 2:15 p.m. Guidelines for the public hearing are posted on the Commission's website, *www.srbc.net,* prior to the hearing for review. The presiding officer reserves the right to modify or supplement such guidelines at the hearing. Written comments on any business listed above required to be subject of a public hearing may also be mailed to Mr. Jason Oyler, Secretary to the Commission, Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, Pa. 17110–1788, or submitted electronically through *https://www.srbc.net/regulatory/public-comment/.* Comments mailed or electronically submitted must be received by the Commission on or before May 27, 2020, to be considered.

Authority: Pub. L. 9.1–575, 84 Stat. 1509 *et seq.,* 18 CFR parts 806, 807, and 808.

Dated: April 15, 2020.

Jason E. Oyler,

General Counsel and Secretary to the Commission.

[FR Doc. 2020–08315 Filed 4–17–20; 8:45 am]

BILLING CODE 7040–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Rescission of the Notice of Intent for an Environmental Impact Statement: Hartford County, Connecticut

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: The FHWA is issuing this notice to advise the public that we are rescinding the Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) for the I–84 Hartford Project in Hartford County, Connecticut.

FOR FURTHER INFORMATION CONTACT: Amy D. Jackson-Grove, Division Administrator, FHWA, Connecticut Division, 628 Hebron Avenue, Suite 303, Glastonbury, CT 06033; Telephone: (860) 494–659–6703.

SUPPLEMENTARY INFORMATION: The FHWA, as the lead Federal Agency, in cooperation with the Connecticut Department of Transportation (CTDOT), as the joint lead agency and local project sponsor, published an NOI in the **Federal Register** on September 30, 2016, at 81 FR 67421, to prepare an EIS on a proposal for transportation improvements on I–84 between Flatbush Avenue (Interchange 45) and I–91 (Interchange 53) in Hartford, Connecticut.

The purpose of the proposed project, was to address structural deficiencies, improve traffic operations and safety, and improve mobility on and along the 1–84 corridor within the project limits, while maintaining access for the City of Hartford and adjacent communities. The EIS studied a reasonable range of alternatives to address the proposed project's purpose and need. Alternatives under consideration included (1) No Build Alternative; (2) Elevated Highway Alternative (3) Lowered Highway Alternative and (4) Tunneled Highway Alternative. An internet website was established to provide information on the proposed project and can be accessed at *http://www.i84hartford.com.* Numerous Public Informational, Agency and Project Advisory Committee Meetings were held over the course of the project but a draft EIS was not completed or released.

The FHWA is rescinding the NOI because the local sponsor has chosen to pursue a larger scale study looking at mobility in the Hartford area and intends to utilize the Planning and Environmental Linkages (PEL) process to identify possible future projects. The new study, to be called the Greater Hartford Mobility Study, will be initiated to identify and prioritize possible projects, based on regional purpose and needs. The FHWA and CTDOT will initiate new NEPA studies, as appropriate, to assess the potential environmental impacts of future actions that involve the study area. Comments and questions concerning this action should be directed to FHWA at the address provided.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Amy D. Jackson-Grove,

Division Administrator, Federal Highway Administration.

[FR Doc. 2020–08273 Filed 4–17–20; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2020–0116]

Hours of Service of Drivers: Pronto.ai, Inc. (Pronto); Application for Exemption

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA announces that it has received an application from Pronto.ai, Inc. (''Pronto'') on behalf of its interstate motor carrier customers, for a renewable five-year exemption from the 11-hour driving limit and the 14-hour driving window in the Agency's hours-of-service (HOS) requirements. Pronto is requesting that drivers operating commercial motor vehicles (CMVs) equipped with the Copilot by Pronto advanced driver assistance systems (ADAS), the SmartDrive® Video Safety Program, and operating under certain other safeguards, be allowed to drive up to 13 hours during a period of 15 consecutive hours after coming on duty following 10 consecutive hours off duty. FMCSA requests public comment on Pronto's application for exemption.

DATES: Comments must be received on or before May 20, 2020.

ADDRESSES: You may submit comments identified by Federal Docket Management System Number FMCSA–2020–0116 by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Send comments to Docket Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Deliver comments to Docket Operations, West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Docket Operations.
- *Fax:* 1–202–493–2251.

Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *www.regulations.gov,* including any personal information included in a comment. Please see the *Privacy Act* heading below.

Docket: For access to the docket to read background documents or comments, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Docket Operations. The on-line FDMS is available 24 hours each day, 365 days year.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: For information concerning this notice, contact Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202–366–4225. Email: *MCPSD@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2020–0116), indicate the specific section of this document to which the comment applies, and provide a reason for suggestions or recommendations. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to *www.regulations.gov* and put the docket number, ''FMCSA–2020–0116'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Background

Currently, interstate drivers of property-carrying CMVs are allowed a period of 14 consecutive hours (49 CFR 395.3(a)(2)) in which to drive up to 11 hours (49 CFR 395.3(a)(3)) after being off duty for 10 or more consecutive hours. The 14-consecutive-hour driving window begins when the driver starts any kind of work. Once the driver reaches the end of this 14-consecutive-hour period, he/she cannot drive again until the driver has been off duty for another 10 consecutive hours, or the equivalent of at least 10 consecutive hours off duty.

IV. Pronto's Exemption Application

Pronto requests an exemption from the 11-hour driving limit in 49 CFR 395.3(a)(3) and the 14-hour driving window in 49 CFR 395.3(a)(2) on behalf of its motor carrier customers operating CMVs equipped with the Copilot by Pronto ADAS, the SmartDrive® Video Safety Program, and operating with certain other safeguards discussed in the exemption. The exemption would allow drivers operating these CMVs to drive up to 13 hours within 15 hours of the beginning of the work shift, following 10 consecutive hours off duty. A copy of the exemption application is included in the public docket referenced at the beginning of this notice.

V. Request for Comments

In accordance with 49 U.S.C. 31315(b)(6), FMCSA requests public comment from all interested persons on Pronto's application for an exemption from 49 CFR 395.3(a)(2) and 395.3(a)(3). All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2020–08343 Filed 4–17–20; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0071]

Hours of Service of Drivers: McKee Foods Transportation, LLC, Application for Exemption

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition; grant of application for exemption.

SUMMARY: FMCSA announces its decision to renew McKee Foods Transportation, LLC's (MFT) exemption from the hours-of-service (HOS) regulation pertaining to the use of a sleeper berth. Current HOS rules require that all sleeper-berth rest regimens include, in part, the regular use of a sleeper-berth period for at least 8 hours—combined with a separate period of at least 2 hours, either in the sleeper berth, off duty, or some combination of both—to gain the equivalent of at least 10 consecutive hours off duty. The exemption enables MFT team drivers to take the equivalent of 10 consecutive hours off duty by splitting sleeper-berth time into two periods totaling 10 hours, provided neither of the two periods is less than 3 hours. FMCSA has analyzed the exemption application and the public comments and has determined that the exemption, subject to the terms and conditions imposed, will achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.

DATES: The exemption is effective April 20, 2020 and expires April 20, 2025.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: (202) 366–4225. Email: *MCPSD@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *www.regulations.gov* and insert the docket number, FMCSA–2014–0071, in the ''Keyword'' box, and click ''Search.'' Next, click the ''Open Docket Folder'' button and choose the document to review. If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the

information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The Agency's decision must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. MFT's Request for a Renewal

MFT requested a renewal of its exemption from the sleeper berth provision in 49 CFR 395.1(g)(1)(ii)(A)(1–2). The exemption renewal would allow MFT team drivers to continue to take the equivalent of 10 consecutive hours off duty by splitting sleeper berth time into two periods totaling 10 hours, provided neither of the two periods is less than 3 hours. The application for a renewal is available for review in the docket referenced at the beginning of this notice.

FMCSA granted MFT a one-year exemption on March 27, 2015 [80 FR 16503]. On April 20, 2016 [81 FR 23349] the Agency extended its expiration date to March 27, 2020, in response to Section 5206(b)(2)(A) of the ''Fixing America's Surface Transportation Act'' (FAST Act). The statute extended the expiration date of hours-of-service (HOS) exemptions in effect on the date of enactment of the FAST Act to 5 years from the date of issuance of the exemptions.

IV. Method To Ensure an Equivalent or Greater Level of Safety

MFT states that it is committed to maintaining its outstanding safety record by focusing on continuous improvement, promoting technologies to enhance safety, conducting thorough inspections and having well-communicated policies in place to address both safety and compliance-related topics. To ensure an equivalent level of safety, MFT offers the following safeguards: (1) Every week, all transportation operations shut down one hour prior to sundown on Friday until one hour after sundown on Saturday, resulting in an automatic minimum 26-hour off-duty home time for all drivers each weekend. This is in addition to home time during the week; (2) All tractors are equipped with speed limiters; (3) Drivers will continue using electronic logging devices (ELDs) to track their duty time and HOS compliance; (4) Drive time is reduced from 11 hours to 10 hours. Team drivers are limited to 10 hours of driving prior to completing their required 10 hours total in the sleeper berth; and (5) Behavior-based event data is monitored from the ELD to enhance safety measures to help reduce the probability of accidents on the road.

MFT believes that by allowing its drivers to exercise flexibility in their sleeper-berth requirements, the drivers experience more quality rest. MFT notes that during the last five years it has witnessed an improved physical state upon completion of drivers' trips. The short sleep-berth periods have allowed for more flexible work patterns, allowing them the opportunity for rest periods when they need it.

V. Public Comments

On January 30, 2020, FMCSA published notice of MFT's application and requested public comment [85 FR 5532]. The Agency received eight comments. The Truckload Carriers Association (TCA), and six other individual commenters filed in support of MFT's request for renewal. TCA supported the exemption request, writing ''time and again, our drivers have iterated the importance of stopping the 14-hour clock so that they can take a break or nap when they are tired. Giving fatigued drivers the confidence to stop driving, by providing them the option to stop their on-duty clock, will lead to safer and more alert operations of commercial trucks . . . . McKee Foods has been operating safely under its exemption for the past 5 years, showing that this split-sleep configuration has allowed for drivers to obtain adequate rest and has provided for a safer environment on the roadways.'' Other commenters supported granting the same sleeper-berth provisions to all other trucking companies' team drivers. Another supporting commenter added that MFT was recognized as a safe operation for repeat safety awards they had received from their State trucking association the past two years. A one opposing commenter said that MFT should operate under the same HOS rules as everyone else—referencing the upcoming HOS final rule which includes revised sleeper-berth provisions allowed for HOS compliance.

VI. FMCSA Response and Decision

The FMCSA has determined that granting MFT's its exemption renewal will likely achieve a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption [49 CRR 381.305(a)]. The FMCSA reviewed the MFT's application, comments to the docket, and MFT's safety record from March 2015- March 2020. The safety record reflects 47 reportable accidents; of which only 15 reported injuries with no fatalities. The original exemption granted to MFT has not had an adverse effect on the applicant's Hours of Service or Crash Safety Measurement System (SMS) scores. The applicants SMS scores reflect 0.07 for the HOS violation rate and 0.08 for Crash.

VII. Terms and Conditions for the Exemption

Extent of the Exemption

The team drivers employed by MFT are provided a limited exemption from the sleeper-berth requirements of 49 CFR 395.1(g)(1)(ii)(A)(1–2) to allow these drivers to split sleeper-berth time into two periods totaling at least 10 hours, provided neither of the two periods is less than 3 hours in length. While operating under the granted exemption, MFT team drivers are subject to the following terms and conditions:

- Every week, all transportation operations will shut down one hour prior to sundown on Friday until one hour after sundown on Saturday;
- All tractors are equipped with speed limiters;
- Drivers will use ELDs to track their duty time and HOS compliance;
- Drivers are limited to 10 hours of driving;
- MFT will monitor behavior-based event data via ELD; and
- MFT drivers must have a copy of this notice in their possession while operating under the terms of the exemption. This notice serves as the exemption document and must be presented to law enforcement officials upon request.

The carriers and drivers must comply with all other requirements of the Federal Motor Carrier Safety Regulations (49 CFR parts 350–399).

Preemption

In accordance with 49 U.S.C. 31315(d), during the period this exemption is in effect, no State shall enforce any law or regulation that

conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption.

Notification to FMCSA

MFT must notify FMCSA within 5 business days of any accidents (as defined by 49 CFR 390.5), involving the operation of any of its CMVs while utilizing this exemption. The notification must include the following information:

(a) Date of the accident;

(b) City or town, and State, in which the accident occurred, or closest to the accident scene;

(c) Driver's name and license number;

(d) Vehicle number and State license number;

(e) Number of individuals suffering physical injury;

(f) Number of fatalities;

(g) The police-reported cause of the accident;

(h) Whether the driver was cited for violation of any traffic laws, or motor carrier safety regulations; and

(k) The driver's total driving time and total on-duty time of the CMV driver at the time of the accident.

Reports filed under this provision shall be emailed to *MCPSD@DOT.GOV.*

VIII. Termination

The FMCSA does not believe the team drivers covered by the exemption will experience any deterioration of their safety record. However, should this occur, FMCSA will take all steps necessary to protect the public interest, including revocation of the exemption. The FMCSA will immediately revoke the exemption for failure to comply with its terms and conditions.

James A. Mullen,

Acting Administrator.

[FR Doc. 2020–08207 Filed 4–17–20; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2019–0306]

Agency Information Collection Activities; Renewal of a Currently-Approved Information Collection Request: Annual Report of Class I and Class II For-Hire Motor Carriers

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for its review and approval and invites public comment. FMCSA requests approval to renew the previously approved ICR now titled, ''*Annual Report of Class I and Class II For-Hire Motor Carriers,*'' OMB Control No. 2126–0032. This ICR is necessary to comply with FMCSA's financial and operating statistics requirements at chapter III of title 49 CFR part 369 titled, ''*Reports of Motor Carriers.*''

DATES: Please send your comments by June 19, 2020. OMB must receive your comments by this date in order to act quickly on the ICR.

ADDRESSES: You may submit comments identified by Federal Docket Management System (FDMS) Docket Number FMCSA–2019–0306 using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number. For detailed instructions on submitting comments, see the Public Participation heading below. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov,* and follow the online instructions for accessing the dockets, or go to the street address listed above.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

Public Participation: The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can obtain electronic submission and retrieval help and guidelines under the ''help'' section of the Federal eRulemaking Portal website. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments online. Comments received after the comment closing date will be included in the docket and will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Secrist, Office of Registration and Safety Information, Department of Transportation, Federal Motor Carrier Safety Administration, West Building 6th Floor, 1200 New Jersey Avenue SE, Washington, DC 20590–0001. Telephone: 202–385–2367; email *jeff.secrist@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background: Section 14123 of title 49 of the United States Code (U.S.C.) requires certain for-hire motor carriers of property, passengers, and household goods to file annual financial reports. The annual reporting program was implemented on December 24, 1938 (3 FR 3158), and it was subsequently transferred from the Interstate Commerce Commission (ICC) to the U.S. Department of Transportation's (DOT) Bureau of Transportation Statistics (BTS) on January 1, 1996. The Secretary of Transportation delegated to BTS the responsibility for the program on December 17, 1996 (61 FR 68162). Annual financial reports are filed on Form M (Class I and II for-hire property carriers, including household goods carriers) and Form MP–1 (Class I for-hire passenger carriers). Responsibility for collection of the reports was transferred from BTS to FMCSA on August 17, 2004 (69 FR 51009), and the regulations were redesignated as 49 CFR part 369 on August 10, 2006 (71 FR 45740). FMCSA collects carriers' annual reports and furnishes copies of the reports when requested under the Freedom of Information Act (FOIA). For-hire motor carriers (including interstate and intrastate) subject to the Federal Motor Carrier Safety Regulations are classified on the basis of their gross carrier operating revenues.[1]

[1] For purposes of the Financial and Operating Statistics (F&OS) program, carriers are classified into the following three groups: (1) Class I carriers are those having annual carrier operating revenues (including interstate and intrastate) of $10 million or more after applying the revenue deflator formula as set forth in Note A of 49 CFR 369.2; and (2) Class II carriers are those having annual carrier operating revenues (including interstate and intrastate) of at least $3 million, but less than $10 million after

Under the Financial and Operating Statistics (F&OS) program, FMCSA collects from Class I and Class II for-hire motor carriers balance sheet and income statement data along with information on safety needs, tonnage, mileage, employees, transportation equipment, and other related data. FMCSA is also authorized to ask carriers to respond to surveys concerning their operations. The data and information collected is publicly available through FOIA requests. FMCSA has created electronic forms that may be prepared, signed electronically, and submitted to FMCSA via *https://ask.fmcsa.dot.gov/app/ask/.*

Title: Annual Report of Class I and Class II For-Hire Motor Carriers.

OMB Control Number: 2126–0032.

Type of Request: Renewal of a currently-approved information collection.

Respondents: Class I and Class II For-Hire Motor Carriers of Property and Class I For-Hire Motor Carriers of Passengers.

Estimated Number of Respondents: 128 total (42.7 per year, over three years).

Estimated Time per Response: 9 hours for Form M and 0.3 hours for Form MP–1.

Expiration Date: September 30, 2020.

Frequency of Response: Annually.

Estimated Total Annual Burden: 384.3 hours [384.3 hours (Form M) + 0 hours (Form MP–1)].

Estimated annual respondents for Form M decreased from 96 in the previously approved ICR to 42.7 in the current ICR. Estimated annual burden hours for Form M decreased by 479.7 hours [384.3 proposed hours − 864 currently approved hours = −479.7 hours]. Estimated annual respondents for Form MP–1 decreased from 2 in the previously approved ICR to 0 in the current ICR. Estimated annual burden hours for Form MP–1 decreased by 1 hour [0 proposed hours − 1 currently approved hour = −1 hour] for Form MP–1. These changes are due to decreased numbers of Form M and Form MP–1 submissions received by the Agency between 2016 and 2018, which has resulted in lower estimates of annual respondents/responses for the upcoming information collection period.

Labor costs to industry have decreased by $22,040.15, annually [$16,770.85 in proposed costs − $38,811 currently approved costs = −$22,040.15]. This is due to the decreased estimates of annual respondents/responses. Other annual costs to respondents (*i.e.,* associated with mailing completed forms to FMCSA) have decreased by $55.30 [($42.70 in proposed mailing costs for Form M + $0 in proposed mailing costs for Form MP–1) − ($96 in previously approved mailing costs for Form M + $2 in previously approved mailing costs for Form MP–1) = −$55.30]. This change is also due to the decreased estimates of annual respondents/responses.

For the Federal Government, annual costs have decreased by $93.73 [$73.27 in proposed costs − $167 in previously approved costs = −$93.73]. This decrease is due to the decreased estimates of annual respondents/responses, which results in fewer forms to process.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for FMCSA to perform its functions; (2) the accuracy of the estimated burden; (3) ways for the FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information.

Kenneth Riddle,

Acting Associate Administrator, Office of Research and Registration.

[FR Doc. 2020–08262 Filed 4–17–20; 8:45 am]

BILLING CODE 4910–EX–P

applying the revenue deflator formula as set forth in 49 CFR 369.2.

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–1999–6480; FMCSA–2000–8398; FMCSA–2002–11714; FMCSA–2002–12844; FMCSA–2003–15268; FMCSA–2003–16564; FMCSA–2004–19477; FMCSA–2005–23238; FMCSA–2006–23773; FMCSA–2006–24015; FMCSA–2006–24783; FMCSA–2007–0071; FMCSA–2008–0021; FMCSA–2009–0011; FMCSA–2009–0291; FMCSA–2009–0321; FMCSA–2010–0050; FMCSA–2011–0057; FMCSA–2011–0365; FMCSA–2011–0379; FMCSA–2011–0380; FMCSA–2012–0039; FMCSA–2013–0027; FMCSA–2013–0030; FMCSA–2013–0166; FMCSA–2013–0169; FMCSA–2013–0174; FMCSA–2014–0003; FMCSA–2014–0004; FMCSA–2015–0070; FMCSA–2015–0072; FMCSA–2015–0345; FMCSA–2015–0350; FMCSA–2015–0351; FMCSA–2016–0024; FMCSA–2016–0025; FMCSA–2017–0026; FMCSA–2017–0028; FMCSA–2018–0007; FMCSA–2018–0008; FMCSA–2018–0010]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew exemptions for 114 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) for interstate commercial motor vehicle (CMV) drivers. The exemptions enable these individuals to continue to operate CMVs in interstate commerce without meeting the vision requirements in one eye.

DATES: Each group of renewed exemptions were applicable on the dates stated in the discussions below and will expire on the dates stated in the discussions below. Comments must be received on or before May 20, 2020.

ADDRESSES: You may submit comments identified by the Federal Docket Management System (FDMS) Docket No. FMCSA–1999–6480, Docket No. FMCSA–2000–8398, Docket No. FMCSA–2002–11714, Docket No. FMCSA–2002–12844, Docket No. FMCSA–2003–15268, Docket No. FMCSA–2003–16564, Docket No. FMCSA–2004–19477, Docket No. FMCSA–2005–23238, Docket No. FMCSA–2006–23773, Docket No. FMCSA–2006–24015, Docket No. FMCSA–2006–24783, Docket No. FMCSA–2007–0071, Docket No. FMCSA–2008–0021, Docket No. FMCSA–2009–0011, Docket No. FMCSA–2009–0291, Docket No. FMCSA–2009–0321, Docket No. FMCSA–2010–0050, Docket No. FMCSA–2011–0057, Docket No. FMCSA–2011–0365, Docket No. FMCSA–2011–0379, Docket No. FMCSA–2011–0380, Docket No. FMCSA–2012–0039, Docket No. FMCSA–2013–0027, Docket No. FMCSA–2013–0030, Docket No. FMCSA–2013–0166, Docket No. FMCSA–2013–0169, Docket No. FMCSA–2013–0174, Docket No. FMCSA–2014–0003, Docket No. FMCSA–2014–0004, Docket No. FMCSA–2015–0070, Docket No. FMCSA–2015–0072, Docket No. FMCSA–2015–0345, Docket No. FMCSA–2015–0350, Docket No. FMCSA–2015–0351, Docket No. FMCSA–2016–0024, Docket No. FMCSA–2016–0025, Docket No. FMCSA–2017–0026, Docket No. FMCSA–2017–0028, Docket No. FMCSA–2018–0007, Docket No. FMCSA–2018–0008, or Docket No. FMCSA–2018–0010 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

• *Mail:* Docket Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

• *Hand Delivery:* Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal Holidays.

• *Fax:* (202) 493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Submitting Comments

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA–1999–6480; FMCSA–2000–8398; FMCSA–2002–11714; FMCSA–2002–12844; FMCSA–2003–15268; FMCSA–2003–16564; FMCSA–2004–19477; FMCSA–2005–23238; FMCSA–2006–23773; FMCSA–2006–24015; FMCSA–2006–24783; FMCSA–2007–0071; FMCSA–2008–0021; FMCSA–2009–0011; FMCSA–2009–0291; FMCSA–2009–0321; FMCSA–2010–0050; FMCSA–2011–0057; FMCSA–2011–0365; FMCSA–2011–0379; FMCSA–2011–0380; FMCSA–2012–0039; FMCSA–2013–0027; FMCSA–2013–0030; FMCSA–2013–0166; FMCSA–2013–0169; FMCSA–2013–0174; FMCSA–2014–0003; FMCSA–2014–0004; FMCSA–2015–0070; FMCSA–2015–0072; FMCSA–2015–0345; FMCSA–2015–0350; FMCSA–2015–0351; FMCSA–2016–0024; FMCSA–2016–0025; FMCSA–2017–0026; FMCSA–2017–0028; FMCSA–2018–0007; FMCSA–2018–0008; FMCSA–2018–0010), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* put the docket number, FMCSA–1999–6480; FMCSA–2000–8398; FMCSA–2002–11714; FMCSA–2002–12844; FMCSA–2003–15268; FMCSA–2003–16564; FMCSA–2004–19477; FMCSA–2005–23238; FMCSA–2006–23773; FMCSA–2006–24015; FMCSA–2006–24783; FMCSA–2007–0071; FMCSA–2008–0021; FMCSA–2009–0011; FMCSA–2009–0291; FMCSA–2009–0321; FMCSA–2010–0050; FMCSA–2011–0057; FMCSA–2011–0365; FMCSA–2011–0379; FMCSA–2011–0380; FMCSA–2012–0039; FMCSA–2013–0027; FMCSA–2013–0030; FMCSA–2013–0166; FMCSA–2013–0169; FMCSA–2013–0174; FMCSA–2014–0003; FMCSA–2014–0004; FMCSA–2015–0070; FMCSA–2015–0072; FMCSA–2015–0345; FMCSA–2015–0350; FMCSA–2015–0351; FMCSA–2016–0024; FMCSA–2016–0025; FMCSA–2017–0026; FMCSA–2017–0028; FMCSA–2018–0007; FMCSA–2018–0008; FMCSA–2018–0010, in the keyword box, and click ''Search.'' When the new screen appears, click on the ''Comment Now!'' button and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period.

B. Viewing Documents and Comments

To view comments, as well as any documents mentioned in this notice as being available in the docket, go to *http://www.regulations.gov.* Insert the docket number, FMCSA–1999–6480; FMCSA–2000–8398; FMCSA–2002–11714; FMCSA–2002–12844; FMCSA–2003–15268; FMCSA–2003–16564; FMCSA–2004–19477; FMCSA–2005–23238; FMCSA–2006–23773; FMCSA–2006–24015; FMCSA–2006–24783; FMCSA–2007–0071; FMCSA–2008–0021; FMCSA–2009–0011; FMCSA–2009–0291; FMCSA–2009–0321; FMCSA–2010–0050; FMCSA–2011–0057; FMCSA–2011–0365; FMCSA–2011–0379; FMCSA–2011–0380; FMCSA–2012–0039; FMCSA–2013–0027; FMCSA–2013–0030; FMCSA–2013–0166; FMCSA–2013–0169; FMCSA–2013–0174; FMCSA–2014–0003; FMCSA–2014–0004; FMCSA–2015–0070; FMCSA–2015–0072; FMCSA–2015–0345; FMCSA–2015–0350; FMCSA–2015–0351; FMCSA–2016–0024; FMCSA–2016–0025; FMCSA–2017–0026; FMCSA–2017–0028; FMCSA–2018–0007; FMCSA–2018–0008; FMCSA–2018–0010, in the keyword box, and click ''Search.'' Next, click the ''Open Docket Folder'' button and choose the document to review. If you do not have access to the internet, you may view the docket online by visiting the Docket Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Docket Operations.

C. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.transportation.gov/privacy.*

II. Background

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statute also allows the Agency to renew exemptions at the end of the 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The physical qualification standard for drivers regarding vision found in 49 CFR 391.41(b)(10) states that a person is physically qualified to drive a CMV if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least

20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing red, green, and amber.

The 114 individuals listed in this notice have requested renewal of their exemptions from the vision standard in § 391.41(b)(10), in accordance with FMCSA procedures. Accordingly, FMCSA has evaluated these applications for renewal on their merits and decided to extend each exemption for a renewable 2-year period.

III. Request for Comments

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b), FMCSA will take immediate steps to revoke the exemption of a driver.

IV. Basis for Renewing Exemptions

In accordance with 49 U.S.C. 31136(e) and 31315(b), each of the 114 applicants has satisfied the renewal conditions for obtaining an exemption from the vision standard (see 65 FR 78256; 66 FR 16311; 68 FR 13360; 68 FR 37197; 68 FR 48989; 69 FR 64806; 70 FR 2705; 70 FR 25878; 70 FR 42615; 71 FR 5105; 71 FR 6826; 71 FR 19600; 71 FR 19602; 71 FR 32183; 71 FR 41310; 72 FR 1054; 72 FR 28093; 72 FR 40360; 73 FR 6242; 73 FR 11989; 73 FR 16950; 73 FR 60398; 74 FR 26464; 74 FR 34632; 74 FR 49069; 74 FR 65842; 75 FR 1835; 75 FR 9477; 75 FR 9480; 75 FR 9482; 75 FR 13653; 75 FR 22176; 76 FR 18824; 76 FR 29024; 76 FR 34135; 76 FR 62143; 76 FR 70212; 76 FR 78729; 77 FR 3552; 77 FR 10604; 77 FR 13689; 77 FR 13691; 77 FR 17107; 77 FR 17108; 78 FR 24798; 78 FR 34140; 78 FR 41975; 78 FR 46407; 78 FR 56986; 78 FR 62935; 78 FR 64274; 78 FR 76395; 78 FR 77778; 78 FR 77782; 79 FR 1908; 79 FR 2247; 79 FR 14331; 79 FR 14333; 79 FR 17641; 79 FR 17642; 79 FR 17643; 79 FR 18391; 79 FR 24298; 80 FR 26320; 80 FR 33009; 80 FR 59225; 80 FR 63839; 80 FR 67476; 80 FR 67481; 80 FR 70060; 80 FR 79414; 80 FR 80443; 81 FR 14190; 81 FR 15401; 81 FR 15404; 81 FR 16265; 81 FR 17237; 81 FR 20433; 81 FR 20435; 81 FR 39100; 81 FR 44680; 81 FR 52516; 81 FR 91239; 82 FR 18949; 82 FR 47312; 83 FR 2311; 83 FR 4537; 83 FR 6681; 83 FR 6919; 83 FR 15195; 83 FR 18648; 83 FR 24146; 83 FR 24151; 83 FR 24571; 83 FR 15214; 83 FR 15216; 83 FR 28323; 83 FR 28328; 77 FR 15184; 77 FR 27850; 79 FR 21996; 67 FR 68719; 68 FR 2629; 68 FR 74699; 69 FR 10503; 69 FR 71100; 71 FR 6829; 72 FR 1053; 73 FR 15567; 73 FR 27015; 73 FR 76440; 75 FR 19674; 77 FR 23797; 79 FR 23797; 81 FR 21647; 81 FR 21655; 81 FR 66718; 79 FR 14571; 79 FR 28588; 75 FR 14656; 75 FR 28684; 77 FR 23800; 79 FR 22000; 79 FR 18392; 79 FR 29498; 64 FR 68195; 65 FR 20251; 67 FR 17102; 69 FR 17267; 71 FR 14566; 71 FR 16410; 71 FR 30227; 73 FR 27014; 75 FR 27622; 77 FR 20879; 77 FR 26816; 77 FR 31427; 67 FR 15662; 67 FR 37907; 69 FR 26206; 71 FR 26602; 73 FR 27017; 75 FR 27621; 77 FR 27849; 83 FR 18644; 83 FR 28342). They have submitted evidence showing that the vision in the better eye continues to meet the requirement specified at § 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past 2 years indicates each applicant continues to meet the vision exemption requirements. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of 2 years is likely to achieve a level of safety equal to that existing without the exemption.

In accordance with 49 U.S.C. 31136(e) and 31315(b), the following groups of drivers received renewed exemptions in the month of May and are discussed below. As of May 7, 2020, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 35 individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (65 FR 78256; 66 FR 16311; 68 FR 13360; 68 FR 37197; 68 FR 48989; 69 FR 64806; 70 FR 2705; 70 FR 25878; 70 FR 42615; 71 FR 5105; 71 FR 6826; 71 FR 19600; 71 FR 19602; 71 FR 32183; 71 FR 41310; 72 FR 1054; 72 FR 28093; 72 FR 40360; 73 FR 6242; 73 FR 11989; 73 FR 16950; 73 FR 60398; 74 FR 26464; 74 FR 34632; 74 FR 49069; 74 FR 65842; 75 FR 1835; 75 FR 9477; 75 FR 9480; 75 FR 9482; 75 FR 13653; 75 FR 22176; 76 FR 18824; 76 FR 29024; 76 FR 34135; 76 FR 62143; 76 FR 70212; 76 FR 78729; 77 FR 3552; 77 FR 10604; 77 FR 13689; 77 FR 13691; 77 FR 17107; 77 FR 17108; 78 FR 24798; 78 FR 34140; 78 FR 41975; 78 FR 46407; 78 FR 56986; 78 FR 62935; 78 FR 64274; 78 FR 76395; 78 FR 77778; 78 FR 77782; 79 FR 1908; 79 FR 2247; 79 FR 14331; 79 FR 14333; 79 FR 17641; 79 FR 17642; 79 FR 17643; 79 FR 18391; 79 FR 24298; 80 FR 26320 80 FR 33009; 80 FR 59225; 80 FR 63839; 80 FR 67476; 80 FR 67481; 80 FR 70060; 80 FR 79414; 80 FR 80443; 81 FR 14190; 81 FR 15401; 81 FR 15404; 81 FR 16265; 81 FR 17237; 81 FR 20433; 81 FR 20435; 81 FR 39100; 81 FR 44680; 81 FR 52516; 81 FR 91239; 82 FR 18949; 82 FR 47312; 83 FR 2311; 83 FR 4537; 83 FR 6681; 83 FR 6919; 83 FR 15195; 83 FR 18648; 83 FR 24146; 83 FR 24151; 83 FR 24571):

David R. Alford (UT)
Bradley T. Alspach (IL)
Otto J. Ammer, Jr. (PA)
Nick D. Bacon (KY)
Terry L. Baker (KY)
Morris R. Beebe II (CO)
James A. Champion (WA)
Loren D. Chapman (MN)
Larry Chinn (WI)
Kevin J. Cobb (PA)
Charles W. Cox (AR)
Walter F. Crean III (CT)
John T. Edmondson (AL)
Kenneth J. Fisk (MI)
Matt A. Guilmain (NH)
Steven W. Halsey (MO)
Volga Kirkwood (MO)
Paul K. Leger (NH)
Spencer E. Leonard (OH)
Juan J. Luna (CA)
Phillip P. Mazza (WI)
Dale A. McCoy (ME)
Cole W. McLaughlin (SD)
John D. Morgan (PA)
Russell L. Moyers, Sr. (WV)
Dakota J. Papsun (PA)
Jose R. Ponce Roman (TX)
Martin L. Reyes (IL)
Steven C. Sheeder (IA)
Robert D. Smith (OH)
Eric Taniguchi (HI)
Hany A. Wagieh (NJ)
Eddie Walker (NC)
Alan T. Watterson (MA)
Kenneth E. Wheland (PA)

The drivers were included in docket numbers FMCSA–2000–8398; FMCSA–2003–15268; FMCSA–2004–19477; FMCSA–2005–23238; FMCSA–2006–23773; FMCSA–2006–24783; FMCSA–2007–0071; FMCSA–2009–0011; FMCSA–2009–0291; FMCSA–2009–0321; FMCSA–2011–0057; FMCSA–2011–0365; FMCSA–2013–0027; FMCSA–2013–0030; FMCSA–2013–0166; FMCSA–2013–0169; FMCSA–2013–0174; FMCSA–2015–0070; FMCSA–2015–0072; FMCSA–2015–0345; FMCSA–2015–0350; FMCSA–2015–0351; FMCSA–2017–0026; and FMCSA–2017–0028. Their exemptions are applicable as of May 7, 2020, and will expire on May 7, 2022.

As of May 10, 2020, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 15 individuals have satisfied the renewal conditions for obtaining an exemption from the vision

requirement in the FMCSRs for interstate CMV drivers (83 FR 15214; 83 FR 15216; 83 FR 28323; 83 FR 28328):
Ahmed Abukhatwa (MI)
Jerome DeFabo (PA)
Jason P. Dostal (IN)
John C. Duncan (FL)
Kenneth M. Emerson (ID)
Steven W. Kyman (OR)
Jeffrey T. Landry (NC)
Trent C. McCain (KS)
David M. McCarty (OR)
Ermanno M. Santucci (IL)
Michael B. Sauseda (IL)
Jesse P. Schuster (ND)
Joseph L. Smith (WV)
Justin L. Tidyman (AR)
Timothy L. Tucker (KY)

The drivers were included in docket numbers FMCSA–2018–0007 and FMCSA–2018–0008. Their exemptions are applicable as of May 10, 2020, and will expire on May 10, 2022.

As of May 11, 2020, and in accordance with 49 U.S.C. 31136(e) and 31315, the following six individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (77 FR 15184; 77 FR 27850; 79 FR 21996; 81 FR 91239; 83 FR 24146):
Robert L. Brauns (IA)
Clifford W. Doran, Jr. (NC)
Glenn C. Grimm (NJ)
Richard A. Pucker (WI)
John M. Riley (AL)
Jeffery A. Sheets (AR)

The drivers were included in docket numbers FMCSA–2011–0379 and FMCSA–2011–0380. Their exemptions are applicable as of May 11, 2020, and will expire on May 11, 2022.

As of May 12, 2020, and in accordance with 49 U.S.C. 31136(e) and 31315, the following five individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (67 FR 68719; 68 FR 2629; 68 FR 74699; 69 FR 10503; 69 FR 71100; 71 FR 6829; 72 FR 1053; 73 FR 11989; 73 FR 15567; 73 FR 27015; 73 FR 76440; 75 FR 19674; 77 FR 23797; 79 FR 23797; 81 FR 91239; 83 FR 24146):
Leo G. Becker (KS)
Stanley W. Davis (TX)
Ray L. Emert (PA)
Neil W. Jennings (MO)
Aaron S. Taylor (WI)

The drivers were included in docket numbers FMCSA–2022–12844; FMCSA–2003–1656 and FMCSA–2008–0021. Their exemptions are applicable as of May 12, 2020, and will expire on May 12, 2022.

As of May 13, 2020, and in accordance with 49 U.S.C. 31136(e) and 31315, the following six individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (81 FR 21647; 81 FR 21655; 81 FR 66718; 83 FR 24146):
James T. Curtis (NM)
Mark E. Dow (VT)
Danny R. Floyd (OH)
Bradley K. Linde (IA)
Colby T. Smith (UT)
Carl J. Warnecke (OH)

The drivers were included in docket numbers FMCSA–2016–0024 and FMCSA–2016–0025. Their exemptions are applicable as of May 13, 2020, and will expire on May 13, 2022.

As of May 16, 2020, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 18 individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (79 FR 14571; 79 FR 28588; 81 FR 91239; 83 FR 24146):
Luis A. Agudo (MN)
Dmitriy D. Bayda (WA)
Billy D. Devine (WA)
James G. Donze (MO)
Dennis A. Feather (SC)
Robert E. Johnston, Jr. (WA)
David W. Leach (IL)
Jason S. Logue (GA)
David F. Martin (NJ)
Martin L. Mayes (GA)
Daniel A. McNabb, Jr. (KS)
Robert L. Murray (IL)
Bradley W. Reed (AL)
Erik M. Rice (TX)
Tatum R. Schmidt (IA)
Harry J. Scholl (PA)
Jacob A. Shaffer (PA)
James S. Smith (AR)

The drivers were included in docket number FMCSA–2014–0003. Their exemptions are applicable as of May 16, 2020, and will expire on May 16, 2022.

As of May 21, 2020, and in accordance with 49 U.S.C. 31136(e) and 31315, the following three individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (75 FR 9480; 75 FR 14656; 75 FR 22176; 75 FR 28684; 77 FR 23800; 79 FR 22000; 81 FR 91239; 83 FR 24146):

Herbert C. Hirsch (MO); Douglas L. Norman (NC); and Wayne J. Savage (VA)

The drivers were included in docket numbers FMCSA–2009–0011; and FMCSA–201–0050. Their exemptions are applicable as of May 21, 2020, and will expire on May 21, 2022.

As of May 22, 2020, and in accordance with 49 U.S.C. 31136(e) and 31315, the following eight individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (79 FR 18392; 79 FR 29498; 81 FR 91239; 83 FR 24146):
James E. Baker (OH)
Aaron D. Barnett (IA)
James P. Griffin (WA)
Dennis P. Hart (OR)
James D. Kessler (SD)
Rodney J. McMorran (IA)
John L. Meese (MO)
Elmer F. Winters (NC)

The drivers were included in docket number FMCSA–2014–0004. Their exemptions are applicable as of May 22, 2020, and will expire on May 22, 2022.

As of May 25, 2020, and in accordance with 49 U.S.C. 31136(e) and 31315, the following five individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (64 FR 68195; 65 FR 20251; 67 FR 17102; 69 FR 17267; 71 FR 14566; 71 FR 16410; 71 FR 30227; 73 FR 27014; 75 FR 27622; 77 FR 20879; 77 FR 26816; 77 FR 31427; 81 FR 91239; 83 FR 24146):
Jose A. Lopez (CT)
Earl E. Martin (VA)
Joseph C. Powell (VA)
David L. Schachle (PA)
Mark Sobczyk (WI)

The drivers were included in docket numbers FMCSA–1999–6480; FMCSA–2006–24015; and FMCSA–2012–0039. Their exemptions are applicable as of May 25, 2020, and will expire on May 25, 2022.

As of May 30, 2020, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 13 individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (67 FR 15662; 67 FR 37907; 69 FR 26206; 71 FR 26602; 73 FR 27017; 75 FR 27621; 77 FR 27849; 81 FR 91239; 83 FR 18644; 83 FR 24146; 83 FR 28342):
Zachary A. Abbotts (CT)
Joseph J. Amatulli (NY)
Joe W. Brewer (SC)
Jimmy L. Burgi (TX)
Gordon C. Canfield (MI)
Tammy J. Duval (NH)
James W. Ellis, 4th (NJ)
Brian K. LaJoie (MI)
James V. Latess (PA)
Kevin R. Stoner (PA)
John A. Thomas (NC)
Jerry L. Womble (AR)
Kevin Young (NJ)

The drivers were included in docket numbers FMCSA–2002–11714 and FMCSA–2018–0010. Their exemptions are applicable as of May 30, 2020, and will expire on May 30, 2022.

V. Conditions and Requirements

The exemptions are extended subject to the following conditions: (1) Each

driver must undergo an annual physical examination (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a certified medical examiner (ME), as defined by § 390.5, who attests that the driver is otherwise physically qualified under § 391.41; (2) each driver must provide a copy of the ophthalmologist's or optometrist's report to the ME at the time of the annual medical examination; and (3) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file or keep a copy of his/her driver's qualification if he/her is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VII. Conclusion

Based upon its evaluation of the 114 exemption applications, FMCSA renews the exemptions of the aforementioned drivers from the vision requirement in § 391.41(b)(10), subject to the requirements cited above. In accordance with 49 U.S.C. 31136(e) and 31315(b), each exemption will be valid for 2 years unless revoked earlier by FMCSA.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2020–08206 Filed 4–17–20; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Funding Opportunity for Consolidated Rail Infrastructure and Safety Improvements

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of Funding Opportunity (NOFO or notice).

SUMMARY: This notice details the application requirements and procedures to obtain grant funding for eligible projects under the Consolidated Rail Infrastructure and Safety Improvements (CRISI) Program. CRISI Program funding under this notice is provided by the Further Consolidated Appropriations Act, 2020 (2020 Appropriation). The opportunities described in this notice are made available under Catalog of Federal Domestic Assistance (CFDA) number 20.325, ''Consolidated Rail Infrastructure and Safety Improvements.''

DATES: Applications for funding under this solicitation are due no later than 5:00 p.m. ET, June 19, 2020. Applications received after 5:00 p.m. ET on June 19, 2020 will not be considered for funding. Incomplete applications will not be considered for funding. See Section D of this notice for additional information on the application process.

ADDRESSES: Applications must be submitted via *www.Grants.gov.* Only applicants who comply with all submission requirements described in this notice and submit applications through *www.Grants.gov* will be eligible for award. For any supporting application materials that an applicant is unable to submit via *www.Grants.gov* (such as oversized engineering drawings), an applicant may submit an original and two (2) copies to Ms. Frances Bourne, Office of Policy and Planning, Federal Railroad Administration, 1200 New Jersey Avenue SE, Room W38–207, Washington, DC 20590. However, due to delays caused by enhanced screening of mail delivered via the U.S. Postal Service, applicants are advised to use other means of conveyance (such as courier service) to assure timely receipt of materials before the application deadline.

FOR FURTHER INFORMATION CONTACT: For further project or program-related information in this notice, please contact Ms. Frances Bourne, Office of Policy and Planning, Federal Railroad Administration, 1200 New Jersey Avenue SE, Room W38–207, Washington, DC 20590; email: *frances.bourne@dot.gov;* phone: 202–493–6366.

SUPPLEMENTARY INFORMATION:

Notice to applicants: FRA recommends that applicants read this notice in its entirety prior to preparing application materials. Definitions of key terms used throughout the NOFO are provided in Section A(2) below. These key terms are capitalized throughout the NOFO. There are several administrative prerequisites and specific eligibility requirements described herein with which applicants must comply. Additionally, applicants should note that the required Project Narrative component of the application package may not exceed 25 pages in length.

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A. Program Description

1. Overview

This program leverages private, state and local investments to support safety enhancements and general improvements to infrastructure for both intercity passenger and freight railroads. The U.S. rail network is central to the success of the American economy, carrying more than 1.8 billion tons of freight valued at more than $830 billion annually, and over 32.5 million passengers on Intercity Rail Passenger Transportation services. Both services primarily operate over privately-owned and maintained infrastructure, allowing for strong private, capital market investment that generates public benefit, including public-private partnerships among other models.

A strong transportation network is critical to the functioning and growth of the American economy. The nation's industry depends on the transportation network to move the goods that it produces, and facilitate the movements of the workers who are responsible for that production. When the nation's highways, railways, and ports function well, that infrastructure connects people to jobs, increases the efficiency of delivering goods and thereby cuts the costs of doing business, reduces the burden of commuting, and improves overall well-being.

Rural transportation networks play a vital role in supporting our national economic vitality. Addressing the deteriorating conditions and disproportionately high fatality rates on our rural transportation infrastructure is of critical interest to DOT, as rural transportation networks face unique challenges in safety, infrastructure condition, and passenger and freight usage. Consistent with the Rural Opportunities to Use Transportation for

Economic Success (R.O.U.T.E.S.) Initiative, DOT will consider how the project will address the challenges faced by rural areas.

DOT is committed to addressing the unmet transportation infrastructure needs of rural areas. Underinvestment in rural transportation systems has allowed a slow and steady decline in the transportation routes that connect rural American communities to each other and to the rest of the country, fraying the fabric of American interconnectivity. A majority of the nation's rail route miles are in rural America. Investment is necessary to grow rural economies, facilitate freight movement, improve access to reliable and affordable transportation options and enhance access to healthcare and safety for residents.

DOT also recognizes the importance of applying life cycle asset management principles throughout America's infrastructure. It is important for rail infrastructure owners and operators, as well as those who may apply on their behalf, to plan for the maintenance and replacement of assets and the associated costs.

Congress authorized this grant program for the Secretary to invest in a wide range of projects within the United States to improve railroad safety, efficiency, and reliability; mitigate congestion at both intercity passenger and freight rail chokepoints; enhance multi-modal connections; and lead to new or substantially improved intercity passenger rail transportation corridors. Rail safety projects include, but are not limited to, grade crossing enhancements, rail line relocations and improvements, and deployment of railroad safety technology. Eligible work also includes: Regional rail and corridor planning, environmental analyses, and research, workforce development, and training. The purpose of this notice is to solicit applications for the competitive CRISI Program funding provided in the 2020 Appropriation. The CRISI Program is authorized under Section 11301 of the Fixing America's Surface Transportation (FAST) Act, Public Law 114–94 (2015); 49 U.S.C. 22907 and funds made available in this NOFO are provided in the 2020 Appropriation.

2. Definitions of Key Terms

a. ''Benefit-Cost Analysis'' (or ''Cost-Benefit Analysis'') is a systematic, data driven, and transparent analysis comparing monetized project benefits and costs, using a no-build baseline and properly discounted present values, including concise documentation of the assumptions and methodology used to produce the analysis; a description of the baseline, data sources used to project outcomes, and values of key input parameters; basis of modeling including spreadsheets, technical memos, etc.; and presentation of the calculations in sufficient detail and transparency to allow the analysis to be reproduced and for sensitivity of results evaluated by FRA. Please refer to the Benefit-Cost Analysis Guidance for Discretionary Grant Programs prior to preparing a BCA at *https://www.transportation.gov/office-policy/transportation-policy/benefit-cost-analysis-guidance.* In addition, please also refer to the BCA FAQs on FRA's website for rail specific examples of how to apply the BCA Guidance for Discretionary Grant Programs to CRISI applications.

b. ''Capital Project'' means a project for: Acquiring, constructing, improving, or inspecting rail equipment, track and track structures, or a rail facility; expenses incidental to the acquisition or construction including pre-construction activities (such as designing, engineering, location surveying, mapping, acquiring rights-of-way) and related relocation costs, environmental studies, and all work necessary for FRA to approve the project under the National Environmental Policy Act; highway-rail grade crossing improvements; communication and signalization improvements; and rehabilitating, remanufacturing or overhauling rail rolling stock and facilities.[1]

c. ''Construction'' means the production of fixed works and structures or substantial alterations to such structures or land and associated costs.

d. ''Final Design (FD)'' means design activities following Preliminary Engineering, and at a minimum, includes the preparation of final Construction plans, detailed specifications, and estimates sufficiently detailed to inform project stakeholders (designers, reviewers, contractors, suppliers, etc.) of the actions required to advance the project from design through completion of Construction.

e. ''Improvement'' means repair or enhancement to existing rail infrastructure, or Construction of new rail infrastructure, that results in efficiency of the rail system and the safety of those affected by the system.

f. ''Intercity Rail Passenger Transportation'' means rail passenger transportation, except commuter rail passenger transportation. See 49 U.S.C. 22901(3). In this notice, ''Intercity Passenger Rail Service'' and ''Intercity Passenger Rail Transportation'' are equivalent terms to ''Intercity Rail Passenger Transportation.''

g. ''National Environmental Policy Act (NEPA)'' is a Federal law that requires Federal agencies to analyze and document the environmental impacts of a proposed action in consultation with appropriate Federal, state, and local authorities, and with the public. NEPA classes of action include an Environmental Impact Statement (EIS), Environmental Analysis (EA) or Categorical Exclusion (CE). The NEPA class of action depends on the nature of the proposed action, its complexity, and the potential impacts. For purposes of this NOFO, NEPA also includes all related Federal laws and regulations including the Clean Air Act, Section 4(f) of the Department of Transportation Act, Section 7 of the Endangered Species Act, and Section 106 of the National Historic Preservation Act. Additional information regarding FRA's environmental processes and requirements are located at *https://www.fra.dot.gov/environment.*

h. ''Planning'' means activities that support the development of a state or regional rail plan or a corridor service development plan. Project-specific (*e.g.,* rail station or port improvements) planning is not eligible.

i. ''Positive Train Control (PTC) system'' is defined by 49 CFR 270.5 to mean a system designed to prevent train-to-train collisions, overspeed derailments, incursions into established work zone limits, and the movement of a train through a switch left in the wrong position, as described in 49 CFR part 236, subpart I.

j. ''Preliminary Engineering (PE)'' means engineering design to: (1) Define a project, including identification of all environmental impacts, design of all critical project elements at a level sufficient to assure reliable cost estimates and schedules, (2) complete project management and financial plans, and (3) identify procurement requirements and strategies. The PE development process starts with specific project design alternatives that allow for the assessment of a range of rail improvements, specific alignments, and project designs. PE generally occurs concurrently with NEPA and related analyses, and prior to FD and Construction.

k. ''Rail Carrier'' means a person providing common carrier railroad

[1] For any project that includes purchasing Intercity Passenger Rail equipment, applicants are encouraged to use a standardized approach to the procurement of passenger rail equipment, such as the specifications developed by the Next Generation Corridor Equipment Pool Committee or a similar uniform process.

transportation for compensation, but does not include street, suburban, or interurban electric railways not operated as part of the general system of rail transportation. See 49 U.S.C. 10102(5).

l. ''Relocation'' is defined to mean moving a rail line vertically or laterally to a new location. Vertical Relocation refers to raising above the current ground level or sinking below the current ground level of a rail line. Lateral Relocation refers to moving a rail line horizontally to a new location.

m. ''Rural Project'' means a project in which all or the majority of the project (determined by the geographic location or locations where the majority of the project funds will be spent) is located in a Rural Area.

n. ''Rural Area'' is defined in 49 U.S.C. 22907(g)(2) to mean any area not in an urbanized area as defined by the Census Bureau. The Census Bureau defines Urbanized Area (UA) as an area with a population of 50,000 or more people.[2] Updated lists of UAs as defined by the Census Bureau are available on the Census Bureau website at *http://www2.census.gov/geo/maps/dc10map/UAUC_RefMap/ua/.*

B. Federal Award Information

1. Available Award Amount

The total funding available for awards under this NOFO is $311,772,500. Should additional CRISI funds become available after the release of this NOFO, FRA may elect to award such additional funds to applications received under this NOFO.

Of the $325,000,000 made available in the 2020 Appropriation, at least 25 percent, or $81,250,000 will be made available for Rural Projects as required by 49 U.S.C. 22907 and $45 million will be made available for projects eligible under 49 U.S.C. 22907(c)(2) that require the acquisition of rights-of-way, track, or track structure projects to support the development of new intercity passenger rail service routes. Additionally, $9,977,500 has been set aside for Special Transportation Circumstances, which will be made available under a separate NOFO. FRA will also set aside $3,250,000 for award and program oversight.

2. Award Size

There are no minimum or maximum dollar thresholds for awards. FRA anticipates making multiple awards with the available funding. FRA may not be able to award grants to all eligible applications, nor even to all applications that meet or exceed the stated evaluation criteria (see Section E, Application Review Information). Projects may require more funding than is available. FRA encourages applicants to propose projects or components of projects that have operational independence and that can be completed and implemented with CRISI funding as a part of the total project cost together with other, non-Federal sources.

FRA strongly encourages applicants to identify and include other state, local, public, or private funding or financing to support the proposed project in order to maximize competitiveness.

3. Award Type

FRA will make awards for projects selected under this notice through grant agreements and/or cooperative agreements. Grant agreements are used when FRA does not expect to have substantial Federal involvement in carrying out the funded activity. Cooperative agreements allow for substantial Federal involvement in carrying out the agreed upon investment, including technical assistance, review of interim work products, and increased program oversight. The funding provided under this NOFO will be made available to grantees on a reimbursable basis. Applicants must certify that their expenditures are allowable, allocable, reasonable, and necessary to the approved project before seeking reimbursement from FRA. Additionally, the grantee is expected to expend matching funds at the required percentage concurrent with Federal funds throughout the life of the project. See an example of standard terms and conditions for FRA grant awards at: *https://www.fra.dot.gov/eLib/Details/L19057.* This template is subject to revision.

4. Concurrent Applications

DOT and FRA may be concurrently soliciting applications for transportation infrastructure projects for several financial assistance programs, and applicants may submit applications requesting funding for a particular project to one or more of these programs. In the application for CRISI Program funding under this NOFO, applicants must indicate other programs, including other CRISI NOFOs, to which they submitted or plan to submit an application for funding the entire project or certain project components, as well as highlight new or revised information in the application responsive to this NOFO that differs from the application(s) for other Federal financial assistance programs or other CRISI NOFOs.

C. Eligibility Information

This section of the notice explains applicant eligibility, cost sharing and matching requirements, project eligibility, and project component operational independence. Applications that do not meet the requirements in this section will be ineligible for funding. Instructions for submitting eligibility information to FRA are detailed in Section D of this NOFO.

1. Eligible Applicants

The following entities are eligible applicants for all project types permitted under this notice:

a. A State;

b. A group of States;

c. An Interstate Compact;

d. A public agency or publicly chartered authority established by one or more States; [3]

e. A political subdivision of a State;

f. Amtrak or another Rail Carrier that provides Intercity Rail Passenger Transportation (as defined in 49 U.S.C. 24102);

g. A Class II railroad or Class III railroad (as those terms are defined in 49 U.S.C. 20102) or a holding company of a Class II or III railroad;

h. Any Rail Carrier or rail equipment manufacturer in partnership with at least one of the entities described in paragraph (a) through (e); [4]

i. The Transportation Research Board together with any entity with which it contracts in the development of rail-related research, including cooperative research programs;

j. A University transportation center engaged in rail-related research; or

k. A non-profit labor organization representing a class or craft of employees of Rail Carriers or Rail Carrier contractors.

Applications must identify an eligible applicant as the lead applicant. The lead applicant serves as the primary point of contact for the application, and if selected, as the grantee of the CRISI Program grant award. Eligible applicants may reference entities that are not eligible applicants in an application as a project partner.

2. Cost Sharing or Matching

The Federal share of total costs for projects funded under this notice will

[2] *See* 74 FR 53030, 53043 (August 24, 2011) *available at https://www2.census.gov/geo/pdfs/reference/fedreg/fedregv76n164.pdf.*

[3] See Section D(2)(a)(iv) for supporting documentation required to demonstrate eligibility under this eligibility category.

[4] See Section D(2)(a)(iv) for supporting information required to demonstrate eligibility under this eligibility category.

not exceed 80 percent though FRA will provide selection preference to applications where the proposed Federal share of total project costs is 50 percent or less. The estimated total cost of a project must be based on the best available information, including engineering studies, studies of economic feasibility, environmental analyses, and information on the expected use of equipment and/or facilities. Additionally, in preparing estimates of total project costs, applicants should refer to FRA's cost estimate guidance documentation, ''Capital Cost Estimating: Guidance for Project Sponsors,'' which is available at: *https://www.fra.dot.gov/Page/P0926.*

The minimum 20 percent non-Federal match may be comprised of public sector (*e.g.,* state or local) and/or private sector funding. FRA will not consider any Federal financial assistance [5] or any non-Federal funds already expended (or otherwise encumbered) toward the matching requirement, unless compliant with 2 CFR part 200. FRA is limiting the first 20 percent of the non-Federal match to cash contributions only. Eligible in-kind contributions may be accepted for any non-Federal matching beyond the first 20 percent. In-kind contributions, including the donation of services, materials, and equipment, may be credited as a project cost, in a uniform manner consistent with 2 CFR 200.306. Moreover, FRA encourages applicants to broaden their funding table in applications. Non-federal shares consisting of funding from multiple sources (*e.g.,* a state, county, railroad, and university contributing to a grade crossing improvement) to demonstrate broad participation and cost sharing from affected stakeholders, will be given preference.

Amtrak or another Rail Carrier may use ticket and other non-Federal revenues generated from its operations and other sources as matching funds. Applicants must identify the source(s) of its matching and other funds, and must clearly and distinctly reflect these funds as part of the total project cost.

Before applying, applicants should carefully review the principles for cost sharing or matching in 2 CFR 200.306. See Section D(2)(a)(iii) for required application information on non-Federal match and Section E for further discussion of FRA's consideration of matching funds in the review and selection process. FRA will approve pre-award costs consistent with 2 CFR 200.458, as applicable. See Section D(6). Cost sharing or matching may be used only for authorized Federal award purposes.

3. Other

a. Project Eligibility

The following rail projects within the United States that improve the safety, efficiency, and/or reliability of passenger and/or freight rail transportation systems are eligible for funding under 49 U.S.C. 22907 and this NOFO:

i. Deployment of railroad safety technology, including positive train control and rail integrity inspection systems.[6] PTC examples include: Back office systems; wayside, communications and onboard hardware equipment; software; equipment installation; spectrum; any component, testing and training for the implementation of PTC systems; and interoperability. Maintenance and operating expenses incurred after a PTC system is placed in revenue service are ineligible. Railroad safety technology and rail integrity inspection system examples include: Broken rail detection and warning systems; track intrusion systems; and hot box detectors, wheel impact load detectors, and other safety improvements.[7]

ii. A capital project as defined in 49 U.S.C. 22901(2) relating to Intercity Passenger Rail Service, except that such projects are not required to be in a State rail plan under the CRISI Program. Examples include: Acquisition, improvement, or rehabilitation of railroad equipment (locomotives and rolling stock); railroad infrastructure (grade crossings, catenary, and signals); and rail facilities (yards, passenger stations, or maintenance and repair shops). For any project that includes purchasing Intercity Passenger Rail equipment, applicants are encouraged to use a standardized approach to the procurement of passenger rail equipment, such as the specifications developed by the Next Generation Corridor Equipment Pool Committee or a similar uniform process.

iii. A Capital Project necessary to address congestion challenges affecting rail service. Examples include: Projects addressing congestion that increase rail capacity; add or upgrade the condition, clearances, and capacity of rail mainlines; enhance capacity and service with less conflict between freight and Intercity Passenger Rail; reduce delays and risks associated with highway-rail grade crossings; and provide more effective rail equipment.

iv. A Capital Project necessary to reduce congestion and facilitate ridership growth in Intercity Passenger Rail Transportation along heavily traveled rail corridors. Examples include: Projects addressing congestion that improve stations; increase rail capacity; reduce conflict between freight and Intercity Passenger Rail; reduce delays and risks associated with highway-rail grade crossings; and provide more effective rail equipment.

v. A highway-rail grade crossing improvement project, including installation, repair, or improvement of grade separations, railroad crossing signals, gates, and related technologies; highway traffic signalization; highway lighting and crossing approach signage; roadway improvements such as medians or other barriers; railroad crossing panels and surfaces; and safety engineering improvements to reduce risk in quiet zones or potential quiet zones.

vi. A rail line Relocation and Improvement project. Examples include projects that: Improve the route or structure of a rail line by replacing degraded track; enhance/relocate railroad switching operations; add or lengthen passing tracks to increase capacity; improve interlockings; and relocate rail lines to alleviate congestion, and eliminate frequent rail service interruptions.

vii. A Capital Project to improve short-line or regional railroad infrastructure.

viii. The preparation of regional rail and corridor service development plans and corresponding environmental analyses. (See the examples under Track 1 and 2 below in Subsections C(3)(b)(i)–(ii) as they apply to regional and corridor rail Planning.)

ix. A project necessary to enhance multimodal connections or facilitate service integration between rail service and other modes, including between Intercity Rail Passenger Transportation and intercity bus service or commercial air service. Examples include: Intermodal transportation facilities projects that encourage joint scheduling, ticketing, and/or baggage handling; freight rail intermodal connections; and rail projects improving access to ports.

x. The development and implementation of a safety program or institute designed to improve rail safety. Examples include: Employee training; and public safety outreach and education.

[5] See Section D(2)(a)(iii) for supporting information required to demonstrate eligibility of Federal funds for use as match.

[6] Pursuant to the 2020 Appropriation, 49 U.S.C. 22905(f) shall not apply to projects for the implementation of positive train control systems, otherwise eligible under 49 U.S.C. 22907(c)(1).

[7] Only costs for FD and Construction project stages and forward are eligible within this project eligibility category.

xi. Any research that the Secretary considers necessary to advance any particular aspect of rail related capital, operations, or safety improvements.

xii. Workforce development and training activities, coordinated to the extent practicable with the existing local training programs supported by the Department of Transportation, the Department of Labor, and the Department of Education.[8]

Applicants that intend to charge indirect costs through the use of a negotiated indirect cost rate must have a current, signed, federal-approved indirect cost rate agreement. Applicants that have never received a federally-approved indirect cost rate may elect to charge a de minimis rate of 10% of modified total direct costs, which may be used indefinitely. This includes state and local governments that have never negotiated an indirect cost rate with the federal government and receive less than $35 million in direct federal funding per year. Organizations that wish to negotiate an indirect cost rate should contact FRA's Office of the Chief Financial Officer at *FRA.CFO@dot.gov.*

For a project that uses rights-of-way owned by a railroad, and the railroad is not the applicant, FRA requires that a written agreement exist between the applicant and the railroad regarding use and ownership consistent with 49 U.S.C. 22905(c)(1). This requirement is a condition to making a grant under the CRISI Program.

b. Project Tracks for Eligible Projects

Applicants are not limited in the number of projects for which they seek funding. FRA will not limit eligible projects from consideration for funding for planning, environmental, engineering, design, and construction elements of the same project in the same application. Applicants are allowed to include multiple phases of a project in the same application. However, depending on the project, applications for multiple phases of project development may not contain sufficient detail with regards to scope, schedule, or budget for all phases of the application to compete well in the application review process.[9]

An applicant must identify one or more of the following four tracks for an eligible project: Track 1—Planning; Track 2—PE/NEPA; Track 3—FD/Construction; or Track 4—Research, Safety Programs and Institutes.

i. Track 1—Planning

Track 1 consists of eligible rail Planning projects. Examples include the technical analyses and associated environmental analyses that support the development of state rail plans, regional rail plans, and corridor service development plans, including: identification of alternatives, rail network Planning, market analysis, travel demand forecasting, revenue forecasting, railroad system design, railroad operations analysis and simulation, equipment fleet Planning, station and access analysis, conceptual engineering and capital programming, operating and maintenance cost forecasting, capital replacement and renewal analysis, and economic analysis. Project-specific (*e.g.,* rail station or port improvements) planning is not an eligible Track 1 project.

ii. Track 2—PE/NEPA

Track 2 consists of eligible PE/NEPA projects. PE examples include: PE drawings and specifications (scale drawings at the 30% design level, including track geometry as appropriate); design criteria, schematics and/or track charts that support the development of PE; and work that can be funded in conjunction with developing PE, such as operations modeling, surveying, project work/management plans, preliminary cost estimates, and preliminary project schedules. PE/NEPA projects funded under this NOFO must be sufficiently developed to support FD or Construction activities.

iii. Track 3—FD/Construction

Track 3 consists of eligible projects for FD, Construction, and project implementation and deployment activities. Applicants must complete all necessary Planning, PE and NEPA requirements for FD/Construction projects. FD funded under this track must: Resolve remaining uncertainties or risks associated with changes to design scope; address procurement processes; and update and refine plans for financing the project or program to reflect accurately the expected year-of-expenditure costs and cash flow projections. Applicants selected for funding for FD/Construction must demonstrate the following to FRA's satisfaction:

(A) PE is completed for the proposed project, resulting in project designs that are reasonably expected to conform to all regulatory, safety, security, and other design requirements, including those under the Americans with Disabilities Act (ADA);

(B) NEPA is completed for the proposed project;

(C) Signed agreements with key project partners, including infrastructure-owning entities; and

(D) A project management plan is in-place for managing the implementation of the proposed project, including the management and mitigation of project risks.

FD examples include: Drawings at the 100% Design Level, interim design drawings that support development (*e.g.,* drawings at the 60% Design Level), project work/project management plan, cost estimates, project schedules, and right-of-way acquisition and relocation plans. Construction examples include: Additions, improvements, replacements, renovations and/or repairs to track, bridge, station, rail yard, signal, and communication system infrastructure, or other railroad safety technology.

iv. Track 4—Research, Safety Programs and Institutes (Non-Railroad Infrastructure)

Track 4 consists of projects not falling within Tracks 1–3 including workforce development activities, research, safety programs or institutes designed to improve rail safety that clearly demonstrate the expected positive impact on rail safety. Sufficient detail must be provided on what the project will accomplish, as well as the applicant's capability to achieve the proposed outcomes. Examples include: initiatives for improving rail safety, training, public outreach, and education.

c. Project Component Operational Independence

If an applicant requests funding for a project that is a component or set of components of a larger project, the project component(s) must be attainable with the award amount, together with other funds as necessary, obtain operational independence, and must comply with all eligibility requirements described in Section C.

In addition, the component(s) must be capable of independent analysis and decision making, as determined by FRA, under NEPA (*i.e.,* have independent utility, connect logical termini, if applicable, and not restrict the consideration of alternatives for other reasonably foreseeable rail projects.)

[8] See Section D.2.a.vi.(D) for required application information relevant to this eligibility category.

[9] The scope, schedule, and budget necessary to implement a project, as well as the definition of the project's potential benefits, are typically informed by the work conducted in prior phases of project development (*e.g.,* the specific elements of an FD/Construction project and their cost estimates are developed and refined through PE.) The evaluation criteria for the CRISI Program (see Section E of this NOFO) considers the level of detail contained in the applicant's proposed scope of work and readiness for the project to be implemented.

d. Rural Project

FRA will consider a project to be in a Rural Area if all or the majority of the project (determined by geographic location(s) where the majority of the project funds will be spent) is located in a Rural Area. However, in the event FRA elects to fund a component of the project, then FRA will reexamine whether the project is in a Rural Area.

D. Application and Submission Information

Required documents for the application are outlined in the following paragraphs. Applicants must complete and submit all components of the application. See Section D(2) for the application checklist. FRA welcomes the submission of additional relevant supporting documentation, such as planning, engineering and design documentation, and letters of support from partnering organizations that will not count against the Project Narrative 25-page limit. Consistent with the R.O.U.T.E.S. Initiative, DOT encourages applicants to consider how the project will address the challenges faced by rural areas, generally.

1. Address To Request Application Package

Applicants must submit all application materials in their entirety through *www.Grants.gov* no later than 5:00 p.m. ET, on June 19, 2020. FRA reserves the right to modify this deadline. General information for submitting applications through *Grants.gov* can be found at: *https://www.fra.dot.gov/Page/P0270.*

For any supporting application materials that an applicant cannot submit via *Grants.gov*, such as oversized engineering drawings, an applicant may submit an original and two (2) copies to Ms. Frances Bourne, Office of Policy and Planning, Federal Railroad Administration, 1200 New Jersey Avenue SE, Room W38–207, Washington, DC 20590. Due to delays caused by enhanced screening of mail delivered via the U.S. Postal Service, FRA advises applicants to use other means of conveyance (such as courier service) to assure timely receipt of materials before the application deadline. Additionally, if documents can be obtained online, providing instructions to FRA on how to access files on a referenced website may also be sufficient.

2. Content and Form of Application Submission

FRA strongly advises applicants to read this section carefully. Applicants must submit all required information and components of the application package to be considered for funding.

Required documents for an application package are outlined in the checklist below.

i. Project Narrative (see D.2.a)

ii. Statement of Work (see D.2.b.i)

iii. Benefit-Cost Analysis (see D.2.b.ii)

iv. SF424—Application for Federal Assistance

v. Either: SF 424A—Budget Information for Non-Construction projects (required for Tracks 1, 2 and 4) or SF 424C—Budget Information for Construction (required for any application that includes Track 3)

vi. Either: SF 424B—Assurances for Non-Construction projects (required for Tracks 1, 2 and 4) or SF 424D—Assurances for Construction (required for any application that includes Track 3)

vii. FRA's Additional Assurances and Certifications

viii. SF LLL—Disclosure of Lobbying Activities

a. Project Narrative

This section describes the minimum content required in the Project Narrative of the grant application. The Project Narrative must follow the basic outline below to address the program requirements and assist evaluators in locating relevant information.

I. Cover Page	See D.2.a.i
II. Project Summary	See D.2.a.ii
III. Project Funding	See D.2.a.iii
IV. Applicant Eligibility	See D.2.a.iv
V. Project Eligibility	See D.2.a.v
VI. Detailed Project Description.	See D.2.a.vi
VII. Project Location	See D.2.a.vii
VIII. Evaluation and Selection Criteria.	See D.2.a.viii
IX. Project Implementation and Management.	See D.2.a.ix
X. Planning Readiness	See D.2.a.x
XI. Environmental Readiness	See D.2.a.xi

The above content must be provided in a narrative statement submitted by the applicant. The Project Narrative may not exceed 25 pages in length (excluding cover pages, table of contents, and supporting documentation). FRA will not review or consider Project Narratives beyond the 25-page limitation. If possible, applicants should submit supporting documents via website links rather than hard copies. If supporting documents are submitted, applicants must clearly identify the page number(s) of the relevant portion in the Project Narrative supporting documentation. The Project Narrative must adhere to the following outline.

i. *Cover Page:* Include a cover page that lists the following elements in a table:

Project Title	
Applicant	
Project Track	1,2,3 and/or 4
Was a Federal grant application previously submitted for this project?	Yes/no
If yes, state the name of the Federal grant program and title of the project in the previous application.	Federal Grant Program: Project Title:
Is this a Rural Project? What percentage of the project cost is based in a Rural Area?	Yes/no Percentage of total project cost:
Is this a project eligible under 49 U.S.C. 22907(c)(2) that requires the acquisition of rights-of-way, track, or track structure to support the development of new intercity passenger rail service routes?.	Yes/no
City(ies), State(s) where the project is located	
Urbanized Area where the project is located	
Population of Urbanized Area	
Is the project currently programmed in the: State rail plan, State Freight Plan, TIP, STIP, MPO Long Range Transportation Plan, State Long Range Transportation Plan?.	Yes/no (If yes, please specify in which plans the project is currently programmed)

ii. *Project Summary:* Provide a brief 4–6 sentence summary of the proposed project and what the project will entail. Include challenges the proposed project aims to address, and summarize the intended outcomes and anticipated

benefits that will result from the proposed project.

iii. *Project Funding:* Indicate in table format the amount of Federal funding requested, the proposed non-Federal match, identifying contributions from the private sector if applicable, and total project cost. Describe the non-Federal funding arrangement, including multiple sources of non-Federal funding if applicable. Include funding commitment letters outlining funding agreements, as attachments or in an appendix. If federal funding is proposed as match, demonstrate the applicant's determination of eligibility for such use and the legal basis for that determination. Identify any specific project components that the applicant proposes for partial project funding. If all or a majority of a project is located in a Rural Area, identify the Rural Area(s) and estimated percentage of project costs that will be spent in the Rural Area. Identify any previously incurred costs, as well as other sources of Federal funds committed to the project and any pending Federal requests. Also, note if the requested Federal funding under CRISI or other programs must be obligated or spent by a certain date due to dependencies or relationships with other Federal or non-Federal funding sources, related projects, law, or other factors. If applicable, provide the type and estimated value of any proposed in-kind contributions, and demonstrate how the in-kind contributions meet the requirements in 2 CFR 200.306.

EXAMPLE PROJECT FUNDING TABLE

Task #	Task name/ project component	Cost	Percentage of total cost
1.			
2.			
Total Project Cost.			
Federal Funds Received from Previous Grant.			
CRISI Federal Funding Request.			
Non-Federal Funding/Match		Cash: In-Kind:	
Portion of Non-Federal Funding from the Private Sector.			
Portion of Total Project Costs Spent in a Rural Area Pending Federal Funding Requests.			

iv. Applicant Eligibility: Explain how the applicant meets the applicant eligibility criteria outlined in Section C of this notice. For public agencies and publicly chartered authorities established by one or more states, the explanation must include citations to the applicable enabling legislation. If the applicant is eligible under 49 U.S.C. 22907(b)(8) as a Rail Carrier or rail equipment manufacturer in partnership with at least one of the other eligible entities, the applicant should explain the partnership and each entity's contribution to the partnership.

v. Project Eligibility: Identify which project eligibility category the project is eligible under in Section C(3) of this notice, and explain how the project meets the project eligibility criteria.

vi. Detailed Project Description: Include a detailed project description that expands upon the brief project summary. This detailed description should provide, at a minimum, background on the challenges the project aims to address; the expected users and beneficiaries of the project, including all railroad operators; the specific components and elements of the project; and any other information the applicant deems necessary to justify the proposed project. If applicable, explain how the project will benefit communities in Rural Areas. An applicant should specify whether it is seeking funding for a project that has already received Federal financial assistance, and if applicable, explain how the new scope proposed to be funded under this NOFO relates to the previous scope. Consistent with DOT's R.O.U.T.E.S. Initiative (*https://www.transportation.gov/rural*), DOT encourages applicants to describe how activities proposed in their application would address the unique challenges facing rural transportation networks, regardless of the geographic location of those activities.

For all projects, applicants must provide information about proposed performance measures, as discussed in Section F(3)(c) and required in 2 CFR 200.301 and 49 U.S.C. 22907(f).

(A) Grade crossing information, if applicable: For any project that includes grade crossing components, cite specific DOT National Grade Crossing Inventory information, including the railroad that owns the infrastructure (or the crossing owner, if different from the railroad), the primary railroad operator, the DOT crossing inventory number, and the roadway at the crossing. Applicants can search for data to meet this requirement at the following link: *http://safetydata.fra.dot.gov/OfficeofSafety/default.aspx.* In addition, if applicable, applicants must cite the page number in the grade crossing action plan where the grade crossing is referenced.

(B) Heavily traveled rail corridor information, if applicable: For any project eligible under the eligibility category in Subsection C(3)(a)(iv), that reduces congestion and facilitates ridership growth in Intercity Passenger Rail Transportation, describe how the project is located on a heavily traveled rail corridor.

(C) *PTC information, if applicable:* For any project that includes deploying PTC systems, applicants must:

1. Document submission of a revised Positive Train Control Implementation Plan (PTCIP) to FRA as required by 49 U.S.C. 20157(a);

2. Document that it is a tenant on one or more host railroads that submitted a revised PTCIP to FRA as required by 49 U.S.C. 20157(a), which states the tenant railroad is equipping its rolling stock with a PTC system and provides all other information required under 49 CFR 236.1011 regarding the tenant railroad; or

3. Document why the applicant is not required to submit a revised PTCIP as

required by 49 U.S.C. 20157(a), and whether the proposed project will assist in the deployment (*i.e.,* installation and/or full implementation) of a PTC system required under 49 U.S.C. 20157.

(D) Workforce development and training information, if applicable: For any project that includes workforce development, applicants must document to the extent practicable similar existing local training programs supported by the Department of Transportation, the Department of Labor, and/or the Department of Education.

vii. *Project Location:* Include geospatial data for the project, as well as a map of the project's location. On the map, include the Congressional districts and Rural Area boundaries, if applicable, in which the project will take place.

viii. *Evaluation and Selection Criteria:* Include a thorough discussion of how the proposed project meets all the evaluation criteria and selection criteria, as outlined in Section E of this notice. If an application does not sufficiently address the evaluation and selection criteria, it is unlikely to be a competitive application. For the life-cycle cost selection criteria, applicants should demonstrate a credible plan to maintain their asset without having to rely on Federal funding including a description of the applicants' approach to ensuring operations and maintenance will not be underfunded in future years. For projects (other than those projects for the implementation of positive train control systems otherwise eligible under 49 U.S.C. 22907(c)(1)) that are on a shared corridor with Commuter Railroad Passenger Transportation, demonstrate how funding the proposed project would be a reasonable investment in Intercity Passenger Rail Transportation and/or freight rail transportation.

ix. *Project Implementation and Management:* Describe proposed project implementation and project management arrangements. Include descriptions of the expected arrangements for project contracting, contract oversight, change-order management, risk management, and conformance to Federal requirements for project progress reporting (see *https://www.fra.dot.gov/Page/P0274*). Describe past experience in managing and overseeing similar projects.

x. *Planning Readiness for Tracks 2 and 3 (PE/NEPA and FD/Construction Projects:* Provide information about the planning process that analyzed the investment needs and service objectives of the project. If applicable, cite sources of this information from a service development plan, State or regional rail plan, or similar planning document where the project has been identified for solving a specific existing transportation problem, and makes the case for investing in the proposed solution.

xi. *Environmental Readiness for Track 3 FD/Construction Projects:* If the NEPA process is complete, an applicant should indicate the date of completion, and provide a website link or other reference to the documents demonstrating compliance with NEPA, which might include a final CE determination, Finding of No Significant Impact, or Record of Decision. If the NEPA process is not yet underway or is underway, but is not complete, the application should detail the type of NEPA review underway, where the project is in the process, and indicate the anticipated date of completion of all NEPA and related milestones. If the last agency action with respect to NEPA documents occurred more than three years before the application date, the applicant should describe why the project has been delayed and include a proposed approach for verifying, and if necessary, updating this information in accordance with applicable NEPA requirements.

b. Additional Application Elements

Applicants must submit:

i. A Statement of Work (SOW) addressing the scope, schedule, and budget for the proposed project if it were selected for award. The SOW must contain sufficient detail so FRA, and the applicant, can understand the expected outcomes of the proposed work to be performed and monitor progress toward completing project tasks and deliverables during a prospective grant's period of performance. Applicants must use FRA's standard SOW, schedule, and budget templates to be considered for award. The templates are located at *https://www.fra.dot.gov/Page/P0325.* When preparing the budget, the total cost of a project must be based on the best available information as indicated in cited references that include engineering studies, studies of economic feasibility, environmental analyses, and information on the expected use of equipment or facilities.

ii. *A Benefit-Cost Analysis (BCA),* as an appendix to the Project Narrative for each project submitted by an applicant. The BCA must demonstrate in economic terms the merits of investing in the proposed project. The BCA for Track 2—PE/NEPA projects should be for the underlying project, not the PE/NEPA work itself. The project narrative should summarize the project's benefits.

Benefits may apply to existing and new rail users, as well as users of other modes of transportation. In some cases, benefits may be applied to populations in the general vicinity of the project area. Improvements to multimodal connections and shared-use rail corridors may benefit all users involved. Benefits may be quantified for savings in safety costs, reduced costs from disruption of service, maintenance costs, reduced travel time, emissions reductions, and increases in capacity or ability to offer new types of freight or passenger services. Applicants may also describe other categories of benefits that are difficult to quantify such as noise reduction, environmental impact mitigation, improved quality of life, or reliability of travel times. All benefits claimed for the project must be clearly tied to the expected outcomes of the project. Please refer to the Benefit-Cost Analysis Guidance for Discretionary Grant Programs prior to preparing a BCA at *https://www.transportation.gov/office-policy/transportation-policy/benefit-cost-analysis-guidance.* In addition, please also refer to the BCA FAQs on FRA's website for some rail specific examples of how to apply the BCA Guidance for Discretionary Grant Programs to CRISI applications.

For Tracks 1 and 4—Applicants are required to document project benefits. Any subjective estimates of benefits and costs should be quantified whenever possible, and applicants should provide appropriate evidence to support their subjective estimates. Estimates of benefits should be presented in monetary terms whenever possible; if a monetary estimate is not possible, then a quantitative estimate (in physical, non-monetary terms, such as crash or employee casualty rates, ridership estimates, emissions levels, energy efficiency improvements, etc.) should be provided. At a minimum, qualitatively describe the project benefits.

iii. Environmental compliance documentation, as applicable, if a website link is not cited in the Project Narrative.

iv. SF 424—Application for Federal Assistance;

v. SF 424A—Budget Information for Non-Construction or SF 424C—Budget Information for Construction;

vi. SF 424B—Assurances for Non-Construction or SF 424D—Assurances for Construction;

vii. FRA's Additional Assurances and Certifications; and

viii. SF LLL—Disclosure of Lobbying Activities.

ix. A statement that the lead applicant has a system for procuring property and services under a Federal award under

this NOFO that supports the provisions in 2 CFR 200 Subpart D-Procurement Standards at 2 CFR 200.317–326 and 2 CFR 1201.317.

x. A statement indicating whether the applicant or any of its principals:

a. is presently suspended, debarred, voluntarily excluded, or disqualified;

b. has been convicted within the preceding 3 years of any of the offenses listed in 2 CFR 180.800(a); or had a civil judgment rendered against the organization or the individual for one of those offenses within that time period;

c. is presently indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, state or local) with, commission of any of the offenses listed in 2 CFR 180.800(a); or,

d. has had one or more public transactions (Federal, state, or local) terminated within the preceding 3 years for cause or default (including material failure to comply).

Forms needed for the electronic application process are at *www.Grants.gov.*

c. Post-Selection Requirements

See subsection F(2) of this notice for post-selection requirements.

3. Unique Entity Identifier, System for Award Management (SAM), and Submission Instructions

To apply for funding through *Grants.gov*, applicants must be properly registered in SAM before submitting an application, provide a valid unique entity identifier, and continue to maintain an active SAM registration all as described in detail below. Complete instructions on how to register and submit an application can be found at *www.Grants.gov.* Registering with *Grants.gov* is a one-time process; however, it can take up to several weeks for first-time registrants to receive confirmation and a user password. FRA recommends that applicants start the registration process as early as possible to prevent delays that may preclude submitting an application package by the application deadline. Applications will not be accepted after the due date. Delayed registration is not an acceptable justification for an application extension.

FRA may not make a grant award to an applicant until the applicant has complied with all applicable Data Universal Numbering System (DUNS) and SAM requirements, and if an applicant has not fully complied with the requirements by the time the Federal awarding agency is ready to make a Federal award, the Federal awarding agency may determine that the applicant is not qualified to receive a Federal award and use that determination as a basis for making a Federal award to another applicant. (Please note that if a Dun & Bradstreet DUNS number must be obtained or renewed, this may take a significant amount of time to complete.) Late applications that are the result of a failure to register or comply with *Grants.gov* applicant requirements in a timely manner will not be considered. If an applicant has not fully complied with the requirements by the submission deadline, the application will not be considered. To submit an application through *Grants.gov,* applicants must:

a. Obtain a DUNS number.

A DUNS number is required for *Grants.gov* registration. The Office of Management and Budget requires that all businesses and nonprofit applicants for Federal funds include a DUNS number in their applications for a new award or renewal of an existing award. A DUNS number is a unique nine-digit sequence recognized as the universal standard for the government in identifying and keeping track of entities receiving Federal funds. The identifier is used for tracking purposes and to validate address and point of contact information for Federal assistance applicants, recipients, and subrecipients. The DUNS number will be used throughout the grant life cycle. Obtaining a DUNS number is a free, one-time activity. Applicants may obtain a DUNS number by calling 1–866–705–5711 or by applying online at *http://www.dnb.com/us.*

b. Register with the SAM at *www.SAM.gov.*

All applicants for Federal financial assistance must maintain current registrations in the SAM database. An applicant must be registered in SAM to successfully register in *Grants.gov*. The SAM database is the repository for standard information about Federal financial assistance applicants, recipients, and subrecipients. Organizations that have previously submitted applications via *Grants.gov* are already registered with SAM, as it is a requirement for *Grants.gov* registration. Please note, however, that applicants must update or renew their SAM registration at least once per year to maintain an active status. Therefore, it is critical to check registration status well in advance of the application deadline. If an applicant is selected for an award, the applicant must maintain an active SAM registration with current information throughout the period of the award. Information about SAM registration procedures is available at *www.sam.gov.*

c. Create a Grants.gov Username and Password

Applicants must complete an Authorized Organization Representative (AOR) profile on *www.Grants.gov* and create a username and password. Applicants must use the organization's DUNS number to complete this step. Additional information about the registration process is available at: *https://www.grants.gov/web/grants/applicants/organization-registration.html.*

d. Acquire Authorization for Your AOR From the E-Business Point of Contact (E-Biz POC)

The E-Biz POC at the applicant's organization must respond to the registration email from *Grants.gov* and login at *www.Grants.gov* to authorize the applicant as the AOR. Please note there can be more than one AOR for an organization.

e. Submit an Application Addressing All Requirements Outlined in This NOFO

If an applicant experiences difficulties at any point during this process, please call the *Grants.gov* Customer Center Hotline at 1–800–518–4726, 24 hours a day, 7 days a week (closed on Federal holidays). For information and instructions on each of these processes, please see instructions at: *http://www.grants.gov/web/grants/applicants/apply-for-grants.html*

Note: Please use generally accepted formats such as .pdf, .doc, .docx, .xls, .xlsx and .ppt, when uploading attachments. While applicants may embed picture files, such as .jpg, .gif, and .bmp, in document files, applicants should not submit attachments in these formats. Additionally, the following formats will not be accepted: .com, .bat, .exe, .vbs, .cfg, .dat, .db, .dbf, .dll, .ini, .log, .ora, .sys, and .zip.

4. Submission Dates and Times

Applicants must submit complete applications to *www.Grants.gov* no later than 5:00 p.m.. ET, June 19, 2020. FRA reviews *www.Grants.gov* information on the dates and times of applications submitted to determine timeliness of submissions. Late applications will be neither reviewed nor considered. Delayed registration is not an acceptable reason for late submission. To apply for funding under this announcement, all applicants are expected to be registered as an organization with *Grants.gov*. Applicants are strongly encouraged to

apply early to ensure all materials are received before this deadline.

To ensure a fair competition of limited discretionary funds, the following conditions are not valid reasons to permit late submissions: (1) Failure to complete the *Grants.gov* registration process before the deadline; (2) failure to follow *Grants.gov* instructions on how to register and apply as posted on its website; (3) failure to follow all instructions in this NOFO; and (4) technical issues experienced with the applicant's computer or information technology environment.

5. Intergovernmental Review

Executive Order 12372 requires applicants from state and local units of government or other organizations providing services within a state to submit a copy of the application to the State Single Point of Contact (SPOC), if one exists, and if this program has been selected for review by the state. Applicants may contact their State SPOC to determine if the program has been selected for state review. Intergovernmental Review is not required for this program.

6. Funding Restrictions

FRA is prohibited under 49 U.S.C. 22905(f) from providing CRISI grants for commuter rail passenger transportation (as defined in 49 U.S.C. 24102(3)). FRA's interpretation of this restriction is informed by the language in 49 U.S.C. 22907. FRA's primary intent in funding passenger rail projects is to make reasonable investments in Intercity Passenger Rail Transportation. Such projects may be located on shared corridors where Commuter Rail Passenger Transportation and/or freight rail also benefit from the project. The 2020 Appropriation makes an exception to this funding restriction for Commuter Rail Passenger Transportation projects for the implementation of positive train control systems.

Consistent with 2 CFR 200.458, as applicable, FRA will only approve pre-award costs if such costs are incurred pursuant to the negotiation and in anticipation of the grant agreement and if such costs are necessary for efficient and timely performance of the scope of work. Under 2 CFR 200.458, grant recipients must seek written approval from the administering agency for pre-award activities to be eligible for reimbursement under the grant. Activities initiated prior to the execution of a grant or without written approval may be ineligible for reimbursement or matching contribution. Cost sharing or matching may be used only for authorized Federal award purposes.

7. Other Submission Requirements

If an applicant experiences difficulties at any point during this process, please call the *Grants.gov* Customer Center Hotline at 1–800–518–4726, 24 hours a day, 7 days a week (closed on Federal holidays). For information and instructions on each of these processes, please see instructions at: *http://www.grants.gov/web/grants/applicants/apply-for-grants.html.*

E. Application Review Information

1. Criteria

a. Eligibility, Completeness and Applicant Risk Review

FRA will first screen each application for applicant and project eligibility (eligibility requirements are outlined in Section C of this notice), completeness (application documentation and submission requirements are outlined in Section D of this notice), and the 20 percent minimum match.

FRA will then consider applicant risk, including the applicant's past performance in developing and delivering similar projects and previous financial contributions, and if applicable, previous competitive grant technical evaluation ratings that the proposed project received under previous competitive grant programs administered by DOT.

Rural transportation networks play a vital role in supporting our national economic vitality. Addressing the deteriorating conditions and disproportionately high fatality rates on our rural transportation infrastructure is of critical interest to DOT, as rural transportation networks face unique challenges in safety, infrastructure condition, and passenger and freight usage. Consistent with the R.O.U.T.E.S. Initiative, DOT will consider how the project will address the challenges faced by rural areas.

b. Evaluation Criteria

FRA will evaluate all eligible and complete applications using the evaluation criteria outlined in this section to determine project benefits and technical merit.

i. Project Benefits:

FRA will evaluate the Benefit-Cost Analysis of the proposed project for the anticipated private and public benefits relative to the costs of the proposed project and the summary of benefits provided in response to subsection D(2)(b)(ii) including—

(A) Effects on system and service performance;

(B) Effects on safety, competitiveness, reliability, trip or transit time, and resilience;

(C) Efficiencies from improved integration with other modes; and

(D) Ability to meet existing or anticipated demand.

ii. Technical Merit:

FRA will evaluate application information for the degree to which—

(A) The tasks and subtasks outlined in the SOW are appropriate to achieve the expected outcomes of the proposed project.

(B) Applications indicate strong project readiness and meet requirements under the project track(s) designated by the applicant.

(C) The technical qualifications and experience of key personnel proposed to lead and perform the technical efforts, and the qualifications of the primary and supporting organizations to fully and successfully execute the proposed project within the proposed timeframe and budget are demonstrated.

(D) The proposed project's business plan considers potential private sector participation in the financing, construction, or operation of the proposed project.

(E) The applicant has, or will have the legal, financial, and technical capacity to carry out the proposed project; satisfactory continuing control over the use of the equipment or facilities; and the capability and willingness to maintain the equipment or facilities.

(F) The proposed project is consistent with planning guidance and documents set forth by DOT, including those required by law or State rail plans developed under Title 49, United State Code, Chapter 227.

c. Selection Criteria

In addition to the eligibility and completeness review and the evaluation criteria outlined in this subsection, the FRA will apply the following selection criteria:

i. The FRA will give preference to projects for which the:

(A) Proposed Federal share of total project costs is 50 percent or less;

(B) Proposed non-Federal share is comprised of more than one source, including private sources, demonstrating broad participation by affected stakeholders; and

(C) Net benefits of the grant funds will be maximized considering the Benefit-Cost Analysis, including anticipated private and public benefits relative to the costs of the proposed project, and factoring in the other considerations in 49 U.S.C. 22907 (e).

ii. After applying the above preferences, the FRA will take into

account the following key DOT objectives:

(A) Supporting economic vitality at the national and regional level;

(B) Leveraging Federal funding to attract other, non-Federal sources of infrastructure investment;

(C) Preparing for future operations and maintenance costs associated with their project's life-cycle, as demonstrated by a credible plan to maintain assets without having to rely on future Federal funding;

(D) Using innovative approaches to improve safety and expedite project delivery; and,

(E) Holding grant recipients accountable for their performance and achieving specific, measurable outcomes identified by grant applicants.

iii. In determining the allocation of program funds, FRA may also consider geographic diversity, diversity in the size of the systems receiving funding, the applicant's receipt of other competitive awards, and projects located in or that support transportation service in a qualified opportunity zone designated pursuant to 26 U.S.C. 1400Z–1.

iv. Consistent with DOT's R.O.U.T.E.S. Initiative (*https://www.transportation.gov/rural*), DOT recognizes that rural transportation networks face unique challenges. To the extent that those challenges are reflected in the merit criteria listed in this section, DOT will consider how the activities proposed in the application will address those challenges, regardless of the geographic location of those activities.

2. Review and Selection Process

FRA will conduct a four-part application review process, as follows:

a. Screen applications for completeness and eligibility and consider applicable past performance and previous financial contributions and technical evaluation ratings;

b. Evaluate eligible applications (completed by technical panels applying the evaluation criteria);

c. Review, apply selection criteria and recommend initial selection of projects for the FRA Administrator's review (completed by a non-career Senior Review Team, which includes senior leadership from the Office of the Secretary and FRA); and,

d. Selection of awards for the Secretary's review and approval (completed by the FRA Administrator).

3. Reporting Matters Related to Integrity and Performance

Before making a Federal award with a total amount of Federal share greater than the simplified acquisition threshold of $150,000 (see 2 CFR 200.88 Simplified Acquisition Threshold), FRA will review and consider any information about the applicant that is in the designated integrity and performance system accessible through SAM (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)). See 41 U.S.C. 2313.

An applicant, at its option, may review information in the designated integrity and performance systems accessible through SAM and comment on any information about itself that a Federal awarding agency previously entered and is currently in the designated integrity and performance system accessible through SAM.

FRA will consider any comments by the applicant, in addition to the other information in the designated integrity and performance system, in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants as described in 2 CFR 200.205.

F. Federal Award Administration Information

1. Federal Award Notice

FRA will announce applications selected for funding in a press release and on the FRA website after the application review period. This announcement is FRA's notification to successful and unsuccessful applicants alike. FRA will contact applicants with successful applications after announcement with information and instructions about the award process. This notification is not an authorization to begin proposed project activities. FRA requires satisfaction of applicable requirements by the applicant and a formal agreement signed by both the grantee and the FRA, including an approved scope, schedule, and budget, before obligating the grant.

For Track 2 PE/NEPA projects, these requirements may include transportation planning. For Track 3 FD/Construction projects, these requirements may include transportation planning, PE and environmental reviews. See an example of standard terms and conditions for FRA grant awards at *https://www.fra.dot.gov/eLib/details/L05285.* This template is subject to revision.

2. Administrative and National Policy Requirements

In connection with any program or activity conducted with or benefiting from funds awarded under this notice, grantees must comply with all applicable requirements of Federal law, including, without limitation, the Constitution of the United States; the conditions of performance, nondiscrimination requirements, and other assurances made applicable to the award of funds in accordance with regulations of the Department of Transportation; and applicable Federal financial assistance and contracting principles promulgated by the Office of Management and Budget. In complying with these requirements, grantees, in particular, must ensure that no concession agreements are denied or other contracting decisions made on the basis of speech or other activities protected by the First Amendment. If the Department determines that a grantee has failed to comply with applicable Federal requirements, the Department may terminate the award of funds and disallow previously incurred costs, requiring the grantee to reimburse any expended award funds.

Examples of administrative and national policy requirements include: 2 CFR part 200; procurement standards at 2 CFR part 200 Subpart D—Procurement Standards, 2 CFR 1207.317 and 2 CFR 200.401; compliance with Federal civil rights laws and regulations; requirements for disadvantaged business enterprises, debarment and suspension requirements, and drug-free workplace requirements; FRA's and OMB's Assurances and Certifications; Americans with Disabilities Act; safety requirements; NEPA; environmental justice requirements; performance measures under 49 U.S.C. 22907(f); grant conditions under 49 U.S.C. 22905, including the Buy America requirements, the provision deeming operators rail carriers for certain purposes and grantee agreements with railroad right-of-way owners for projects using railroad right-of-way. Unless otherwise stated in statutory or legislative authority, or appropriations language, all financial assistance awards follow the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards at 2 CFR part 200 and 2 CFR part 1201.

Grantees must comply with applicable appropriations act requirements and all relevant requirements of 2 CFR part 200. Rights to intangible property under grants awarded under this NOFO are governed in accordance with 2 CFR 200.315. For research awards, unless otherwise stated in the Federal award, FRA will not consider non-federal entities as that term is used in 2 CFR part 200 to include for-profit entities. See an example of standard terms and

conditions for FRA grant awards at *https://www.fra.dot.gov/eLib/Details/L19057* and clauses specific to CRISI funding at *https://www.fra.dot.gov/eLib/Details/L20078.* These templates are subject to revision.

Projects selected under this NOFO for Commuter Rail Passenger Transportation for positive train control projects may be transferred to the Federal Transit Administration for grant administration at the Secretary's discretion. If such a project is transferred to the Federal Transit Administration, applicants will be required to comply with chapter 53 of Title 49 of the United States Code.

3. Reporting

a. Progress Reporting on Grant Activity

Each applicant selected for a grant will be required to comply with all standard FRA reporting requirements, including quarterly progress reports, quarterly Federal financial reports, and interim and final performance reports, as well as all applicable auditing, monitoring and close out requirements. Reports may be submitted electronically.

b. Additional Reporting

Applicants selected for funding are required to comply with all reporting requirements in the standard terms and conditions for FRA grant awards including 2 CFR 180.335 and 2 CFR 180.350. See an example of standard terms and conditions for FRA grant awards at: *https://www.fra.dot.gov/eLib/Details/L19057.*

If the Federal share of any Federal award under this NOFO may include more than $500,000 over the period of performance, applicants are informed of the post award reporting requirements reflected in 2 CFR part 200, Appendix XII—Award Term and Condition for Recipient Integrity and Performance Matters.

c. Performance Reporting

Each applicant selected for funding must collect information and report on the project's performance using measures mutually agreed upon by FRA and the grantee to assess progress in achieving strategic goals and objectives. Examples of some rail performance measures are listed in the table below. The applicable measure(s) will depend upon the type of project. Applicants requesting funding for the acquisition of rolling stock must integrate at least one equipment/rolling stock performance measure, consistent with the grantee's application materials and program goals.

Rail measures	Unit measured	Temporal	Primary strategic goal	Secondary strategic goal	Description
Slow Order Miles	Miles	Annual	State of Good Repair	Safety	The number of miles per year within the project area that have temporary speed restrictions (''slow orders'') imposed due to track condition. This is an indicator of the overall condition of track. This measure can be used for projects to rehabilitate sections of a rail line since the rehabilitation should eliminate, or at least reduce the slow orders upon project completion.
Gross Ton	Gross tons	Annual	Economic competitiveness.	State of good repair	The annual gross tonnage of freight shipped in the project area. Gross tons include freight cargo minus tare weight of the rail cars. This measures the volume of freight a railroad ships in a year. This measure can be useful for projects that are anticipated to increase freight shipments.
Rail Track Grade Separation.	Count	Annual	Economic competitiveness.	Safety	The number of annual automobile crossings that are eliminated at an at-grade crossing as a result of a new grade separation.
Passenger Counts	Count	Annual	Economic Competitiveness.	State of Good Repair	Count of the annual passenger boardings and alightings at stations within the project area.
Travel Time	Time/Trip	Annual	Economic Competitiveness.	Quality of Life	Point-to-point travel times between pre-determined station stops within the project area. This measure demonstrates how track improvements and other upgrades improve operations on a rail line. It also helps make sure the railroad is maintaining the line after project completion.
Track weight capacity	Yes/No	One Time	State of Good Repair	Economic Competitiveness.	If a project is upgrading a line to accommodate heavier rail cars (typically an increase from 263,000 lb. rail cars to 286,000 lb. rail cars.)
Track Miles	Miles	One Time	State of Good Repair	Economic Competitiveness.	The number of track miles that exist within the project area. This measure can be beneficial for projects building sidings or sections of additional main line track on a railroad.

G. Federal Awarding Agency Contacts

For further information regarding this notice and the grants program, please contact Ms. Frances Bourne, Office of Policy and Planning, Federal Railroad Administration, 1200 New Jersey Avenue SE, Room W38–207, Washington, DC 20590; email: *frances.bourne@dot.gov;* phone: 202–493–6366.

H. Other Information

All information submitted as part of or in support of any application shall use publicly available data or data that can be made public and methodologies that are accepted by industry practice and standards, to the extent possible. If the application includes information the applicant considers to be a trade secret or confidential commercial or financial information, the applicant should do the following: (1) Note on the front cover that the submission ''Contains Confidential Business Information (CBI)''; (2) mark each affected page ''CBI''; and (3) highlight or otherwise denote the CBI portions. The DOT regulations implementing the Freedom of Information Act (FOIA) are found at 49 CFR Part 7 Subpart C—Availability of Reasonably Described Records under the Freedom of Information Act which sets forth rules for FRA to make

requested materials, information and, records publicly available under FOIA. Unless prohibited by law and to the extent permitted under the FOIA, contents of application and proposals submitted by successful applicants may be released in response to FOIA requests.

Issued in Washington, DC, on April 14, 2020.

Quintin Kendall,

Deputy Administrator.

[FR Doc. 2020–08226 Filed 4–17–20; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Taxpayer Assistance Center Improvements Project Committee

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel's Taxpayer Assistance Center Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, May 12, 2020.

FOR FURTHER INFORMATION CONTACT: Matthew O'Sullivan at 1–888–912–1227 or (510) 907–5274.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel's Taxpayer Assistance Center Project Committee will be held Tuesday, May 12, 2020, at 1:00 p.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Matthew O'Sullivan. For more information please contact Matthew O'Sullivan at 1–888–912–1227 or (510) 907–5274, or write TAP Office, 1301 Clay Street, Oakland, CA 94612–5217 or contact us at the website: *http://www.improveirs.org.* The agenda will include various IRS issues.

Dated: April 14, 2020.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2020–08231 Filed 4–17–20; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel's Notices and Correspondence Project Committee

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel's Notices and Correspondence Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, May 13, 2020.

FOR FURTHER INFORMATION CONTACT: Robert Rosalia at 1–888–912–1227 or (718) 834–2203.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel's Notices and Correspondence Project Committee will be held Wednesday, May 13, 2020, at 1:00 p.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Robert Rosalia. For more information please contact Robert Rosalia at 1–888–912–1227 or (718) 834–2203, or write TAP Office, 2 Metrotech Center, 100 Myrtle Avenue, Brooklyn, NY 11201 or contact us at the website: *http://www.improveirs.org.* The agenda will include various IRS issues.

Dated: April 14, 2020.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2020–08233 Filed 4–17–20; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Special Lien for Estate Taxes Deferred Under Section 6166 or 6166A.

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning guidance related to the special lien for estate taxes deferred under section 6166 or 6166A.

DATES: Written comments should be received on or before June 19, 2020 to be assured of consideration.

ADDRESSES: Direct all written comments to Ronald J. Durbala, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Rachel Martinen, (253)591–6631 (not a toll-free number) at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Rachel.Martinen@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Special Lien for Estate Taxes Deferred Under Section 6166 or 6166A.

OMB Number: 1545–0757. Regulation Project Number: TD 7941.

Abstract: Internal Revenue Code section 6324A permits the executor of a decedent's estate to elect a lien on section 6166 property in favor of the United States in lieu of a bond or personal liability if an election under section 6166 was made and the executor files an agreement under section 6324A(c). This guidance clarifies the procedures for complying with the statutory requirements.

Current Actions: There is no change to this existing regulation.

Type of Review: Renewal of a currently approved collection.

Affected Public: Individuals or households, and business or other for-profit organizations.

Estimated Number of Respondents: 500.

Estimated Time per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 500.

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. 2020–08203 Filed 4–17–20; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel's Toll-Free Phone Line Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel's Toll-Free Phone Line Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, May 13, 2020.

FOR FURTHER INFORMATION CONTACT: Rosalind Matherne at 1–888–912–1227 or 202–317–4115.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Toll-Free Phone Line Project Committee will be held Wednesday, May 13, 2020 at 11:00 a.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Rosalind Matherne. For more information please contact Rosalind Matherne at 1–888–912–1227 or 202–317–4115, or write TAP Office, 1111 Constitution Ave. NW, Room 1509, Washington, DC 20224 or contact us at the website: *http://www.improveirs.org.* The agenda will include various IRS issues.

Dated: April 14, 2020.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2020–08235 Filed 4–17–20; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel's Tax Forms and Publications Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel's Tax Forms and Publications Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, May 13, 2020.

FOR FURTHER INFORMATION CONTACT: Fred Smith at 1–888–912–1227 or (202) 317–3087.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel's Tax Forms and Publications Project Committee will be held Wednesday, May 13, 2020, from 12:00 p.m. to 1:00 p.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Fred Smith. For more information please contact Fred Smith at 1–888–912–1227 or (202) 317–3087, or write TAP Office, 1111 Constitution Ave. NW, Room 1509, Washington, DC 20224 or contact us at the website: *http://www.improveirs.org.*

Dated: April 14, 2020.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2020–08234 Filed 4–17–20; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Taxpayer Communications Project Committee

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel's Taxpayer Communications Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, May 12, 2020.

FOR FURTHER INFORMATION CONTACT: Cedric Jeans at 1–888–912–1227 or 901–707–3935.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel Taxpayer Communications Project Committee will be held Tuesday, May 12, 2020, at 12:00 p.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Cedric Jeans. For more information please contact Cedric Jeans at 1–888–912–1227 or 901–707–3935, or write TAP Office, 5333 Getwell Road, Memphis, TN 38118 or contact us at the website: *http://www.improveirs.org.* The agenda will include various IRS issues.

Dated: April 14, 2020.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2020–08232 Filed 4–17–20; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel's Special Projects Committee

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel's Special Projects Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, May 14, 2020.

FOR FURTHER INFORMATION CONTACT: Antoinette Ross at 1–888–912–1227 or 202–317–4110.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel's Special Projects Committee will be held Thursday, May 14, 2020, at 11:00 a.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Antoinette Ross. For more information please contact Antoinette Ross at 1–888–912–1227 or 202–317–4110, or write TAP Office, 1111 Constitution Ave. NW, Room 1509, Washington, DC 20224 or contact us at the website: *http://www.improveirs.org.* The agenda will include various IRS issues.

Dated: April 14, 2020.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2020–08236 Filed 4–17–20; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Disruption of Mail Service

AGENCY: Department of Veterans Affairs.

ACTION: Notice of exception to date of receipt rule.

SUMMARY: In response to the declaration of national emergency, announced on March 13, 2020, due to the Coronavirus Disease 2019 (COVID–19) outbreak in the United States, the Veterans Benefits Administration (VBA) is instituting temporary provisions for determining the acceptable dates for the receipt of correspondence through postal mail and other mail delivery systems.

FOR FURTHER INFORMATION CONTACT: Cleveland Karren, Director, Policy and Procedures, Compensation Service, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461–9700. (This is not a toll-free telephone number.)

SUPPLEMENTARY INFORMATION: On March 13, 2020, the President of the United States signed a declaration of national emergency due to the COVID–19 outbreak in the United States, beginning March 1, 2020. This COVID–19 outbreak required VBA to dramatically alter its operations in concert with the Federal Government's efforts to combat the spread of the virus in the United States population.

VBA, as part of its efforts to protect Veterans and employees, has in many locations maximized the use of telework from home. In addition, VBA has temporarily closed public contact units within VBA regional offices.

While United States Postal Service operations have continued, limited physical staffing at VBA regional offices could lead to delays in the ability of these regional offices to receive mail and process it timely. At several VBA regional office locations, processing of correspondence—containing claims, pertinent beneficiary information, or related evidence—sent to VA during this period could be significantly interrupted due to VA's involvement in the Federal Government's effort to combat the spread of COVID–19. VA aims to protect the interest of claimants who send such correspondence to VBA through the normal channels of communication during this period and could possibly be deprived of benefits solely because these channels of communication are disrupted during this time of national emergency. Therefore, VA is instituting temporary provisions for determining the acceptable dates for the receipt of correspondence through postal mail and other mail delivery systems.

A VA regulation, 38 Code of Federal Regulations 3.1(r), allows the Under Secretary for Benefits to establish exceptions to VA's rule on the date of receipt of claims, information, or evidence by notice published in the **Federal Register**. Ordinarily, ''date of receipt'' means the date on which a claim, information, or evidence was received in a VA office. This regulation states that exceptions may be established when a natural or man-made interference with the normal channels through which VBA ordinarily receives correspondence has resulted in one or more VBA regional offices to experience extended delays in the receipt of claims, information, or evidence to an extent that, if not addressed, the delay would adversely affect such claimants, through no fault of their own.

In March 2020, the COVID–19 outbreak interrupted operations at all VBA regional offices. Correspondence containing claims, information, or evidence sent to VA during this period was likely delayed due to interrupted operations of VBA regional offices. Because VBA regional office mail systems were impacted, VA has established the following exceptions to the standard rule on date of receipt.

Exceptions to Date of Receipt Rule for Claimants Affected by the COVID–19 Outbreak

VA hereby gives notice that, for purposes of determining entitlement to benefits, any correspondence that is received by VA from any claimant, during the period March 1, 2020, through 60 calendar days from the date the President ends the national state of emergency, that contains claims, information, or evidence, will be considered received on the date of postmark. In the event there is no mail postmark, or date stamp by the United States Postal Service, VA will consider the correspondence as received no later than February 29, 2020.

Due to the global nature of the COVID–19 pandemic, this guidance applies to correspondence received during the designated period from all domestic ZIP codes and foreign mail codes.

Signing Authority

The Secretary of Veterans Affairs approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Pamela Powers, Chief of Staff, Performing the Delegable Duties of the Deputy Secretary, Department of Veterans Affairs, approved this document on April 14, 2020, for publication.

Jeffrey M. Martin,

Assistant Director, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

[FR Doc. 2020–08248 Filed 4–17–20; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 85 Monday,

No. 76 April 20, 2020

Part II

Securities and Exchange Commission

17 CFR Parts 210, 229, 230, et al.

Financial Disclosures About Guarantors and Issuers of Guaranteed Securities and Affiliates Whose Securities Collateralize a Registrant's Securities; Final Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 210, 229, 230, 239, 240, and 249

[Release No. 33–10762; 34–88307; File No. S7–19–18]

RIN 3235–AM12

Financial Disclosures About Guarantors and Issuers of Guaranteed Securities and Affiliates Whose Securities Collateralize a Registrant's Securities

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission (''Commission'') is adopting amendments to the financial disclosure requirements for guarantors and issuers of guaranteed securities registered or being registered, and issuers' affiliates whose securities collateralize securities registered or being registered in Regulation S–X to improve those requirements for both investors and registrants. The changes are intended to provide investors with material information given the specific facts and circumstances, make the disclosures easier to understand, and reduce the costs and burdens to registrants. In addition, by reducing the costs and burdens of compliance, issuers may be encouraged to offer guaranteed or collateralized securities on a registered basis, thereby affording investors protection they may not be provided in offerings conducted on an unregistered basis. Finally, by making it less burdensome and less costly for issuers to include guarantees or pledges of affiliate securities as collateral when they structure debt offerings, the revisions may increase the number of registered offerings that include these credit enhancements, which could result in a lower cost of capital and an increased level of investor protection.

DATES:

Effective date: The final rules are effective on January 4, 2021.

Compliance dates: See Section VI for further information on transitioning to the final rules.

FOR FURTHER INFORMATION CONTACT: Jarrett Torno, Assistant Chief Accountant, at (202) 551–3400, John Fieldsend, Special Counsel, or Sean Harrison, Special Counsel, at (202) 551–3430, in the Division of Corporation Finance, 100 F Street NE, Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Commission is amending

Commission reference	CFR citation (17 CFR)
Regulation S–X [17 CFR 210.1–01 through 210.13–02]:	
Rule 3–10	210.3–10
Rule 3–16	210.3–16
Rule 8–01	210.8–01
Rule 8–03	210.8–03
Rule 10–01	210.10–01
Rule 13–01	210.13–01
Rule 13–02	210.13–02
Regulation S–K [17 CFR 229.10 through 229.1305]:	
Item 504	229.504
Item 601	229.601
Item 1100	229.1100
Item 1112	229.1112
Item 1114	229.1114
Item 1115	229.1115
Securities Act of 1933 (Securities Act) [15 U.S.C. 77a *et seq.*]:	
Rule 257	230.257
Form F–1	239.31
Form F–3	239.33
Form 1–A	239.90
Form 1–K	239.91
Form 1–SA	239.92
Securities Exchange Act of 1934 (Exchange Act) [15 U.S.C. 78a *et seq.*]:	
Rule 12h–5	240.12h–5
Form 20–F	249.220f

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I. Introduction

A. Background

On July 24, 2018, the Commission proposed changes to the disclosure requirements in Rules 3–10 and 3–16 of Regulation S–X to better align those requirements with the needs of investors and to simplify and streamline the disclosure obligations of registrants.[1] Rule 3–10 requires financial statements to be filed for all issuers and guarantors of securities that are registered or being registered, but also provides several exceptions to that requirement. These exceptions are typically available for individual subsidiaries of a parent company[2] when the consolidated financial statements of that parent company are filed and certain conditions are met. Rule 3–16 requires a registrant to provide separate financial statements for each affiliate whose securities constitute a substantial portion of the collateral for any class of registered securities as if the affiliate were a separate registrant. The changes the Commission proposed included amending both rules and relocating part of Rule 3–10 and all of Rule 3–16 to new Rules 13–01 and 13–02 in Regulation S–X, respectively.[3] These proposed changes were intended to provide investors with the information that is material given the specific facts and circumstances, make the disclosures easier to understand, and reduce the costs and burdens to registrants. The proposal resulted from an ongoing, comprehensive evaluation of the Commission's disclosure requirements.[4]

We received over 30 comment letters in response to the proposed amendments.[5] In general, commenters supported the proposed amendments. In certain instances, commenters opposed the proposed revisions and suggested modifications to the proposals.

We have reviewed and considered all of the comments that we received on the proposed amendments. The final rules reflect changes made in response to many of these comments. We discuss our revisions with respect to each proposed rule and amendment in more detail throughout this release.

B. Scope of Proposals

The Commission proposed changes to the disclosure requirements contained in Rules 3–10 and 3–16. These rules represent a discrete, but important, subset of the Regulation S–X disclosure requirements. Both rules affect disclosures made in connection with registered debt offerings[6] and subsequent periodic reporting.[7] In the Proposing Release, the Commission stated its belief that revising these rules would reduce the cost of compliance for registrants and encourage potential issuers to conduct registered debt offerings or private offerings with registration rights.[8] The proposed amendments were intended to benefit investors by simplifying and streamlining the disclosure provided to them about registered transactions and improving transparency in the market to the extent more offerings are registered.[9] In addition, the Commission noted that, if the proposed changes reduce the burden associated with providing guarantees or pledges of affiliate securities as collateral,[10] investors could benefit from access to more registered offerings that are structured to include such enhancements and, accordingly, the additional protections that come with Section 11 liability for disclosures made in those offerings.[11]

II. Rule 3–10 of Regulation S–X

A. Background

A guarantee of a debt or debt-like security (''debt security'')[12] is a separate

[1] *See Financial Disclosures About Guarantors and Issuers of Guaranteed Securities and Affiliates Whose Securities Collateralize a Registrant's Securities,* Release No. 33–10526 (July 24, 2018) [83 FR 49630 (Oct. 2, 2018)] (''Proposing Release'').

[2] The identity of the parent company depends on the particular corporate structure. *See* Section II.C of the Proposing Release.

[3] Proposed Rules 13–01 and 13–02 would contain financial and non-financial disclosure requirements for certain types of securities registered or being registered that, while material to investors, need not be included in the audited and unaudited financial statements in certain circumstances. *See* Sections III.C.2.c, ''When Disclosure is Required'' and V.E, ''When Disclosure is Required,'' below.

[4] The staff, under its Disclosure Effectiveness Initiative, is reviewing the disclosure requirements in Regulations S–K and Regulation S–X and is considering ways to improve the disclosure regime for the benefit of both companies and investors. The goal is to comprehensively review the requirements and make recommendations on how to update them to facilitate timely, material disclosure by companies and shareholders' access to that information.

[5] *See, e.g.,* letters from American Bar Association, Federal Regulation of Securities Committee and the Law Accounting Committee of the Business Law Section (''ABA''); Association of the Bar of the City of New York, Securities Regulation Committee (''NYC Bar''); Ball Corporation (''Ball Corp.''); BDO USA, LLP (''BDO''); Center for Audit Quality (''CAQ''); Comcast Corporation (''Comcast''); Council of Institutional Investors (''CII''); Cravath, Swaine & Moore LLP (''Cravath''); The Credit Roundtable (''Credit Roundtable''); Davis Polk & Wardwell LLP (''Davis Polk''); Debevoise & Plimpton LLP (''Debevoise''); Dell Technologies, Inc. (''Dell''); Deloitte & Touche LLP (''Deloitte''); Eaton Corporation plc (''Eaton Corp.''); Edison Electric Institute and American Gas Association (''EEI/AGA''); Ernst & Young LLP (''EY''); FedEx Corporation (''FedEx''); Financial Executives International (''FEI''); Freeport-McMoRan Inc. (''Freeport''); Grant Thornton LLP (''Grant Thornton''); KPMG LLP (''KPMG''); Medtronic plc (''Medtronic''); Nareit (''Nareit''); PricewaterhouseCoopers LLP (''PWC''); Securities Industry and Financial Markets Association (''SIFMA''); Shearman & Sterling LLP (''Shearman''); Simpson Thacher & Bartlett LLP (''Simpson Thacher''); Sullivan & Cromwell LLP (''Sullivan & Cromwell''); T-Mobile US, Inc. (''T-Mobile''); Willis Towers Watson plc (''WTW''); Windstream Holdings, Inc. (''Windstream''); and XBRL US, Inc. The public comments we received are available on our website at *https://www.sec.gov/comments/s7-19-18/s71918.htm.*

[6] In practice, pledges of affiliate securities as collateral are almost always for debt securities. However, the requirements of Rule 3–16 are applicable to any security registered or being registered, whether or not in the form of debt.

[7] The proposed amendments would not have affected the presentation of registrants' consolidated financial statements prepared in accordance with U.S. Generally Accepted Accounting Principles (''U.S. GAAP'') or International Financial Reporting Standards (''IFRS'') as issued by the International Accounting Standards Board in registration statements and Exchange Act periodic reports, such as Form 10–K. The proposed amendments were focused on the supplemental information about subsidiary issuers and guarantors as well as affiliates whose securities are pledged as collateral.

[8] *See* Section I of the Proposing Release.

[9] Based on analysis performed by staff from the Commission's Division of Economic and Risk Analysis, the registered debt market was approximately $1.1 trillion in 2018. In 2018, debt offerings under Securities Act Rule in 17 CFR 230.144A (''Rule 144A'') raised approximately $658 billion, based on staff analysis of data from the Mergent database. The dollar volume of registered debt and Rule 144A offerings generally appears to be higher in recent years (*i.e.,* 2016, 2017, 2018) than in earlier years (*i.e.,* 2013, 2014, 2015). *See* Section VIII.B.2, ''Market Conditions.''

[10] Currently, registrants often structure debt agreements to release affiliate securities pledged as collateral if the disclosure requirements of Rule 3–16 would be triggered, thereby depriving investors of that collateral protection. *See* additional discussion in Section VI.B ''Rule 3–16 Collateral Release Provisions'' below. In the Proposing Release, the Commission observed that registrants may cease structuring offerings to release such collateral if disclosure burdens would be reduced by the proposed amendments, which would benefit investors. *See* Section I.B of the Proposing Release.

[11] 15 U.S.C. 77k.

[12] Rule 3–10 exceptions are available to issuers and guarantors of guaranteed securities that are ''debt or debt-like.'' In connection with amendments to Rule 3–10 in 2000 the Commission stated ''[t]he characteristics that identify a guaranteed security as debt or debt-like for this purpose are: the issuer has a contractual obligation to pay a fixed sum at a fixed time; and where the obligation to make such payments is cumulative, a set amount of interest must be paid.'' *Financial Statements and Periodic Reports for Related Issuers and Guarantors,* Release No. 33–7878 (Aug. 4, 2000) [65 FR 51691 (Aug. 24, 2000)] (''2000 Release'') at Section III.A.4.b.i; *see also* Section II.H of the Proposing Release.

security under the Securities Act [13] and, as a result, offers and sales of these guarantees [14] must be either registered or exempt from registration. If the offer and sale is registered, the issuer of the debt security and the guarantor [15] must each file its own audited annual and unaudited interim [16] financial statements required by Regulation S–X. Additionally, the offer and sale of the securities pursuant to a Securities Act registration statement causes the issuer and guarantor to become subject to reporting under Section 15(d) of the Exchange Act.[17] Reporting under Section 15(d), among other things, requires filing periodic reports that must include audited annual and unaudited interim financial statements, for at least the fiscal year in which the related Securities Act registration statement became effective.[18]

When the Commission amended Rule 3–10 in 2000, it recognized that ''[t]here are circumstances, however, where full Securities Act and Exchange Act disclosure by both the issuer and the guarantors may not be useful to an investment decision and, therefore, may not be necessary.'' [19] Common examples are when: (1) A parent company offers its own securities that its subsidiary guarantees; and (2) a subsidiary offers securities that its parent company fully and unconditionally guarantees. In these and similar situations, in which a parent company and one or more of its subsidiaries serve as issuers and/or guarantors of guaranteed securities, we believe the disclosure requirements generally have been guided by an overarching principle: the consolidated financial statements of the parent company are the principal source of information for investors when evaluating the debt security and its guarantee together.[20] This principle is grounded in the idea that the investment is in the *consolidated* enterprise when: (1) The parent company is fully obligated as either issuer or full and unconditional guarantor of the security; [21] (2) the parent company controls each subsidiary issuer and guarantor, including having the ability to direct all debt-paying activities; [22] and (3) the financial information of each subsidiary issuer and guarantor is included as part of the consolidated financial statements of the parent company.[23] In these circumstances, we believe full Securities Act and Exchange Act financial disclosures for each subsidiary issuer and guarantor are generally not material for an investor to make an informed investment decision about a guaranteed security. Instead, we believe information included in the consolidated disclosures about the parent company, as supplemented with details about the issuers and guarantors, is sufficient. These disclosures help an investor understand how the consolidated entities within the enterprise support the obligation.

B. Overview of the Existing Requirements

Rule 3–10(a) states the general rule that every issuer of a registered security that is guaranteed and every guarantor of a registered security must file the financial statements required for a registrant by Regulation S–X. The rule also sets forth five exceptions to this general rule.[24] Each exception specifies conditions that must be met, including, in each case, that the parent company provide certain disclosures (''Alternative Disclosures'').[25] If the conditions are met, separate financial statements of each qualifying subsidiary issuer and guarantor may be omitted from the Securities Act registration statement and subsequent Exchange Act reports. Only one of the five exceptions can apply to any particular offering and the subsequent Exchange Act reporting.

Two primary conditions, included in each of the exceptions, must be satisfied for a subsidiary issuer or guarantor to be eligible to omit its separate financial statements:

- Each subsidiary issuer and guarantor must be ''100%-owned'' by the parent company; [26] and
- Each guarantee must be ''full and unconditional.'' [27]

The form and content of the Alternative Disclosures are determined based on the facts and circumstances and can range from a brief narrative [28] to highly detailed condensed consolidating financial information (''Consolidating Information'').[29] Subsidiary issuers and guarantors that are permitted to omit their separate financial statements under Rule 3–10 are also automatically exempt from Exchange Act reporting under Exchange Act Rule 12h–5. The parent company, however, must continue to provide the Alternative Disclosures for as long as the guaranteed securities are outstanding.[30]

Recently acquired subsidiary issuers and guarantors are addressed separately within Rule 3–10. Rule 3–10(g) [31] requires the Securities Act registration statement of a parent company filed in connection with issuing guaranteed debt securities to include one year of audited, and, if applicable, unaudited interim pre-acquisition financial statements for recently acquired subsidiary issuers and guarantors that

[13] *See* Section 2(a)(1) of the Securities Act.

[14] These securities, while separately identified in the Securities Act, are typically purchased by investors together with the related debt security and are held together while outstanding.

[15] The issuer and guarantor structures contemplated by Rule 3–10 can comprise multiple issuers and multiple guarantors. For example, a parent can co-issue a security with one of its subsidiaries that several of its other subsidiaries guarantee.

[16] A foreign private issuer need only provide interim period disclosure in certain registration statements.

[17] *See* 15 U.S.C. 78o(d).

[18] The duty to file under Section 15(d) is automatically suspended as to any fiscal year, other than the fiscal year within which the registration statement became effective, if, at the beginning of such fiscal year, the securities of each class to which the registration statement relates are held of record by less than 300 persons. *See* Section 15(d)(1) of the Exchange Act.

[19] *See* Section I of the 2000 Release.

[20] Parent company consolidated financial statements must be filed in all instances where the omission of financial statements of subsidiary issuers and guarantors is permitted under existing Rule 3–10. *See* paragraph (4) in each of Rules 3–10(b) through (f).

[21] Typically, all of a parent company's subsidiaries support the parent company's debt-paying ability. However, in the event of default, the holders of a debt security issued by a parent company are disadvantaged as compared to the direct creditors of any subsidiary not providing a guarantee because the holders can only make claims for payment directly against the issuer and any guarantors. In addition, in a bankruptcy proceeding, the assets of non-guarantor subsidiaries that are not issuers typically would be accessible only by the holder indirectly through the parent's equity interest. In such a proceeding, without a direct guarantee, the claims of the holder would be structurally subordinate to the claims of other creditors, including trade creditors of those subsidiaries.

[22] Debt-paying activities typically include, but are not limited to, the use of the subsidiary issuer's and guarantor's assets and the timing and amount of distributions.

[23] A parent company that prepares its financial statements in accordance with U.S. GAAP, would apply Accounting Standards Codification (''ASC'') 810, *Consolidation,* in determining whether to consolidate a subsidiary issuer or guarantor. A parent company that qualifies as a foreign private issuer and prepares its financial statements in accordance with IFRS would apply IFRS 10, *Consolidated Financial Statements.*

[24] *See* Rules 3–10(b) through (f) of Regulation S–X. *See* also Section II.F of the Proposing Release.

[25] The Alternative Disclosures must be provided in the footnotes to the parent company's consolidated financial statements.

[26] *See* Section II.D of the Proposing Release.

[27] *See* Section II.E of the Proposing Release.

[28] *See* additional discussion of the brief narrative form of Alternative Disclosures in Section II.F of the Proposing Release.

[29] *See* additional discussion of Consolidating Information in Section II.G of the Proposing Release.

[30] *See* Section III.C.1 of the 2000 Release and additional discussion in Section II.J of the Proposing Release.

[31] Rule 3–10(g) of Regulation S–X. *See* additional discussion in Section II.I of the Proposing Release.

are significant and have not been reflected in the parent company's audited results for at least nine months of the most recent fiscal year.

The requirements of existing Rule 3–10 are discussed in further detail in Section II of the Proposing Release.

III. Amendments to Rule 3–10 and Partial Relocation to Rule 13–01

A. Overarching Principle

The Commission proposed amendments to address the challenges posed by the current rules while continuing to adhere to the overarching principle upon which existing Rule 3–10 is based, namely, that investors in guaranteed debt securities rely primarily on the consolidated financial statements of the parent company and supplemental details about the subsidiary issuers and guarantors when making investment decisions.[32] A number of commenters agreed with this overarching principle.[33] Of these commenters, one asserted that this principle is particularly true when the parent company is fully obligated as either issuer or full and unconditional guarantor of the security; the parent company controls each subsidiary issuer and guarantor, including having the ability to direct all debt paying activities; and the financial information of each subsidiary issuer and guarantor is included as part of the consolidated financial statements of the parent company.[34] Another of these commenters asserted investors in guaranteed securities rely primarily on the consolidated financial statements of the parent company when making investment decisions, and that these investors need only supplemental details about subsidiary issuers and guarantors.[35] Other commenters noted that in addition to relying on the consolidated financial statements of the parent company, the key disclosure for investors in guaranteed securities is disclosure that enables them to evaluate the extent of their structural subordination risk.[36] According to these commenters, the principal value of subsidiary guarantees to investors is that the guarantees improve the investor's claim on the assets of the subsidiaries in the event of a default and therefore supplemental financial information for subsidiary guarantees should focus on factors impacting structural subordination, not the financial ability of any individual subsidiary guarantor to make payment under the guarantee.[37]

B. Overview of the Proposed and Final Amendments

Under the proposed amendments, the rules would continue to permit the omission of separate financial statements of subsidiary issuers and guarantors when certain conditions are met and the parent company provides supplemental financial and non-financial disclosure about the subsidiary issuers and/or guarantors and the guarantees (''Proposed Alternative Disclosures''). Proposed Rule 3–10 would provide the conditions that must be met in order to omit separate subsidiary issuer or guarantor financial statements. Proposed Rule 13–01 would specify the disclosure requirements for the accompanying Proposed Alternative Disclosures.[38] The proposed amendments would:

- Replace the condition that a subsidiary issuer or guarantor be 100%-owned by the parent company with a condition that it be consolidated in the parent company's consolidated financial statements;
- Replace Consolidating Information with summarized financial information, as defined in 17 CFR 210.1–02(bb)(1)[39] (''Summarized Financial Information''), of the issuers and guarantors (together, ''Obligor Group''), which may be presented on a combined basis, and reduce the number of periods presented;
- Expand the qualitative disclosures about the guarantees and the issuers and guarantors;
- Eliminate quantitative thresholds for disclosure and require disclosure of additional information that would be material to making an investment decision with respect to the guaranteed security;
- Permit the Proposed Alternative Disclosures to be provided outside the footnotes to the parent company's audited annual and unaudited interim consolidated financial statements in the registration statement covering the offer and sale of the subject securities and any related prospectus, and in certain Exchange Act reports filed thereafter;
- Require that the Proposed Alternative Disclosures be included in the footnotes to the parent company's consolidated financial statements for annual and quarterly reports beginning with the annual report for the fiscal year during which the first bona fide sale of the subject securities is completed;
- Eliminate the requirement to provide pre-acquisition financial statements of recently acquired subsidiary issuers and guarantors; and
- Require the Proposed Alternative Disclosures for as long as the issuers and guarantors have an Exchange Act reporting obligation with respect to the guaranteed securities rather than for so long as the guaranteed securities are outstanding.

The proposed amendments were intended to simplify and streamline the rule structure in several ways. Most significantly, under the proposed amendments there would be only a single set of eligibility criteria that would apply to all issuer and guarantor structures instead of separate sets of criteria in each of the five exceptions in existing Rules 3–10(b) through (f). Similarly, the requirements for the Proposed Alternative Disclosures would be included in a single location within proposed Rule 13–01, rather than spread among the multiple paragraphs of existing Rule 3–10. In the Proposing Release, the Commission expressed its belief that these changes would simplify the rule structure and facilitate compliance.[40]

After considering public comments, we are adopting these amendments substantially as proposed with certain modifications. Specifically, the final rule:

- Modifies the proposed requirement to disclose additional information that would be material to holders of the guaranteed security to be more specific by requiring disclosure of additional information about each guarantor that would be material for investors to evaluate the sufficiency of the guarantee, consistent with existing Rule 3–10;
- Permits the amended supplemental financial and non-financial disclosure about the subsidiary issuers and/or guarantors and the guarantees (''Revised Alternative Disclosures'') to be provided outside the footnotes to the parent company's audited annual and unaudited interim consolidated financial statements in all cases rather

[32] *See* discussion in Section II.A, ''Background.''

[33] *See, e.g.,* letters from Ball Corp., Cravath, Davis Polk, Eaton Corp., EY, FEI, Freeport, Nareit, Shearman, and T-Mobile.

[34] *See* letter from Freeport.

[35] *See* letter from Eaton Corp.

[36] *See* letters from Cravath, Davis Polk and Shearman.

[37] *See* id.

[38] The disclosures specified in proposed Rule 13–01(a) would be required ''[f]or each class of guaranteed security registered or being registered for which the registrant is the parent company (as that term is defined in § 210.3–10(b)(1)). . .'' As a technical modification, final Rule 13–01(a) has been revised to require the disclosures specified therein ''[f]or each guaranteed security subject to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, and for each guaranteed security the offer and sale of which is being registered under the Securities Act of 1933, for which the registrant is the parent company (as that term is defined in § 210.3–10(b)(1)) of one or more subsidiaries that issue or guarantee the guaranteed security . . .''

[39] Rule 1–02(bb)(1) of Regulation S–X.

[40] *See* Section III of the Proposing Release.

than only in the proposed circumstances;

- Eliminates the requirement to provide pre-acquisition financial statements of recently acquired subsidiary issuers and guarantors as proposed, but requires, in certain instances, pre-acquisition Summarized Financial Information about significant recently acquired subsidiary issuers and guarantors; and
- Reflects other modifications from the proposed amendments as described below.

The proposed and final amendments, along with our consideration of public comments, are discussed in detail below.

C. Conditions To Omit the Financial Statements of a Subsidiary Issuer or Guarantor

Under the proposed amendments, the financial statements of a subsidiary issuer or guarantor could be omitted if the eligibility conditions contained in proposed Rules 3–10(a) and 3–10(a)(1) are met and the Proposed Alternative Disclosures specified in proposed Rule 13–01 are provided in the filing, as required by proposed Rule 3–10(a)(2). As proposed, the eligibility conditions would be that:

- The consolidated financial statements of the parent company have been filed;
- The subsidiary issuer or guarantor is a consolidated subsidiary of the parent company;
- The guaranteed security is debt or debt-like; and
- One of the following eligible issuer and guarantor structures is applicable:
  - ○ The parent company issues the security or co-issues the security, jointly and severally, with one or more of its consolidated subsidiaries; or
  - ○ A consolidated subsidiary issues the security or co-issues the security with one or more other consolidated subsidiaries of the parent company, and the security is guaranteed fully and unconditionally by the parent company.

The proposed amendments, comments received, and final amendments to the eligibility conditions are described below.

1. Eligibility Conditions

a. Parent Company Financial Statements Condition

i. Proposed Amendments

Proposed Rule 3–10 would continue to require the filing of the parent company's consolidated financial statements. Additionally, under the proposed amendments, ''parent company'' would be defined as in the 2000 Release, with one change. The first two conditions would continue to be that the entity is: (1) An issuer or guarantor of the securities; and (2) an Exchange Act reporting company, or will become one as a result of the subject Securities Act registration statement. However, the third condition, that the entity owns, directly or indirectly, 100% of each subsidiary issuer and guarantor, would no longer be required for an entity to be considered the parent company.[41] Instead, the third condition would be that the entity consolidates each subsidiary issuer and guarantor in its consolidated financial statements.[42] For clarity, the definition of ''parent company'' would be included in proposed Rule 3–10(b)(1), stating that the parent company is the entity that meets the three aforementioned conditions.

The note to existing Rule 3–10(a)(2) states that ''the financial statements of an entity that is not an issuer or guarantor of the registered security cannot be substituted for those of the parent company.'' Because the definition of parent company was included in proposed Rule 3–10(b)(1), which states that the parent company must be an issuer or guarantor of the guaranteed security, the note to existing Rule 3–10(a)(2) was deemed unnecessary and excluded from the proposed rule.

ii. Comments on the Proposed Amendments

We received one comment on this aspect of the proposed amendments, which was supportive. The commenter specifically supported the proposed conforming revision to the definition of ''parent company,'' stipulating that the entity must consolidate each subsidiary issuer and guarantor in its consolidated financial statements.[43]

iii. Final Amendments

We are adopting the amendments as proposed. The parent company's financial statements will continue to be required to be filed pursuant to amended Rule 3–10(a). Previously, a definition of ''parent company'' was set forth in the 2000 Release but was not included in existing Rule 3–10 itself. For clarity, and given the importance of appropriately identifying the issuer or guarantor that is the ''parent company,'' the revised definition has been included in amended Rule 3–10(b)(1). Due to the inclusion of this definition, as proposed, we have eliminated the note to existing Rule 3–10(a)(2).

b. Consolidated Subsidiary Condition

i. Proposed Amendments

Proposed Rule 3–10(a) would require the subsidiary issuer or guarantor to be a consolidated subsidiary of the parent company pursuant to the relevant accounting standards already in use.[44] This proposed change would eliminate the distinction between subsidiaries in corporate form and those in other than corporate form, applying a consistent eligibility condition across entities. Also, certain subsidiary issuers and guarantors that are currently not eligible to omit their financial statements under existing Rule 3–10, such as consolidated subsidiary issuers or guarantors that have issued securities convertible into their own voting shares, would be eligible to omit their financial statements. The proposed amendments would instead require the parent company to provide disclosures that address the material risks, if any, associated with non-controlling interests in the subsidiary issuer or guarantor, including any risks arising from securities issued by the subsidiary that may be convertible into voting shares and may cause the percentage of non-controlling interest to increase, and to separately provide Summarized Financial Information attributable to those subsidiaries.

Specifically, proposed Rule 13–01(a)(3) would require a description of any factors that may affect payments to holders of the guaranteed security, such as the rights of a non-controlling interest holder.[45] In addition, proposed Rule 13–01(a)(4) would require separate disclosure of Summarized Financial Information for subsidiary issuers and guarantors affected by those factors.[46] For example, if, through its ability to exercise significant influence[47] over a subsidiary guarantor, a non-controlling interest holder could materially affect payments to holders of the guaranteed security, the parent company would be required to disclose those factors and

[41] *See* Section III.A.6. of the 2000 Release.

[42] *See* discussion in Section III.C.1.b, ''Consolidated Subsidiary.''

[43] *See* letter from FEI.

[44] *See supra* note 23.

[45] *See* discussion in Section III.C.2.b, ''Non-Financial Disclosures.''

[46] *See* discussion in Section III.C.2.a.ii, ''Presentation on a Combined Basis.''

[47] *See* ASC 323, *Investments—Equity Method and Joint Ventures.* Representation on the board of directors, participation in policy-making processes, and extent of ownership by an investor in relation to the concentration of other shareholdings are among the ways listed in ASC 323–10–15–6 that may indicate the ability to exercise significant influence over operating and financial policies of an investee.

the Summarized Financial Information attributable to that subsidiary guarantor.

ii. Comments on the Proposed Amendments

Comments were supportive of these proposals. Many commenters supported the proposed revisions to Rule 3–10 to require the subsidiary issuer or guarantor to be a consolidated subsidiary of the parent company pursuant to the relevant accounting standards already in use.[48] One commenter indicated that the proposed requirement to describe any factors that may affect payments to holders of the guaranteed security would elicit the necessary material disclosures for a consolidated subsidiary issuer or guarantor that is less than 100%-owned.[49]

Several commenters asserted that the existing rule's 100%-owned requirement was overly restrictive [50] or burdensome.[51] One commenter indicated that the proposed condition that each issuer and guarantor be a consolidated subsidiary of the parent company would provide more flexibility to issuers.[52] Several commenters asserted that there is no practical difference between whether a subsidiary is 100%-owned or is consolidated when making an evaluation of the subsidiary's creditworthiness [53] and noted that, in either case, the minority equity interests are subordinated to the subsidiary's debt obligation.[54]

iii. Final Amendments

We are adopting the amendments as proposed. Amended Rule 3–10(a) requires the subsidiary issuer or guarantor to be a consolidated subsidiary of the parent company as one condition of eligibility that must be met to omit the subsidiary issuer's or guarantor's financial statements. Additionally, a description of any factors that may affect payments to holders of the guaranteed security, such as the rights of a non-controlling interest holder, is required by Rule 13–01(a)(3),[55] and separate disclosure of Summarized Financial Information for the issuers and guarantors to which those factors apply is required by Rule 13–01(a)(4)(iv).[56]

Under the existing rule, we understand that a parent company with a consolidated but less than 100%-owned subsidiary generally would avoid designating that subsidiary as a guarantor of the debt in a registered offering, would issue registered debt without subsidiary guarantees, or would avoid registering the offering altogether due to the requirement to provide that subsidiary's separate financial statements. These choices may lead to a higher cost of capital and less protection for investors than if the subsidiary were designated as a guarantor.[57]

Consistent with the view expressed in the Proposing Release, we note that the existence of non-controlling interest holders generally does not alter the fundamental nature of the investment such that it should be evaluated similar to multiple investments in different issuers.[58] Specifically, we believe that where a parent company is obligated as an issuer or a full and unconditional guarantor of a guaranteed security and it controls and includes the subsidiary issuer(s) and guarantor(s) in its consolidated financial statements, there is sufficient financial unity between the parent company and the related subsidiary with respect to the guaranteed debt security such that the consolidated financial statements of that parent company and the Revised Alternative Disclosures would enable investors to evaluate and sufficiently assess the risks associated with an investment in such guaranteed debt security. We expect this change will cause more subsidiary issuers and guarantors to be eligible to omit their financial statements, while continuing to provide the information about subsidiary issuers and guarantors that investors need to make informed investment decisions. This change may also result in parent companies no longer omitting consolidated but less than 100%-owned subsidiaries as guarantors in registered offerings, possibly reducing the cost of capital.

We also note that the final amendments will require specific disclosure about any material factors that may affect payments to holders, including the rights of a non-controlling interest holder. This disclosure should more directly provide insight into any competing common equity interest in the assets or revenues of a subsidiary, in contrast to the indirect disclosure in the form of separate financial statements of the consolidated subsidiary issuer or guarantor that an investor receives under the existing rule. We also expect this change will reduce costs and burdens for consolidated but less than 100%-owned subsidiary issuers and guarantors, which are currently required to provide separate financial statements.

c. Debt or Debt-Like Securities Condition

i. Proposed Amendments

The exceptions in existing Rules 3–10(b) through (f) are available only to issuers and guarantors of debt securities.[59] Similarly, the proposed rule would be available only for issuers and guarantors of guaranteed debt and guaranteed preferred securities that have payment terms that are substantially the same as debt. In order to provide clarity, proposed Rule 3–10(a)(1) would state explicitly that the guaranteed security must be ''debt or debt-like.''

For additional clarity, proposed Rule 3–10(b)(2) would specify when a guaranteed security would be considered ''debt or debt-like.'' Consistent with the guidance provided in the 2000 Release,[60] a guaranteed security would be considered ''debt or debt-like'' under the proposed rule if:

- The issuer has a contractual obligation to pay a fixed sum at a fixed time; and
- Where the obligation to make such payments is cumulative, a set amount of interest must be paid.

As is currently the case, the substance of the security's obligation would determine the availability of relief under Rule 3–10 rather than the form or title of the security. Accordingly, the proposed rule would clarify, consistent with the 2000 Release,[61] that:

- Neither the form of the security nor its title will determine whether a security is debt or debt-like. Instead, the substance of the obligation created by the security will be determinative; and
- The phrase ''set amount of interest'' is not intended to mean ''fixed amount of interest.'' Floating and adjustable rate securities, as well as indexed securities, may meet the criteria specified in paragraph (b)(2)(ii) as long as the

[48] *See, e.g.,* letters from Comcast, Cravath, Davis Polk, EEI/AGA, FedEx, FEI, Nareit, NYC Bar, and Sullivan & Cromwell.

[49] *See* letter from NYC Bar.

[50] *See* letters from Comcast, Cravath, and Davis Polk.

[51] *See* letter from Nareit.

[52] *See* letter from NYC Bar.

[53] *See* letters from Comcast, Cravath, Davis Polk, and FEI.

[54] *See* letters from Cravath, Davis Polk, and Nareit.

[55] *See* discussion in Section III.C.2.b, ''Non-Financial Disclosures.''

[56] *See* discussion in Section III.C.2.a.ii, ''Presentation on a Combined Basis.'' As described therein, in limited circumstances, a brief narrative is permitted in lieu of separate Summarized Financial Information of the affected issuers and guarantors.

[57] For example, if an offering of guaranteed debt securities was conducted on a registered basis but the subsidiary was not added as a guarantor, the claims of a holder against the non-guarantor subsidiary may be structurally subordinate to the claims of other creditors. *See supra* note 21.

[58] *See* Section III.C.1.b of the Proposing Release.

[59] *See* Section II.H of the Proposing Release.

[60] *See* Section III.A.4 of the 2000 Release.

[61] *See* Section III.A.4.b.i of the 2000 Release.

payment obligation is set in the debt instrument and can be determined from objective indices or other factors that are outside the discretion of the obligor.

ii. Comments on the Proposed Amendments

We received one comment supporting this aspect of the proposed amendments. The commenter supported the ''debt or debt-like'' condition in proposed Rule 3–10, stating that the proposed revision would be a useful modification to Rule 3–10.[62]

iii. Final Amendments

We are adopting the amendments as proposed. Amended Rule 3–10(a)(1) requires that the guaranteed security must be ''debt or debt-like,'' and amended Rule 3–10(b)(2) specifies when a guaranteed security would be considered ''debt or debt-like'' as proposed.

d. Eligible Issuer and Guarantor Structures Condition

i. Proposed Amendments

The proposed amendments would simplify and streamline the existing rule by replacing the specific issuer and guarantor structures permitted under the five exceptions in existing Rules 3–10(b) through (f) with a broader two-category framework. Under this framework, an issuer and guarantor structure would be eligible if:

- The parent company issues the security or co-issues the security, jointly and severally, with one or more of its consolidated subsidiaries;[63] or
- A consolidated subsidiary issues the security, or co-issues it with one or more other consolidated subsidiaries of the parent company, and the security is guaranteed fully and unconditionally by the parent company.[64]

Under the proposed amendments, the ability to provide the Proposed Alternative Disclosures in lieu of separate subsidiary issuer and guarantor financial statements would only be available when the parent company's obligation is full and unconditional. Accordingly, under the proposed rule, the parent company's role as issuer,[65] co-issuer,[66] or full and unconditional guarantor with respect to the guaranteed security[67] would determine whether the issuer and guarantor structure is eligible.[68] In a change from the existing exceptions, the status of subsidiary guarantors would not be specified in the proposed categories of eligible issuer and guarantor structures,[69] and subsidiary guarantees would no longer be required to be full and unconditional as a condition of eligibility.[70] Although one or more other subsidiaries of the parent company may, and the Commission expected often would, guarantee the security, in the Proposing Release, the Commission stated its belief that the eligibility of an issuer and guarantor structure should depend on the role of the parent company.[71] Accordingly, under the proposed amendments separate financial statements of consolidated subsidiary guarantors may be omitted for each eligible issuer and guarantor structure if the other conditions of proposed Rule 3–10 are met.

ii. Comments on the Proposed Amendments

Comments on the proposals were generally supportive. Commenters generally supported the simplified and streamlined approach of the proposed amendments that replaced the specific issuer and guarantor structures permitted under the five exceptions in existing Rules 3–10(b) through (f) with a broader two-category framework of eligible issuer and guarantor structures.[72] One commenter suggested that an exemption to the required financial disclosures about guarantors should be permitted if the issuer of the debt is the parent company.[73] This commenter stated that, for registrants that issue securities only from the parent entity, the relevant financial information could be derived from the parent's consolidated financial statements.

Two commenters supported the proposed requirement that only the parent company's guarantee need be full and unconditional,[74] of which one stated that ''disclosure of the limitations on the scope of the guarantee is more important to investors than providing separate financial statements of the issuer of a limited guarantee.''[75] This same commenter indicated that local law requirements in many foreign jurisdictions preclude the issuance of a guarantee that satisfies the Commission's definition of ''full and unconditional,'' and that historically, it

[62] *See* letter from Sullivan & Cromwell.

[63] Proposed Rule 3–10(a)(1)(i).

[64] Proposed Rule 3–10(a)(1)(ii).

[65] When acting as the sole issuer, the parent company would be fully and unconditionally obligated for the full amount of any scheduled payments when they come due.

[66] When acting as a co-issuer with one or more of its consolidated subsidiaries, all co-issuers would be required to be jointly and severally liable under the security. This would obligate each of the parent company and its subsidiary co-issuers to all legal responsibilities of an issuer, including making scheduled payments on the security in full when they come due. The parent company would control each consolidated co-issuer, the financial information of the subsidiary co-issuer(s) would be reflected in the consolidated financial statements of the parent company, and the parent company would be fully and unconditionally obligated to make payments in full when due under the security.

[67] Whether the parent company's guarantee is ''full and unconditional'' would be determined in the same manner as in existing Rule 3–10(h)(2) and section III.A.1.b of the 2000 Release, and would be included in proposed Rule 3–10(b)(3). The parent company would control each consolidated subsidiary issuer, the financial information of the subsidiary issuer(s) would be reflected in the consolidated financial statements of the parent company, and the parent company would be fully and unconditionally obligated to make payments in full when due under the guaranteed security.

[68] Because the proposed amendments to Rule 3–10 do not focus on the role and nature of the subsidiary as a condition to eligibility, the proposed amendments would no longer require a subsidiary issuer or guarantor to be designated as a ''finance subsidiary'' in any particular circumstances. Likewise, the proposed amendments would remove the definition of ''finance subsidiary'' from the existing rule, since it is not otherwise used in Regulation S–X. Existing Rule 3–10(h)(8) defines an ''operating subsidiary'' to differentiate it from a ''finance subsidiary.'' Since the proposed amendments would remove the ''finance subsidiary'' distinction and definition, proposed Rule 3–10 likewise would no longer need to refer to or define ''operating subsidiary.''

[69] While not specified in the proposed eligible categories of issuer and guarantor structures, the role of subsidiary guarantors and their guarantees would, however, affect the required disclosure under the proposed rule. For example, the subsidiary guarantors would be required to be identified pursuant to proposed Rule 13–01(a)(1), and if factors exist that may affect payments to holders, such as factors affecting guarantee enforceability, disclosure of the factors would be required by proposed Rule 13–01(a)(3), to the extent material. Furthermore, proposed Rule 13–01(a)(4) would require separate disclosure of Summarized Financial Information applicable to subsidiary guarantors to which such factors apply, to the extent material.

[70] One of the conditions a subsidiary guarantor must meet under the existing rule is that its guarantee must be full and unconditional. A subsidiary's guarantee may have the characteristics of a full and unconditional guarantee at its inception except that there may be contractual provisions permitting the subsidiary to be released from that guarantee under certain circumstances. Such release provisions could cause the subsidiary's guarantee to fail to meet the requirement that the guarantee be full and unconditional because the potential elimination of the guarantee is a condition beyond the issuer's failure to pay. Because the nature of the guarantee of a subsidiary guarantor does not affect whether the issuer and guarantor structure is eligible under the proposed rule, a subsidiary guarantee would no longer be required to be full and unconditional. As such, the existence of subsidiary guarantee release provisions would not prevent that subsidiary guarantor from omitting its financial statements. However, to the extent material, such release provisions would be required to be disclosed pursuant to proposed Rule 13–01(a)(2) and separate disclosure of Summarized Financial Information applicable to that subsidiary guarantor would be required by proposed Rule 13–01(a)(4).

[71] *See* Section III.C.1.d of the Proposing Release.

[72] *See, e.g.,* letters from FEI and NYC Bar.

[73] *See* letter from Ball Corp.

[74] *See* letters from Cravath and FEI.

[75] *See* letter from Cravath.

was rare for foreign subsidiaries to guarantee debt of domestic registrants due to potentially adverse tax consequences.[76] Another commenter asserted that the proposed amendments contemplate changing the definition of ''full and unconditional'' and recommended that, if such changes were adopted, the Commission provide guidance around the definition akin to what was provided in the 2000 Release.[77]

iii. Final Amendments

We are adopting the amendments substantially as proposed. Consistent with the proposal, the specific issuer and guarantor structures permitted under the five exceptions in existing Rules 3–10(b) through (f) will be replaced with the proposed two-category framework.

As shown in the table below, issuer and guarantor structures that currently fall under existing Rules 3–10(b), (c), or (d) align with the eligible categories in amended Rules 3–10(a)(1)(i) or (ii), depending on the role of the parent company as either co-issuer or full and unconditional guarantor of the guaranteed security. Issuer and guarantor structures that currently fall under existing Rules 3–10(e) or (f), wherein the parent company is the sole issuer of the guaranteed security, align with the first category in amended Rule 3–10(a)(1)(i).

Existing rule	Amended rule
Rules 3–10(b), 3–10(c), and 3–10(d)	Rule 3–10(a)(1)(i), if the subsidiary co-issued the security, jointly and severally, with its parent. Rule 3–10(a)(1)(ii), if the subsidiary issued the security that is fully and unconditionally guaranteed by its parent.
Rules 3–10(e) and 3–10(f)	Rule 3–10(a)(1)(i).

Under the amended rules, the ability to provide the Revised Alternative Disclosures in lieu of separate subsidiary issuer and guarantor financial statements is only available when the parent company's obligation is full and unconditional.

We are not adopting one commenter's suggestion to permit the omission of the required financial disclosures about guarantors if the issuer of the debt is the parent company.[78] Consistent with the rationale cited in our discussion of the overarching principle and overview of the amendments above,[79] we believe the financial information about the Obligor Group included in the Revised Alternative Disclosures is an important supplement to the consolidated financial statements of the parent company for investors when making investment decisions about guaranteed debt securities. Therefore, providing the Revised Alternative Disclosures is a condition that must be met to permit the omission of a subsidiary issuer's or guarantor's financial statements.

Consistent with the proposed rule, the status of subsidiary guarantors is not specified in the categories of eligible issuer and guarantor structures in the final rule. Although one or more other subsidiaries of the parent company may, and we expect often would, guarantee the security, the eligibility of an issuer and guarantor structure depends on the role of the parent company as issuer, co-issuer, or full and unconditional guarantor with respect to the guaranteed security. Separate financial statements of consolidated subsidiary guarantors may be omitted for each issuer and guarantor structure that is eligible if the other conditions of amended Rule 3–10 are met. Despite not affecting whether that issuer and guarantor structure is eligible, the role of subsidiary guarantors in an issuer and guarantor structure and their guarantees do affect what disclosure is required. In this regard, the subsidiary guarantors are required to be identified pursuant to Rule 13–01(a)(1), and disclosure of the terms and conditions of the guarantees is required by Rule 13–01(a)(2),[80] which includes but is not limited to any limitations and conditions of a subsidiary's guarantee, whether the guarantee is joint and several with other guarantees, and any guarantee release provisions. Further, separate disclosure of Summarized Financial Information applicable to subsidiary guarantors to which such disclosures apply is required by Rule 13–01(a)(4)(iv).[81]

As was proposed, an issuer and guarantor structure involving a finance subsidiary[82] used to issue a debt security guaranteed by the parent company[83] will be addressed by amended Rule 3–10(a)(1)(ii) or, if the security were to be co-issued, jointly and severally, with its parent, amended Rule 3–10(a)(1)(i) will apply. Also as proposed, the final rule will no longer require a subsidiary issuer or guarantor to be designated as a ''finance subsidiary'' for purposes of determining whether the issuer and guarantor structure is eligible.[84] Consistent with the proposed amendments, the final rule also eliminates the ''operating subsidiary'' definition in existing Rule 3–10(h)(8).

2. Disclosure Requirements

Under existing Rule 3–10, one of the conditions to omitting separate financial statements of a subsidiary issuer or guarantor is providing the Alternative Disclosures in the footnotes to the parent company's consolidated financial statements. The Commission proposed to retain the requirement to provide Alternative Disclosures, with

[76] *See* letter from Cravath.

[77] *See* letter from Debevoise. The Proposing Release requested comment on the definition of ''full and unconditional,'' but the proposed rules would not change the definition. The Proposing Release states, ''[f]or purposes of the proposed rule, whether the parent company's guarantee is 'full and unconditional' would be determined in the same manner as in existing Rule 3–10(h)(2) and the 2000 Release.''

[78] *See* letter from Ball.

[79] *See* discussion in Sections III.A ''Overarching Principle'' and ''III.B, ''Overview of the Proposed and Final Amendments.''

[80] *See* discussion in Section III.C.2.b, ''Non-Financial Disclosures.''

[81] *See* discussion in Section III.C.2.ii, ''Presentation on a Combined Basis.'' In limited circumstances, a brief narrative is permitted in lieu of separate Summarized Financial Information of the affected guarantors.

[82] Under existing Rule 3–10(h)(7) of Regulation S–X, ''[a] subsidiary is a finance subsidiary if it has no assets, operations, revenues or cash flows other than those related to the issuance, administration and repayment of the security being registered and any other securities guaranteed by its parent company.''

[83] This issuer and guarantor structure is included in the exception in existing Rule 3–10(b) of Regulation S–X. *See* Section II.F of the Proposing Release.

[84] As proposed, the ''finance subsidiary'' definition at existing Rule 3–10(h)(7) would have been eliminated. However, as described below, the final rule specifies certain circumstances involving a ''finance subsidiary'' when we believe the required supplemental financial information is not material to an investment decision and may be omitted. As part of this change, an amended definition of ''finance subsidiary'' has been incorporated in the note to new Rule 13–01(a)(4)(vi)(C) and (D). *See* Section III.C.2.c, ''When Disclosure is Required.''

modifications, as it believed the disclosures are an important supplement to the consolidated parent company disclosures. If the eligibility conditions in proposed Rule 3–10(a) introductory text and (a)(1) are satisfied, a parent company would be required to include the Proposed Alternative Disclosures specified in proposed Rule 13–01 in the relevant filing, but could omit the separate financial statements of subsidiary issuers and guarantors.[85] The proposed amendments would streamline and simplify the rule by including the Proposed Alternative Disclosures in a single location within proposed Rule 13–01 rather than having such requirements in multiple paragraphs. The proposed amendments, comments received, and final amendments to the disclosure requirements are described below.

a. Financial Disclosures

As discussed below,[86] the financial disclosure requirements in proposed Rule 13–01 were tailored to the type of material information, in addition to the parent company's consolidated financial statements, that the Commission believed investors in registered offerings need to make informed investment decisions about guaranteed debt securities. Under the proposed revisions, registrants would:

- Be required to provide Summarized Financial Information rather than Consolidating Information;
- Be required to provide disclosure about the Obligor Group without financial information of non-obligated entities (financial information of each issuer and guarantor could generally be combined into a single column); and
- Be permitted to reduce the number of periods presented.

As a result of the proposed revisions, the instructions for preparing Consolidating Information in existing Rule 3–10(i) would be eliminated.[87]

i. Level of Detail

(A) Proposed Amendments

Unless a brief narrative is permitted, existing Rule 3–10 requires Consolidating Information, which includes all major captions of the balance sheet, income statement, and cash flow statement that Article 10 (Rule 10–01) of Regulation S–X[88] requires to be shown separately in interim financial statements. The proposed amendments were based on requiring supplemental financial information about issuers and guarantors that would be focused on the information that the Commission believed is most likely to be material to an investment decision. Proposed Rule 13–01(a)(4) would therefore require Summarized Financial Information, which would include select balance sheet and income statement line items. Disclosure of additional line items of financial information beyond what is specified in proposed Rule 13–01(a)(4) would have been required by proposed Rule 13–01(a)(5), to the extent they are material to an investment decision.

While investors are provided cash flow information at the parent company consolidated level, supplemental cash flow information about subsidiary issuers and guarantors would not be a required disclosure under the proposed rule.

(B) Comments on the Proposed Amendments

Comments on the proposed amendments were generally supportive. Many commenters supported the proposal to replace Consolidating Information with Summarized Financial Information, as defined in Rule 1–02(bb)(1) of Regulation S–X.[89] Some commenters asserted that providing Summarized Financial Information rather than Consolidating Information would reduce disclosure burdens[90] while continuing to provide investors with material information to make an informed investment decision.[91]

Some commenters noted that many issuers' information systems are not normally designed to provide the level of detail currently required by Rule 3–10, which, according to these commenters, makes complying with the rule burdensome.[92] Some commenters stated that investors have expressed little interest in the detailed disclosures required by existing Rule 3–10.[93]

A number of commenters stated that the proposal to require only Summarized Financial Information rather than Consolidating Information was an improvement, but recommended that the final rules should permit registrants to provide even less disclosure.[94] In this regard, a few commenters noted that Rule 144A offerings[95] may include less disclosure than what is required in Summarized Financial Information.[96] Some commenters suggested that registrants should be allowed to provide only balance sheet information because balance sheet information should be sufficient disclosure for investors to make an informed investment decision.[97] One commenter contended that guarantor revenues, guarantor operating income (or a similar metric), and assets and liabilities of the issuer and guarantors were the most useful disclosures for making an investment decision and stated that these disclosures are what typically is provided in Rule 144A offerings.[98]

Several commenters recommended other modifications to the proposed amendments. One commenter suggested that Summarized Financial Information may be too condensed and asserted that users of financial statements would be better informed if balance sheet and income statement information similar to the level of detail specified in Rule 10–01 of Regulation S–X were provided.[99] Another commenter recommended requiring disclosure of investments held by the Obligor Group in non-obligated subsidiaries; intercompany or related-party transactions between the obligated and non-obligated groups; and whether the obligated group includes variable interest entities, which should cross-reference the relevant disclosures in the consolidated financial statements.[100] Another commenter stated that ''related party transactions with [other subsidiaries] is an example of additional information that may be material to

[85] This requirement would be specified in proposed Rule 3–10(a)(2).

[86] *See* discussion in Section III.C.2.a.i, ''Level of Detail.''

[87] As a result of the adoption of the proposed financial disclosures as described below, which replace Consolidating Information, the final rule eliminates the instructions in existing Rule 3–10(i).

[88] 17 CFR 210.10–01.

[89] *See, e.g.,* letters from Ball Corp., Comcast, Davis Polk, Dell, Eaton Corp., EEI/AGA, EY, FedEx, FEI, Freeport, KPMG, Medtronic, Nareit, NYC Bar, Sullivan & Cromwell, T-Mobile, and WTW.

[90] *See, e.g.,* letters from Ball Corp., Eaton Corp., EY, FEI, Freeport, KPMG, NYC Bar, Sullivan & Cromwell, and T-Mobile.

[91] *See, e.g.,* letters from Ball Corp., EY, FedEx, FEI, Freeport, and Sullivan & Cromwell.

[92] *See* letters from Dell, FEI, and Freeport.

[93] *See, e.g.,* letters from Ball Corp., Freeport, Windstream, and WTW.

[94] *See, e.g.,* letters from Comcast, Davis Polk, Eaton Corp., FEI, Medtronic, and NYC Bar.

[95] The majority of private debt offerings are conducted using Rule 144A, and 99% of Rule 144A offerings are debt offerings. Additionally, although most Regulation D offerings are equity offerings, a significant number include debt securities. *See* U.S. Sec. & Exch. Comm'n, Div. of Econ. & Risk Analysis, *Access to Capital and Market Liquidity* 96 (Aug. 2017) (''*Access to Capital and Market Liquidity Report*''), available at *https://www.sec.gov/files/access-to-capital-and-market-liquidity-study-2017.pdf,* at p. 38; Scott Bauguess *et al.,* U.S. Sec. & Exch. Comm'n, Div. of Econ. & Risk Analysis, *Capital Raising in the U.S.: An Analysis of the Market for Unregistered Securities Offerings, 2009–2014* (Oct. 2015), available at *https://www.sec.gov/dera/staff-papers/white-papers/30oct15_white_unregistered_offering.html.*

[96] *See, e.g.,* letters from Davis Polk, Eaton Corp., and NYC Bar.

[97] *See, e.g.,* letters from Comcast, Eaton Corp., FEI, and Medtronic.

[98] *See* letter from T-Mobile.

[99] *See* letter from PWC.

[100] *See* letter from EY.

investor decisions, and thus may require disclosure.'' [101] This commenter also stated that it would be even more meaningful to simply exclude such balances and transactions altogether. One commenter suggested that the Commission should consider whether requiring separate disclosure of the amounts in each caption of the combined Summarized Financial Information related to the non-obligated entities would enhance the usefulness of the information.[102] This commenter also suggested that the Commission consider whether using different measures, such as operating income, instead of, or in addition to, net income would provide valuable information to investors.

A few commenters suggested requiring certain financial information of the non-guarantor subsidiaries,[103] stating that such disclosures would be consistent with information provided in Rule 144A offerings or high yield Rule 144A offerings.[104] One of these commenters suggested requiring disclosure of debt and other liabilities of the non-guarantor subsidiaries and that any profitability metrics about the obligated entities (or non-obligated subsidiaries) should be capital-structure neutral by excluding interest expense.[105] Another commenter suggested only requiring disclosure of revenue, operating income, assets and liabilities of the non-guarantors as a group.[106] This commenter suggested permitting the financial disclosures to be of the non-guarantors as a group, rather than requiring such disclosure of the Obligor Group. Yet another commenter suggested that the Commission require disclosure of a metric of earnings of the non-guarantors, which the issuer should be able to choose, as well as the assets and liabilities of the non-guarantors as a single group.[107] One commenter recommended that the Commission consider requiring registrants to evaluate and disclose information in their Management Discussion and Analysis (''MD&A'') section with respect to known trends and uncertainties that have had or are reasonably expected to have a material impact on the results and operations or capital resources of the Obligor Group and other issuers and guarantors whose information is required to be presented separately.[108]

One commenter contended that holders of debt securities are expected to be interested in debt service and may need cash flow information for the Obligor Group and recommended that the Commission consider input from investors with respect to the need for summarized cash flow information.[109] Other commenters, however, stated that supplemental cash flow information should not be required.[110] Some of these commenters asserted such information would not be meaningful information as investors look primarily to the parent company's consolidated cash flow [111] and that preparing this disclosure would be costly.[112]

One commenter advocated that the Commission consider replacing the parent company-only condensed financial statements required by 17 CFR 210.5–04 (''Rule 5–04 of Regulation S–X'') and 210.12–04 (''Rule 12–04 of Regulation S–X'') with parent-only summarized financial information when there is a specified level of restriction on an issuer's subsidiaries' ability to transfer funds to the parent.[113]

(C) Final Amendments

We are adopting the amendments in substantially the form proposed, but with modifications in response to comments received. As adopted, Rule 13–01(a)(4) will require disclosure of Summarized Financial Information for each issuer and guarantor. As described above, some commenters suggested requiring different or more limited information than what is required by Summarized Financial Information, or balance sheet only information, whereas one commenter recommended more detailed information. However, many other commenters supported the use of Summarized Financial Information, and we believe the select balance sheet and income statement line items it requires are focused on the information that is most likely to be material to an investment decision. Under the final amendments, disclosure of additional line items of financial information beyond the line items specified in Summarized Financial Information is required if necessary to comply with Rule 13–01(a)(6) and (7).[114] For example, if substantially all of the obligated entities' non-current assets consisted of goodwill, separate presentation of goodwill from non-current assets would be required if the parent company concludes such disclosure would be material for investors to evaluate the sufficiency of the guarantee. We agree with several commenters that requiring Summarized Financial Information would simplify compliance and reduce costs for preparers, while providing investors with more streamlined and easier to understand financial information that is material to an investment decision. We recognize that some of this information may go beyond what some commenters assert is typically provided in Rule 144A debt offerings, but we believe this is appropriate in light of the broader range of potential investors that may participate in a registered offering.

The Proposing Release included an example of when incremental disclosure of related party revenues would be required under the proposed rule.[115] Specifically, if a material amount of reported revenues of the obligated entities were derived from transactions with related parties, such as non-issuer and non-guarantor subsidiaries of the

[101] *See* letter from FEI.

[102] *See* letter from Deloitte.

[103] *See* in Section III.C.2.a.ii, ''Presentation on a Combined Basis'' regarding presentation of non-guarantor information.

[104] *See* letters from Davis Polk, NYC Bar, and Shearman. Two of these commenters stated that their recommendations for required disclosures were based on the information they believe allows investors to evaluate structural subordination. *See* letters from Davis Polk and Shearman.

[105] *See* letter from Shearman. This commenter asserted that, in default, the levered equity value of the obligors is irrelevant because the capital structure will be readjusted through a reorganization or liquidation, and that where profitability metrics are included in Rule 144A offering documents, they generally consist of operating income or earnings before interest, taxes, depreciation, and amortization (''EBITDA''), each excluding interest expense. This commenter further stated that in contrast with these measures, the proposed Summarized Financial Information would consist of income from continuing operations and net income, both of which include interest expense allocated within the corporate group under the pre-default capital structure.

[106] *See* letter from NYC Bar.

[107] *See* letter from Davis Polk.

[108] *See* letter from Grant Thornton.

[109] *See* letter from Grant Thornton.

[110] *See, e.g.,* letters from Eaton Corp., Sullivan & Cromwell, T-Mobile, and Windstream.

[111] *See* letters from Sullivan & Cromwell and T-Mobile.

[112] *See* letter from Eaton Corp.

[113] *See* letter from BDO. This recommendation would affect situations beyond disclosures about issuers and guarantors of guaranteed securities and is beyond the scope of the amendments considered herein.

[114] Proposed Rule 13–01(a)(1) through (4) set forth proposed requirements to disclose specific financial and non-financial information. Proposed Rule 13–01(a)(5), which would have required disclosure of ''any other quantitative or qualitative information that would be material to making an investment decision with respect to the guaranteed security,'' was included to require disclosure about the obligated entities and the guarantees that would be material but was not otherwise already required by the specified proposed financial and non-financial disclosures. Instead of proposed Rule 13–01(a)(5), the final amendments include Rules 13–01(a)(6) and (7), which require disclosure of ''[a]ny financial and narrative information about each guarantor if the information would be material for investors to evaluate the sufficiency of the guarantee,'' and ''[s]ufficient information so as to make the financial and non-financial information presented not misleading,'' respectively. *See* discussion in Section III.C.2.c, ''When Disclosure is Required.''

[115] *See* Section III.C.2.a.i of the Proposing Release. Such disclosure would have been required by proposed Rule 13–01(a)(5).

parent company, separate disclosure of those amounts would be necessary. Instead of including this as an example of when disclosure would be required under Rule 13–01(a)(6) and (7), we agree with those commenters that recommended including a requirement to separately disclose an issuer's or guarantor's balance sheet and income statement amounts related to non-obligated subsidiaries.[116] Accordingly, as adopted, Rule 13–01(a)(4)(iii) requires an issuer's or guarantor's amounts due from, amounts due to, and transactions with non-obligated subsidiaries and related parties to be presented in separate line items, to the extent material.[117] We believe that clearly establishing this expectation as a stated requirement will assist in the preparation of the disclosures and provide material information to investors, and agree with one commenter that such separate disclosure enhances the transparency of the Summarized Financial Information presented.[118]

Unlike Consolidating Information, Summarized Financial Information does not include cash flow statement information. As described above, of the commenters that specifically discussed supplemental cash flow information, several supported not requiring such information,[119] while one suggested considering input from investors.[120] Similar to some commenters, we believe investors in a registered offering look primarily to a parent company's consolidated cash flow information to assess creditworthiness where the parent is the primary obligor or its guarantor obligation is full and unconditional,[121] and we heard no feedback from investors suggesting otherwise. As such, final Rule 13–01 does not require supplemental cash flow information of the obligated entities.

Lastly, certain of the proposed amendments would have each required additional disclosure regarding their basis of presentation.[122] Rather than including multiple separate requirements to explain the basis of presentation for individual disclosure requirements, final Rule 13–01(a)(4) includes a requirement to briefly describe the basis of presentation applicable to each of the required financial disclosures therein. In addition to simplifying the final rule, we believe this requirement will better inform users about the form and content of the disclosures provided pursuant to final Rule 13–01(a)(4).[123] We believe such disclosure enhances the understandability of the financial information provided.

ii. Presentation on a Combined Basis

(A) Proposed Amendments

The proposed rule would permit the parent company to present the Summarized Financial Information of the parent company issuer or guarantor, each consolidated subsidiary issuer, and each consolidated subsidiary guarantor, on a combined basis. Proposed Rule 13–01(a)(4) would require intercompany transactions between issuers and guarantors presented on a combined basis to be eliminated.

The proposed rule took into consideration that there may be circumstances in which separate financial information about certain issuers and guarantors is material to an investment decision. Accordingly, when information provided in response to proposed Rule 13–01 is applicable to one or more, but not all, issuers and guarantors, proposed Rule 13–01(a)(4) would require, to the extent it is material, separate disclosure of Summarized Financial Information for the issuers and guarantors to which the information applies. For example, if a subsidiary's guarantee were limited to a particular dollar amount, disclosure of that limitation would be required by proposed Rule 13–01(a)(2). In that case, separate disclosure of the Summarized Financial Information specified in proposed Rule 13–01(a)(4) would be required for that subsidiary guarantor.

The proposed rule would no longer require separate disclosure of the financial information of non-guarantor subsidiaries. Because non-guarantor subsidiaries are not obligated to make payments as either issuer or guarantor, the proposed rule assumed separate supplemental disclosure of their financial information as required under the existing rule is not likely to be material to an investment decision.

In order to present the assets, liabilities, and operations of the Obligor Group accurately, it is necessary to exclude the financial information of subsidiaries not obligated under the guaranteed security. Proposed Rule 13–01(a)(4) would continue to exclude the financial information of non-issuer and non-guarantor subsidiaries from the Summarized Financial Information of the Obligor Group, even if those non-issuer and non-guarantor subsidiaries would be consolidated by an issuer or guarantor. However, the proposed rule would have allowed the parent company to determine which method best meets the objective of excluding the financial information of non-issuer and non-guarantor subsidiaries from the Proposed Alternative Disclosures, so long as the selected method was disclosed and was used for all non-issuer and non-guarantor subsidiaries for all classes of guaranteed securities for which the disclosure was required, and was reasonable in the circumstances.[124] For example, the

[116] In recommending separate disclosure of these amounts, one commenter cited enhancement of the transparency of Summarized Financial Information related to the Obligor Group (*See* letter from EY), and another cited enhanced usefulness (*See* letter from Deloitte). Given that a guarantor's transactions with a related party may not be conducted on an arm's length basis, we agree it could be useful to highlight such transactions for investors by requiring presentation of such information in a separate line item.

[117] One commenter suggested flexibility to provide these disclosures as either explanatory notes or separate line items. *See* letter from EY. Based on the nature of these items, and to drive consistency in the disclosures between parent companies, Rule 13–01(a)(4)(iii) requires the amounts to be in separate line items.

[118] *See* letter from EY.

[119] *See, e.g.,* letters from Eaton, Sullivan, T-Mobile, Willis, and Windstream.

[120] *See* letter from Grant. No investor commenters provided feedback specific to supplemental cash flow information.

[121] *See, e.g.,* letters from Eaton and T-Mobile.

[122] For example, proposed Rule 13–01(a)(4) would have required disclosure of ''[t]he method selected to present investments in subsidiaries that are not issuers or guarantors . . .'' to inform investors about the basis of presentation of the financial information of the Obligor Group. Two commenters supported this disclosure requirement. *See* letters from CAQ and Deloitte. Instead of this proposed requirement, final Rule 13–01(a)(4)(iii) requires the financial information of non-issuer and non-guarantor subsidiaries to be completely excluded. *See* discussion in Section III.2.a.ii.(C), ''Presentation on a Combined Basis,'' below. Rather than including a separate requirement within final Rule 13–01(a)(4)(iii) to disclose that financial information of non-issuer and non-guarantor subsidiaries was excluded, such disclosure will be required pursuant to the new requirement to describe the basis of presentation of the financial information presented under final Rule 13–01(a)(4).

[123] Such disclosure could state, for example, that the financial information presented is that of the issuers and guarantors of the guaranteed security, and that the financial information of non-issuer and non-guarantor subsidiaries has been excluded. If applicable, the disclosure could also state, for example: That the financial information of issuers and guarantors is presented on a combined basis; intercompany balances and transactions between issuers and guarantors have been eliminated; that the issuer's or guarantor's amounts due from, amounts due to, and transactions with non-issuer and non-guarantor subsidiaries and related parties have been presented in separate line items; and that financial information of certain identified subsidiary issuers and guarantors has been presented separately due to disclosed facts and circumstances applicable to those subsidiaries (as required by Rule 13–01(a)(4)(iv)).

[124] This proposed amendment might have resulted in decreased comparability in the combined Summarized Financial Information of the Obligor Group between parent companies that elect to use different methods of excluding the financial information of their non-issuer and non-guarantor subsidiaries. In proposing this change, the Commission considered the costs to the parent

parent company could have excluded the assets, liabilities, and operations of non-issuer and non-guarantor subsidiaries by using the equity method of accounting for those subsidiaries.

(B) Comments on the Proposed Amendments

Comments were supportive of this aspect of the proposal. Many commenters generally supported permitting Summarized Financial Information of each issuer and guarantor that is consolidated in the parent company's consolidated financial statements to be presented on a combined basis with the parent company's Summarized Financial Information.[125] Some of these commenters indicated that providing this information on a combined basis would continue to provide investors with material information for making an informed investment decision,[126] while also reducing a burdensome requirement for issuers.[127] One commenter supported streamlining the disclosures, but asserted that the proposed amendments would likely only benefit a small number of issuers.[128] This commenter noted that the proposed amendments could lead to complexities and unintended consequences in presenting the Summarized Financial Information as proposed, regardless of the method of accounting selected.[129] Another commenter noted that, although such a combined presentation might provide some useful information when the guarantors are single-tiered operating companies with no subsidiaries, the accounting presentation becomes less meaningful when the guarantors are holding companies.[130]

A few commenters recommended requiring disclosure only of the non-guarantor subsidiaries,[131] and another commenter recommended requiring certain balance sheet information about the non-guarantor subsidiaries and profitability metrics about the Obligor Group or the non-guarantor subsidiaries.[132] These commenters stated that such disclosures [133] would be consistent with the information provided in Rule 144A offerings [134] or high yield Rule 144A offerings.[135]

In response to the Commission's request for comment on whether the proposed amendments should specify an accounting method (*e.g.,* the equity method) that must be used to exclude the financial information of non-obligated subsidiaries from the Summarized Financial Information of the Obligor Group, some commenters recommended that the Commission specify acceptable accounting methods in the rule.[136]

Some commenters agreed with the proposed rule permitting the parent company to determine which method to use in excluding the financial information of non-issuer and non-guarantor subsidiaries.[137] A few commenters supported the requirement to disclose and/or apply consistently the selected method.[138]

Several commenters recommended modifications to the proposed amendments. A few commenters recommended that the Commission allow issuers to use only certain prescribed accounting methods, including those consistent with U.S. GAAP [139] or IFRS,[140] those permitted under the accounting framework used to prepare their financial statements or otherwise specified in Regulation S–X,[141] the equity method,[142] the fair value method,[143] and the cost method (or the fair value practical expedient for equity securities without a readily determinable fair value model as contemplated in U.S. GAAP [144]).[145] One commenter stated that, if the Commission decides to require the financial information to be audited, any acceptable method should be objectively auditable.[146] One commenter contended that the proposed requirement that the parent company disclose its basis for the accounting method it applied to exclude the financial information of non-issuer and non-guarantor subsidiaries from the Proposed Alternative Disclosures added an unnecessary element of complexity.[147] Alternatively, a few commenters suggested the Commission consider completely excluding the financial information of non-issuer and non-guarantor subsidiaries.[148] One of these commenters stated that the Summarized Financial Information is more meaningful if it excludes the financial information of non-issuer and non-guarantor subsidiaries,[149] and another stated that excluding balances related to investments in non-obligated subsidiaries altogether would eliminate the possible confusion over including amounts attributable to the non-obligated subsidiary investments within the Obligor Group financial information.

Two commenters asserted that the proposed amendments would require parent companies to present the Summarized Financial Information separately if the required qualitative disclosures differed within the group of subsidiary issuers or guarantors, which these commenters maintained was overly prescriptive.[150] These commenters recommended permitting greater flexibility in such instances, such as allowing the parent company to present Summarized Financial Information for the aggregate group with supplemental qualitative or quantitative

company of requiring the use of a specific method of accounting for non-issuer and non-guarantor subsidiaries to remove their financial information from the combined Obligor Group, particularly if that parent company's systems are not designed to readily produce such information. The Commission expected any decrease of comparability to be limited, as most line items required to be disclosed in Summarized Financial Information would be unaffected by the use of different methods for this purpose (*e.g.,* current assets, current liabilities, net sales or gross revenues and gross profit).

[125] *See, e.g.,* letters from ABA, Davis Polk, Dell, Eaton Corp., FedEx, FEI, KPMG, Medtronic, Nareit, NYC Bar, PWC, and Sullivan & Cromwell.

[126] *See* letters from Dell, FedEx, and Sullivan & Cromwell.

[127] *See* letters from Davis Polk, KPMG, and Sullivan & Cromwell.

[128] *See* letter from KPMG.

[129] *See* letter from KPMG. This commenter stated, as an example, that registrants may not experience a reduction in burdens in preparing guarantor disclosures that exclude the non-obligor group either using the equity method, cost method, or excluding the non-obligated subsidiaries entirely, when a registrant must account for the non-obligor subsidiaries for consolidation purposes.

[130] *See* letter from Comcast.

[131] *See* letters from Davis Polk and NYC Bar.

[132] *See* letter from Shearman.

[133] Two of these commenters stated their recommendations for required disclosures were based on the information they believe allows investors to evaluate structural subordination. *See* letters from Davis Polk and Shearman.

[134] *See* letters from Davis Polk and NYC Bar.

[135] *See* letter from Shearman.

[136] *See, e.g.,* letters from BDO, Deloitte and PWC. One of these commenters stated that questions may arise from the proposed flexibility in the method of excluding non-issuer and non-guarantor information, as the proposed amendments do not address the option to fully exclude investments in non-issuer and non-guarantor subsidiaries from the summarized financial information of the Obligor Group, and that providing a list of acceptable methods would indicate whether complete exclusion is an acceptable option. *See* letter from BDO. Another commenter stated that the Commission should consider specifically identifying and describing the acceptable methods of exclusion if the final rule permits the use of methods other than those based on existing U.S. GAAP principles. *See* letter from Deloitte.

[137] *See, e.g.,* letters from ABA, Dell, Eaton Corp., EY, Grant, and PWC.

[138] *See* letters from CAQ and Deloitte.

[139] *See* letters from CAQ, Deloitte, and EY.

[140] *See* letters from CAQ and EY.

[141] Letter from Grant Thornton.

[142] *See* letters from Deloitte, KPMG, and PWC.

[143] *See* letters from Deloitte and PWC.

[144] ASC 321–10–35–2, Investments—Equity Securities.

[145] *See* letters from Deloitte, KPMG, and PWC.

[146] *See* letter from Deloitte.

[147] *See* letter from ABA.

[148] *See, e.g.,* letters from BDO, KPMG, and PWC.

[149] *See* letter from BDO.

[150] *See* letter from EY and Grant Thornton.

disclosure regarding material differences within the group.

(C) Final Amendments

After considering the public comments, we are adopting the amendments substantially as proposed with modifications, including separating certain requirements within proposed Rule 13–01(a)(4) into distinct subparagraphs for clarity. As supported by several commenters, we are adopting the amendment that permits the supplemental financial disclosures of issuers and guarantors specified in Rule 13–01(a)(4) to be provided on a combined basis. Specifically, final Rule 13–01(a)(4)(i) permits the Summarized Financial Information of each issuer and guarantor consolidated in the parent company's consolidated financial statements to be presented on a combined basis with the Summarized Financial Information of the parent company, and Rule 13–01(a)(4)(ii) requires intercompany balances and transactions between issuers and guarantors whose information is presented on a combined basis to be eliminated.[151] We agree with those commenters that said providing this information on a combined basis would provide investors with material information in making an investment decision [152] while also reducing the burden on issuers.[153]

The proposed rule would have permitted the parent company to determine the method of excluding the financial information of non-issuer and non-guarantor subsidiaries from the Proposed Alternative Disclosures. Although most line items required to be disclosed under Summarized Financial Information would be unaffected, under the proposed approach, the effect on the financial information of the Obligor Group could have varied depending on the method used to exclude non-issuer and non-guarantor subsidiary financial information. For example, under the equity method, the investments in those subsidiaries would have continued to be included within the Obligor Group's non-current assets, and earnings or losses from those subsidiaries would have continued to be included in income or loss of the Obligor Group. A similar effect would likely exist under certain other methods described above that were suggested by commenters, such as the fair value method or the cost method as previously contemplated by U.S. GAAP.

Instead of adopting the proposed approach, or specifying certain methods of accounting that should be used, we agree with those commenters that recommended completely excluding the financial information of non-issuer and non-guarantor subsidiaries. In particular, we agree with one commenter that said excluding balances related to investments in non-obligated subsidiaries altogether would eliminate the possible confusion over including amounts attributable to the non-issuer and non-guarantor subsidiaries within the financial information of the Obligor Group.[154] In this regard, amounts attributable to non-issuer and non-guarantor subsidiaries are not generally available for payment of debt or useful for evaluating debt-paying ability. As such, we believe excluding non-issuer and non-guarantor subsidiary information will enhance the Revised Alternative Disclosures for investors.

Accordingly, under the final amendments, Rule 13–01(a)(4)(iii) requires subsidiaries that are not issuers or guarantors to be excluded from the Summarized Financial Information. Pursuant to this requirement, all non-issuer and non-guarantor subsidiary financial information must be entirely removed from the financial information of the Obligor Group, even if an issuer or guarantor would otherwise consolidate such non-issuer and non-guarantor subsidiaries. An issuer or guarantor would not present its investments in non-issuer and non-guarantor subsidiaries in the Summarized Financial Information. While we continue to expect that most line items required by Summarized Financial Information would have been unaffected by the particular method selected by a parent company to exclude non-issuer and non-guarantor subsidiary information under the proposed rule, after considering the comments received, we now believe that requiring complete exclusion of the financial information of such non-issuer and non-guarantor subsidiaries in all cases will avoid potential confusion on the part of both issuers and investors about the appropriate method of exclusion. We note that a parent company may have experienced lower costs under the proposed amendments by being able to select the method of excluding non-issuer and non-guarantor subsidiary information that its systems were already designed to produce. However, under the final amendments, a parent company is not required to justify that its selected method was reasonable under the circumstances as was proposed, and we expect in most circumstances that requiring complete exclusion of non-issuer and non-guarantor subsidiary financial information will be a less costly presentation than methods that would have required the disclosure of such financial information.

We are also adopting, substantially as proposed, the requirement that when information provided in response to Rule 13–01 is applicable to one or more, but not all, issuers and guarantors, separate disclosure of Summarized Financial Information for the issuers and guarantors to which the information applies is required. This requirement is stated in Rule 13–01(a)(4)(iv). For clarity, the final rule includes an example of disclosure required by Rule 13–01 that would trigger separate disclosure for the affected issuers and guarantors.[155] The example is disclosure that is required by Rule 13–01(a)(3): ''factors that may affect payments to holders of the guaranteed security.''

One commenter suggested that the Commission provide a framework for presenting Summarized Financial Information for the affected issuers and guarantors in aggregate based on the nature of disclosures.[156] We believe a parent company should consider materiality [157] and exercise judgement in determining the appropriate level of aggregation of issuers and guarantors based on the nature of the disclosure. In this regard, it may be useful to consider quantitative factors, such as the financial significance of the affected issuers and guarantors, and qualitative factors, such as the nature of the facts and circumstances applicable to the issuers and guarantors. For example, if the same contractual or statutory restrictions affect some but not all subsidiary guarantors, and such subsidiary guarantors represent a substantial portion of the Obligor

[151] Proposed Rule 13–01(a)(4) would have required, in part, that ''[i]ntercompany transactions between issuers and guarantors whose summarized financial information is presented on a combined basis shall be eliminated.'' While we are adopting the amendments substantially as proposed, final Rule 13–01(a)(4)(ii) clarifies that intercompany ''balances'' must also be eliminated in this regard.

[152] *See, e.g.,* letters from Dell, FedEx, and Sullivan & Cromwell.

[153] *See, e.g.,* letters from Davis Polk, KPMG, and Sullivan & Cromwell.

[154] *See* letter from PWC.

[155] This example is being included to clarify one situation requiring separate presentation of the Summarized Financial Information applicable to some but not all issuers and guarantors.

[156] *See* letter from Grant.

[157] The disclosures specified in Rule 13–01(a) are required to the extent material. Rules 13–01(a)(6) and (7) require disclosure of ''[a]ny financial and narrative information about each guarantor if the information would be material for investors to evaluate the sufficiency of the guarantee,'' and ''[s]ufficient information so as to make the financial and non-financial information presented not misleading,'' respectively. *See* discussion within Section III.C.2.c, ''When Disclosure is Required.''

Group, aggregation of the Summarized Financial Information of such subsidiary guarantors may be appropriate. Conversely, it may not be appropriate to aggregate the Summarized Financial Information of such subsidiary guarantors where the contractual or statutory restrictions are different.

Another commenter stated its belief that requiring separate presentation of the Summarized Financial Information applicable to affected issuers and guarantors under proposed Rule 13–01(a)(4) is overly prescriptive.[158] While we continue to believe that separate disclosure of Summarized Financial Information for the affected issuers and guarantors is appropriate in most cases, we also agree with this commenter's suggestion that it could be acceptable to present Summarized Financial Information for the aggregate Obligor Group with supplemental qualitative or quantitative disclosure to inform investors about the disclosures affecting one or more, but not all issuers and guarantors. Accordingly, final Rule 13–01(a)(4)(iv) permits, in limited circumstances, narrative disclosure to be provided in lieu of the separate Summarized Financial Information of the affected issuers and guarantors which the paragraph otherwise requires. The limited circumstances when a narrative may be provided are when such separate financial information applicable to the affected issuers and guarantors can be easily explained and understood. For example, if contractual or statutory restrictions are applicable to one subsidiary guarantor, and that subsidiary guarantor constitutes a similar percentage of the Obligor Group's assets, liabilities, and operations, narrative disclosure may be permissible depending on the facts and circumstances. In other circumstances, such as if the subsidiary guarantor's financial significance to the Obligor Group is not easily explained (*e.g.,* the subsidiary guarantor constitutes varying proportions of each line item within the Obligor Group's Summarized Financial Information), narrative disclosure is unlikely to be sufficient.

Although a few commenters recommended that the required financial disclosures depict non-guarantor subsidiaries,[159] the final amendments continue to focus on issuers and guarantors because those are the entities a holder can make claims against in the event of default. While the final rules do not require financial information to be disclosed about subsidiaries not obligated under the guarantee or guaranteed debt security, a parent company may separately provide supplemental information about non-issuer and non-guarantor subsidiaries.

iii. Periods to Present

(A) Proposed Amendments

Instead of the periods specified in 17 CFR 210.3–01 and 210.3–02 [160] required by the existing rule, the proposed rule would require Summarized Financial Information only as of, and for, the most recently ended fiscal year and year-to-date interim period, if applicable.

In addition, because Item 1 of Part I of Form 10–Q [161] requires a registrant to provide the information required by Rule 10–01 of Regulation S–X, the Commission proposed adding Rule 10–01(b)(9) to require compliance with Rules 3–10 and 13–01.

(B) Comments on the Proposed Amendments

Comments on the proposed amendments were mixed. A number of commenters agreed with the proposed amendments, which would limit the periods for which Summarized Financial Information is required to the most recently ended fiscal year and the year-to-date interim period.[162] One commenter stated that the periods in the proposed rules were consistent with disclosures that are typically provided in Rule 144A and 17 CFR 230.901 through 230.905 [163] debt offerings.[164] Some commenters suggested that only the current period of the Summarized Financial Information, either annual or interim, should be required because it is the most relevant for an investment decision, especially because many issuers experience legal-entity structure changes.[165]

Other commenters, however, disagreed with the proposed requirement to include the interim period of Summarized Financial Information in all cases.[166] Some commenters suggested not requiring interim disclosures unless there has been a material change since the most recent annual period,[167] which certain commenters noted is consistent with Article 10 of Regulation S–X.[168] Some of these commenters indicated that the costs of providing interim information when no material change has occurred would be overly burdensome [169] and, without that disclosure, investors would still receive information necessary to make an informed investment decision.[170]

(C) Final Amendments

After considering the comments received, we are adopting the amendments as proposed, with one clarification. As adopted, Rule 13–01(a)(4)(v) requires the financial disclosures to be provided as of and for the most recently ended fiscal year and year-to-date interim period included in the parent company's consolidated financial statements, which as described above many commenters supported. When used in conjunction with the parent company's consolidated financial statements, we continue to believe the most recent full fiscal year and year-to-date interim period should provide investors the additional information about the Obligor Group necessary for an informed investment decision and eliminate unnecessary compliance costs for registrants.

We are not adopting the approach some commenters recommended, which would have required the most recent interim period in limited circumstances, such as when there had been a material change since the most recent annual period. We continue to believe, as stated in the Proposing Release, that the most recent interim period should be provided so that investors can make decisions based on the most recent information available.[171] We also are not adopting an approach suggested by some commenters that would require only the most recent interim or annual period.[172] We believe that investors should be provided with the most recent annual period of financial information about issuers and guarantors as a supplement to the parent company consolidated financial statements in all cases, and the most recent interim period, if applicable. While we acknowledge the concerns about the burden to provide interim information in all cases, we note that the final amendments already significantly reduce the burdens on parent companies by eliminating the earliest two years of required Summarized Financial Information and, in filings on

[158] *See* letter from EY.

[159] *See* letters from Davis Polk and Shearman.

[160] Rules 3–01 and 3–02 of Regulation S–X.

[161] 17 CFR 249.308a.

[162] *See, e.g.,* letters from Cravath, Davis Polk, EEI/AGA, FEI, Freeport, Grant Thornton, Nareit, NYC Bar, and Sullivan & Cromwell.

[163] Regulation S.

[164] *See* letter from Cravath.

[165] *See, e.g.,* letters from Eaton Corp., FEI, and Medtronic.

[166] *See, e.g.,* letters from ABA, Ball Corp., Comcast, Dell, Deloitte, Eaton Corp., EY, FedEx, FEI, and PWC.

[167] *See, e.g.,* letters from ABA, Ball Corp., Comcast, Dell, Deloitte, EY, FedEx, FEI, and PWC.

[168] *See, e.g.,* letters from Deloitte, FEI, and PWC.

[169] *See, e.g.,* letters from Ball Corp. and FedEx.

[170] *See* letter from FedEx.

[171] *See* Section III.C.2.iii of the Proposing Release.

[172] *See, e.g.,* letters from Eaton and Medtronic.

Form 10–Q, by eliminating both the quarter-to-date interim period requirement in filings covering more than one fiscal quarter and comparable prior year interim period(s), as applicable. Under the final rules, investors will continue to receive the most recent interim and annual period information, and we continue to believe this is the most appropriate approach to reducing burdens for parent companies while providing investors with the information they need to make informed investment decisions.

Proposed Rule 13–01(a)(4) did not specify that the required interim period was only for the most recent year-to-date period. In certain filings, such as a parent company's Form 10–Q for its second and third fiscal quarters, both year-to-date and quarter-to-date interim financial statements are required to be presented for the parent company. To avoid any confusion, and consistent with the proposed rule's intent and suggestions from certain commenters,[173] the final rule's interim period requirement has been revised to clarify that only the most recent year-to-date interim period is required.

Finally, as proposed, we are adopting Rule 10–01(b)(9) to require compliance with Rules 3–10 and 13–01 in quarterly reports on Form 10–Q.

b. Non-Financial Disclosures

i. Proposed Amendments

When Consolidating Information is presented, the existing rule requires limited non-financial disclosures about the issuers and guarantors and the guarantees,[174] restricted net assets,[175] and certain types of restrictions on the ability of the parent company or any guarantor to obtain funds from their subsidiaries.[176] In addition to proposing amendments to existing Rule 3–10 for financial disclosures, the Commission also proposed amendments to require specific non-financial disclosures. These amendments were proposed to enhance the information provided about subsidiary issuers and guarantors, particularly in light of the proposal to require Summarized Financial Information for those subsidiaries. Proposed Rules 13–01(a)(1) through (3) would require certain disclosures about the issuers and guarantors, the terms and conditions of the guarantees, and how the issuer and guarantor structure and other factors may affect payments to holders of the guaranteed securities. Disclosure of additional non-financial disclosures beyond what is specified in proposed Rules 13–01(a)(1) through (3) would have been required by proposed Rule 13–01(a)(5), to the extent they are material to an investment decision.

ii. Comments on the Proposed Amendments

Some commenters expressed general support for the proposed requirements regarding non-financial disclosures.[177] One commenter noted that the proposed amendments would be less burdensome on registrants than existing requirements under Rule 3–10.[178] Another commenter did not discuss the specific proposed non-financial disclosures, but stated its belief that qualitative disclosures are important to the debt holder's understanding of the overall picture of credit quality and suggested that, in certain instances, qualitative disclosures alone may be sufficient information for investors.[179] One commenter stated that, outside of the registration statement and/or the related prospectus that would identify the issuers and guarantors of the security, it was not clear why identification and disclosure of such entities would be meaningful to an investor in the context of financial disclosures.[180] The commenter recommended that the issuer and guarantors of the guaranteed security should be identified in the registration statement, but not in other filings, such as periodic reports. This commenter also suggested that, if the Commission believes this information should be presented in connection with an annual report, the disclosure should be included as an exhibit to such filing.

iii. Final Amendments

After considering the comments received, we are adopting the amendments largely as proposed with certain modifications based on comments received. Final Rules 13–01(a)(1) through (3) will require certain disclosures about the issuers and guarantors, the terms and conditions of the guarantees, and how the issuer and guarantor structure and other factors may affect payments to holders of the guaranteed securities. Consistent with the proposal, we believe these requirements will result in enhanced narrative disclosures that will improve investor understanding of the issuers, guarantors, and guarantees, and make the financial disclosures they accompany easier to understand. While the adopted non-financial disclosures are composed of the items we believe are most likely to be material to an investor, disclosure of additional facts and circumstances is required if necessary to comply with Rule 13–01(a)(6) and (7).[181] Additionally, when a non-financial disclosure is applicable to one or more, but not all, issuers and guarantors, Rule 13–01(a)(4)(iv) requires, to the extent it is material, separate disclosure of Summarized Financial Information for the issuers and guarantors to which the non-financial disclosure applies.[182]

We are not adopting one commenter's suggestion that disclosure of the identity of the issuers and guarantors should be required only at the time of registration of the offer and sale of guaranteed securities.[183] These entities are legally obligated under the guaranteed security along with the parent company, and we believe such information is material to investors in ongoing periodic reports. However, we are adopting the commenter's alternative suggestion that the disclosures be included in an exhibit to the subject filing.[184] After considering this commenter's suggestion, we believe that the nature of this information is better suited for disclosure in an exhibit as it can efficiently be provided in list form, and, depending on the number of subsidiary issuers and guarantors, this information could distract investor focus from the other financial and non-financial disclosures required by final Rule 13–01 if presented alongside them.

[173] *See, e.g.,* letters from EY and PWC.

[174] Existing Rules 3–10(i)(8)(i) through (iii) require disclosure, if true, that each subsidiary issuer or subsidiary guarantor is 100%-owned by the parent company, that all guarantees are full and unconditional, and where there is more than one guarantor, that all guarantees are joint and several.

[175] Rule 3–10(i)(10) of Regulation S–X.

[176] Rule 3–10(i)(9) of Regulation S–X.

[177] *See, e.g.,* letters from Davis Polk, Freeport, and NYC Bar.

[178] *See* letter from Davis Polk.

[179] *See* letter from Comcast.

[180] *See* letter from PWC.

[181] *Supra* note 114.

[182] *See* discussion in Section III.C.2.ii, ''Presentation on a Combined Basis.''

[183] *See* letter from PWC.

[184] *See* amended Item 601(a) and new Item 601(b)(22) of Regulation S–K. A parent company will be required to list, under an appropriately captioned heading that identifies the associated securities, each of its subsidiaries that is a guarantor, issuer, or co-issuer of each guaranteed security registered or being registered that the parent company issues or guarantees. A subsidiary need not be listed more than once so long as its role as issuer, co-issuer, or guarantor of a guaranteed security is clearly indicated with respect to each applicable security. This exhibit will be required in Forms S–1 [17 CFR 239.11], S–3 [17 CFR 239.13], S–4 [17 CFR 239.25], SF–1 [17 CFR 239.44], SF–3 [17 CFR 239.45], S–11 [17 CFR 239.18], F–1 [17 CFR 239.31], F–3 [17 CFR 239.33], F–4 [17 CFR 239.34], 10 [17 CFR 249.210], 10–Q [17 CFR 249.308a], and 10–K [17 CFR 249.310]. In addition, we are making corresponding revisions to the exhibit requirements of Form 20–F by creating new Exhibit 17 within Item 19, and Form 1–A by creating new Exhibit 17 within Item 17. This exhibit will also be required in Forms 1–K and 1–SA. *See* discussion in Section V.H.3.c, ''Offerings pursuant to Regulation A''.

Furthermore, if the entities required to be disclosed do not change from period to period, the parent company could refer to an earlier filing's exhibit rather than filing the exhibit again. Because registrants are required to hyperlink to each exhibit filed with, or incorporated by reference to a filing,[185] this information will be easily accessible to investors. Due to this change, we have revised Rule 13–01(a)(1) to require a description of the issuers and guarantors of the guaranteed security, instead of their identification, in Securities Act registration statements and Exchange Act registration statements and periodic reports. We believe this approach will provide the information to investors in a more efficient manner and make the accompanying financial and non-financial disclosures easier to understand.

c. When Disclosure Is Required

i. Proposed Amendments

One of the conditions that must be met under existing Rule 3–10 to be eligible to omit the financial statements of a subsidiary issuer and guarantor is providing the Alternative Disclosures. If certain numerical thresholds are met, including that the parent company has ''no independent assets or operations'' and that all non-issuer and non-guarantor subsidiaries are ''minor,'' [186] the Alternative Disclosures may take the form of a brief narrative in lieu of detailed Consolidating Information, but some type of the Alternative Disclosures is always required.[187] Under these thresholds, minor changes in circumstances can result in dramatically different disclosures being required. Existing Rules 3–10(i)(11)(i) and (ii) provide that Rule 3–10 disclosure may not omit any financial and narrative information about each guarantor if it would be material for investors to evaluate the sufficiency of the guarantee, and shall include sufficient information so as to make the financial information presented not misleading. This disclosure is required when Consolidating Information is disclosed.

The proposed amendments would eliminate the ''no independent assets or operations'' and ''minor'' thresholds, as well as the brief narrative form of Alternative Disclosures, and instead require financial and non-financial disclosures to the extent material to holders of the guaranteed security. For example, under the proposed rule, the Summarized Financial Information of the Obligor Group could be omitted if the parent company's consolidated financial statements do not differ in any material respects from the Obligor Group. While the disclosures specified in proposed Rule 13–01(a)(1) through (4) could have been omitted if not material to holders of the guaranteed security, for clarity, proposed Rule 13–01(a)(4) would have required the registrant to include a statement that those financial disclosures have been omitted and disclose the reason(s) why the disclosures are not considered to be material.

While the proposed rules include specific financial and non-financial disclosures, there may be other information about the guarantees, issuers, and guarantors that could be material to holders of the guaranteed security. Accordingly, proposed Rule 13–01(a)(5) would have required disclosure of any information that would be material to making an investment decision with respect to the guaranteed security, rather than the sufficiency of the guarantee as stated in the existing rule. This requirement would have applied in all cases, including when the proposed Summarized Financial Information is omitted in accordance with the proposed rule.

ii. Comments on the Proposed Amendments

Comments were mixed on these proposals. A number of commenters generally supported the proposed elimination of existing Rule 3–10's numerical thresholds in favor of allowing issuers to provide the specified disclosures based on what information the issuer believes is material to investors.[188] However, a few commenters supported some type of numerical threshold for establishing whether financial information of an obligor group should be deemed material.[189] One commenter suggested establishing a 50% threshold as a non-exclusive safe harbor for guarantee significance.[190] This commenter stated that if the significance is at or below 50%, the alternative disclosures should be deemed not material and not required to be disclosed; while if it is above 50%, issuers should still be able to conclude that the Proposed Alternative Disclosures are not required if they would not provide material information. Another commenter recommended that the Commission establish a quantitative test that would allow issuers to evaluate whether Summarized Financial Information of an Obligor Group may be omitted.[191]

Some commenters opposed the requirement in proposed Rule 13–01(a)(4) that would require a registrant to disclose, if the required financial disclosures were omitted because they were not material, a statement to that effect and the reasons therefore.[192] Some commenters asserted that such disclosure would not be useful to investors,[193] could possibly result in an increase in liability,[194] and was counter to the Commission's objective of focusing on material disclosures and providing a principles-based framework.[195] One commenter suggested that, if the proposal were adopted, the Commission should make clear that issuers would only need to make a simple statement that management does not believe the information is material.[196] In contrast, one commenter specifically supported this part of proposed Rule 13–01(a)(4), asserting that the requirement would provide clarity about which disclosures were omitted and why.[197]

A number of commenters opposed proposed Rule 13–01(a)(5), which would have required disclosure of any information that would be material to making an investment decision with respect to the guaranteed security.[198] Several of these commenters contended that the proposed requirement is overly broad. Some commenters asserted that the proposed requirement would cause uncertainty for issuers and auditors as

[185] *See* 17 CFR 232.102(d) [Rule 102(d) of Regulation S–T].

[186] Rules 3–10(h)(5) and (6) specify the numerical thresholds that must not be exceeded for a parent company to have ''no independent assets or operations,'' and for a subsidiary to be ''minor,'' respectively. *See discussion* in Section II.F of the Proposing Release.

[187] *See* discussion of existing requirements in Section II.F of the Proposing Release.

[188] *See, e.g.,* letters from CII, FedEx, FEI, Nareit, and Sullivan & Cromwell.

[189] *See* letters from SIFMA and T-Mobile.

[190] *See* letter from SIFMA. This commenter said that significance under this suggestion would be measured in a manner consistent with the existing rule's determination of a ''minor'' subsidiary specified in Rule 3–10(h)(6), except that 50% would be substituted for the existing rule's 3% threshold. *See* additional discussion in Section II.F of the Proposing Release.

[191] *See* letter from T-Mobile. This commenter did not provide a specific figure for a quantitative threshold, but noted that the threshold should be higher than existing Rule 3–10's thresholds for minor subsidiaries. The commenter asserted that using the criteria for being considered a ''significant subsidiary'' specified in § 210.1–02(w) would better reflect materiality to investors compared to the existing definition of minor subsidiaries.

[192] *See, e.g.,* letters from Debevoise, EY, KPMG, and SIFMA.

[193] *See* letters from Debevoise and KPMG.

[194] *See* letters from Debevoise and SIFMA.

[195] *See* letter from Debevoise.

[196] *See* letter from SIFMA.

[197] *See* letter from CII.

[198] *See, e.g.,* letters from ABA, BDO, CAQ, Comcast, Cravath, Davis Polk, Deloitte, EY, Freeport, KPMG, PWC, Shearman, and Sullivan & Cromwell.

they seek to apply and assess the adequacy of the disclosures.[199] One commenter asserted that the proposed requirement would override all other relevant disclosure obligations;[200] another commenter questioned whether the Commission is proposing to modify the overall materiality assessment in its disclosure framework;[201] and a third commenter stated its belief that in addition to creating litigation risk, the proposed rule could extend the duty to disclose material information beyond information specific to the guarantee, such as pending merger negotiations and other potential transactions.[202] However, one commenter supported this proposed requirement ''because it would provide relevant information, not otherwise explicitly required by the [p]roposed [r]ule, which would likely render the disclosures taken as a whole to be more useful for investment decisions.''[203]

In response to the Commission's request for comment on whether the proposed amendments were sufficiently clear about the disclosures that should be provided and when, one commenter recommended that the final rules should provide explicit objectives related to assessing the guarantee, which would help issuers to prepare their disclosures.[204] Some commenters suggested that it would be helpful for the final rules to provide additional guidance or examples of information that may be material to investors.[205] One commenter recommended that the rules expressly provide that the Alternative Disclosures need not be included in a registration statement at the time of effectiveness so long as they are provided prior to an offering of the securities in respect of which the Alternative Disclosures are required.[206] Another commenter asserted that a parent company could conclude that disclosure is not material if no investor owns (or is currently being offered) the specific guaranteed or collateralized security and therefore the disclosure could be excluded based on proposed Rule 13–01.[207]

iii. Final Amendments

We are adopting the amendments largely as proposed with modifications based on comments received.

As supported by several commenters,[208] the existing ''no independent assets or operations'' and ''minor'' numerical thresholds used to determine the form and content of disclosure have been replaced with a requirement to provide all disclosures specified in the final rule, unless such information is not material.[209] Whereas proposed Rule 13–01(a) required the proposed financial and non-financial disclosures ''to the extent material to holders of the guaranteed security,'' the final rule has been revised to require the financial and non-financial disclosures ''to the extent material,'' which is discussed in further detail below.

A few commenters suggested including numerical thresholds in the rule for determining whether financial information may be omitted,[210] while others requested that we provide additional guidance or examples of what information may be material.[211] While we appreciate the desire for certainty about when disclosure is required, determinations of what information is material are highly dependent on the applicable facts and circumstances, and we are concerned that specifying numerical thresholds or providing detailed guidance could undermine the principles-based nature of this provision, to the detriment of both investors and issuers. We are therefore not adopting these suggestions. Instead, akin to the suggestion of one commenter,[212] the final rule identifies four non-exclusive scenarios in which the required information could be omitted on the basis that it is not material, provided the applicable scenario is disclosed to investors. We discuss these four scenarios in further detail below.

The proposed rule sets forth financial and non-financial disclosures that were focused on the information the Commission expected was most likely to be material. It also included proposed Rule 13–01(a)(5), which would have required disclosure of ''any other quantitative or qualitative information that would be material to making an investment decision with respect to the guaranteed security.'' The intent of this proposed requirement was to elicit disclosure about the obligated entities and the guarantees that would be material but was not otherwise specifically required by the proposed financial and non-financial disclosures. While one commenter supported this proposed requirement, many others did not.

Instead of proposed Rule 13–01(a)(5), we are adopting new Rules 13–01(a)(6) and (7), which retain the requirements in existing Rules 3–10(i)(11)(i) and (ii),[213] respectively, as suggested by several commenters.[214] However, we are aligning the wording of existing Rules 3–10(i)(11)(i) and (ii) to the structure of Rule 13–01. We are also modifying the requirement in existing Rule 3–10(i)(11)(ii) to make reference to non-financial information, in addition to financial information, because we see no reason to limit such disclosure to financial information. Parent companies are already required to comply with existing Rule 3–10(i)(11)(i) and (ii), and we are not aware of any issues surrounding their application. We believe these existing requirements capture the disclosures the proposed rule was intended to elicit while addressing the concerns raised by commenters as discussed above. Notwithstanding these requirements in the final rule, in 17 CFR 230.408(a)[215] and 17 CFR 240.12b–20[216] require a parent company to disclose, in addition to the information expressly required to be included, such further material information, if any, as may be necessary to make the required statements, in the light of the circumstances under which they are made not misleading. While some commenters indicated these requirements provide sufficient investor protections,[217] we believe retaining the requirements in existing Rule 3–10(i)(11)(i) and (ii), in addition to those

[199] *See, e.g.,* letters from BDO, CAQ, EY, and PWC.

[200] *See* letter from Cravath.

[201] *See* letter from Deloitte.

[202] *See* letter from Shearman.

[203] *See* letter from CII.

[204] *See* letter from EY.

[205] *See, e.g.,* letters from KPMG and Shearman.

[206] *See* letter from Cravath.

[207] *See* letter from PWC.

[208] *See, e.g.,* letters from CII, FedEx, FEI, Nareit, and Sullivan & Cromwell.

[209] This requirement is specified in new Rule 13–01(a). Whether a disclosure specified in new Rule 13–01 may be omitted depends on whether the disclosure would be material to a reasonable investor. The Supreme Court in *TSC* v. *Northway* held that a fact is material if there is ''a substantial likelihood that the disclosure of the omitted fact would have been viewed by the reasonable investor as having significantly altered the 'total mix' of information made available.'' *See TSC Indus., Inc.* v. *Northway, Inc.,* 426 U.S. 438, 449 (1976).

[210] *See* letters from SIFMA and T-Mobile.

[211] *See, e.g.,* letters from KPMG and Shearman.

[212] *See* letter from SIFMA. This commenter recommended the Commission establish, as a non-exclusive safe harbor, ''a numerical threshold of guarantee significance at or below which [the required disclosures] would be deemed immaterial and thus not required and above which registrants would still be able to conclude that [the required disclosures] are not required because they would not provide material information.'' We are not adopting the commenter's suggestion of a numerical threshold of significance, but we have identified four non-exclusive scenarios in which the required information could be omitted as discussed below.

[213] *See* Section III.C.2.c.i, ''When Disclosure is Required,'' for a discussion of the requirements in existing Rules 3–10(i)(11)(i) and (ii).

[214] *See, e.g.,* letters from BDO, PWC, and Shearman.

[215] Securities Act Rule 408(a).

[216] Exchange Act Rule 12b–20.

[217] *See, e.g.,* letters from Deloitte and EY.

other requirements, will help to ensure that material information is provided to investors.

Based on comments received on proposed Rule 13–01(a)(5), we have also revised Rule 13–01(a) for clarity. Proposed Rule 13–01(a) would have required disclosures ''to the extent material to holders of the guaranteed security'' and was not intended to introduce a nuanced or different materiality analysis specific to these disclosure requirements. A parent company's responsibility to determine whether the disclosures specified in Rule 13–01 are material is not different from how it assesses materiality in connection with other information it files with the Commission. Accordingly, we have revised final Rule 13–01 to require the financial and non-financial disclosures ''to the extent material.''

Proposed Rule 13–01(a)(4) would have required, if the financial disclosures specified in proposed Rule 13–01(a)(4) were omitted because they are not material, disclosure of a statement to that effect and the reasons therefore. Most of the commenters that discussed this proposed requirement did not support it.[218] The intent of the proposed rule was not to require a parent company to disclose the analysis supporting its conclusion that the financial disclosures were not material. Rather, it was to inform an investor that financial information about issuers and guarantors was not being provided and the basic reason(s) for the omission, similar to the narrative forms of Alternative Disclosures in existing Rule 3–10.[219] In response to these comments, we are not adopting this requirement as proposed. Instead, we are adopting an approach that should help address concerns [220] about the need for greater certainty as to the circumstances when the omission of financial disclosures may be appropriate while continuing to provide investors with the basic reasons as to why the financial information was omitted in a manner similar to existing Rule 3–10's narrative exceptions. As adopted, Rule 13–01(a)(4)(vi) includes four scenarios, which we believe are the most common situations under which the financial information would not be material.[221] If the scenario is applicable and disclosed, the parent company could then omit the financial disclosures. The four scenarios are:

(1) The assets, liabilities and results of operations of the combined issuers and guarantors of the guaranteed security are not materially different than corresponding amounts presented in the consolidated financial statements of the parent company; [222]

(2) The combined issuers and guarantors, excluding investments in subsidiaries that are not issuers or guarantors, have no material assets, liabilities or results of operations; [223]

(3) The issuer is a finance subsidiary of the parent company, the parent company has fully and unconditionally guaranteed the security, and no other subsidiary of the parent company guarantees the security; [224] and

(4) The issuer is a finance subsidiary that co-issued the security, jointly and severally, with the parent company, and no other subsidiary of the parent company guarantees the security.[225]

While we believe these scenarios encompass most of the situations under which the required financial information would not be material, these scenarios are not intended to be exclusive. As discussed below, there may be other circumstances in which it would be appropriate to omit the required financial information on the basis that it is not material.

In the first scenario, we believe financial information of the combined Obligor Group would not be material to an investor as it is not materially different than that of the consolidated parent company.[226] If the related scenario was disclosed, investors would not need supplemental financial information as it would largely duplicate the corresponding information in the parent company's consolidated financial statements. In the second scenario, we believe disclosure that the combined Obligor Group has no material assets, liabilities or results of operations obviates the need for supplemental disclosures as an investor would know such information would not be material. The third and fourth scenarios involve finance subsidiary issuers or finance subsidiaries that co-issue securities with the parent company. These last two scenarios, which are generally consistent with existing Rule 3–10(b) narrative disclosures involving finance subsidiaries,[227] inform investors that the finance subsidiary issuer or co-issuer has no independent material debt-paying ability and has no material assets or operations other than those related to the issuance, administration, and repayment of the guaranteed security such that supplemental financial disclosures are not material.

Rule 13–01(a)(4)(vi)(C) applies to a finance subsidiary issuer of a security that the parent company has fully and unconditionally guaranteed, and Rule 13–01(a)(4)(vi)(D) applies to a finance subsidiary that co-issues a security, jointly and severally, with the parent company. No other subsidiaries of the parent company may guarantee the security under either of these scenarios. Rule 13–01(a)(4)(vi) defines when a subsidiary is a ''finance subsidiary'' for the purposes of the rule. This definition is consistent with the definition in existing Rule 3–10(h)(7) except that the amended definition does not make reference to revenues, which we believe are subsumed by the reference to ''operations,'' and does not make reference to ''cash flows,'' as cash flow information is not a required financial disclosure under the amended rule.

While we believe these scenarios generally capture the situations under which the financial information would not be material and may be omitted, there may be other scenarios under which the parent company may conclude Summarized Financial Information is not necessary. These scenarios would be evaluated under the

[218] *See, e.g.,* letters from Debevoise, EY, KPMG, and SIFMA.

[219] The content of the brief narratives is specified within each of the exceptions of existing Rules 3–10(b) through (f) based on the applicable facts and circumstances. For example, if the conditions are met, existing Rule 3–10(b)(4) of Regulation S–X specifies that the narrative disclosure to be included in a footnote to the parent company's consolidated financial statements must state, if true, ''that the issuer is a 100%-owned finance subsidiary of the parent company and the parent company has fully and unconditionally guaranteed the securities.'' It also requires the footnote to include ''the narrative disclosures specified in paragraphs (i)(9) and (i)(10) of this section.''

[220] *See, e.g.,* letter from Shearman.

[221] These scenarios were discussed in the Proposing Release. *See* Section III.C.2.c of the Proposing Release.

[222] This scenario is contained in Rule 13–01(a)(4)(vi)(A).

[223] This scenario is contained in Rule 13–01(a)(4)(vi)(B).

[224] This scenario is contained in Rule 13–01(a)(4)(vi)(C).

[225] This scenario is contained in Rule 13–01(a)(4)(vi)(D).

[226] Rule 13–01(a)(4)(vi) clarifies that this scenario does not apply where separate disclosure of the Summarized Financial Information of one or more, but not all issuers and/or guarantors, is required by Rule 13–01(a)(4)(iv).

[227] *See* discussion above in Section III.C.1.d.iii. As one of the conditions to omit the financial statements of the finance subsidiary issuer under existing Rule 3–10(b), the parent company must provide the narrative disclosure in paragraph (4) of existing Rule 3–10(b), which is that ''the issuer is a 100%-owned finance subsidiary of the parent company and the parent company has fully and unconditionally guaranteed the securities. The footnote also must include the narrative disclosures specified in paragraphs (i)(9) and (i)(10) of this section.'' The Note to existing Rule 3–10(b) states that ''[p]aragraph (b) is available if a subsidiary issuer satisfies the requirements of this paragraph but for the fact that, instead of the parent company guaranteeing the security, the subsidiary issuer co-issued the security, jointly and severally, with the parent company. In this situation, the narrative information required by paragraph (b)(4) must be modified accordingly.''

general materiality provision of Rule 13–01(a). Based on this analysis, if a parent company determines that not all of the required financial information is material, the information that is not material may be omitted without additional disclosure or explanation. Thus, under the final rule, the parent company could either rely on one of the identified scenarios, if applicable, to omit information that is not material, or make its own assessment based upon a consideration of other relevant facts and circumstances.[228] We believe this approach will preserve the principles-based nature of Rule 13–01 while providing greater certainty for issuers, and appropriate transparency for investors, regarding the information required to be disclosed.

Two commenters encouraged the Commission to expressly provide that the Proposed Alternative Disclosures need not be provided at the time of effectiveness so long as they are provided prior to an offering of the guaranteed securities,[229] with one of these commenters suggesting that we amend 17 CFR 230.430B(a)[230] to cover information required by proposed Rule 13–01.[231] We are not amending Rule 430B as suggested. Issuers meeting the definition of Well-Known Seasoned Issuer (''WKSI'') are currently afforded significant flexibility under Rule 430B(a), which would include the flexibility to omit the information specified in Proposed Rule 13–01 at effectiveness so long as the information is added when the shelf registration statement is amended to identify subsidiary issuers and guarantors.[232] We acknowledge that non-WKSI issuers are not similarly able to omit this information but note that WKSIs are afforded substantially greater latitude in registering and marketing securities.[233]

d. Location of Revised Alternative Disclosures and Audit Requirement

i. Proposed Amendments

The primary source of financial information provided to investors—the consolidated financial statements of the parent company—is required to be audited as specified in Regulation S–X.[234] The Proposed Alternative Disclosures would provide incremental detail as a supplement to the parent company's audited annual and unaudited interim consolidated financial statements to facilitate an analysis of the parts of the consolidated enterprise that are obligated to make payments as issuers or guarantors. The proposed rule would provide parent companies with the flexibility to provide the Proposed Alternative Disclosures inside or outside of the consolidated financial statements in registration statements covering the offer and sale of the guaranteed debt securities and any related prospectus, as well as annual and quarterly Exchange Act periodic reports required to be filed during the fiscal year in which the first bona fide sale of the subject securities is completed. If a parent company elects to provide the Proposed Alternative Disclosures outside its audited financial statements, the disclosures would be required in specified prominent locations in its offering documents and periodic reports.

Accordingly, the note to proposed Rule 13–01(a) would have allowed the parent company to provide the Proposed Alternative Disclosures in a footnote to its consolidated financial statements or, alternatively, in MD&A,[235] in the registration statement covering the offer and sale of the subject securities and any related prospectus, and in Exchange Act reports on Forms 10–K and 10–Q[236] required to be filed during the fiscal year in which the first bona fide sale of the subject securities is completed. If a parent company were to elect to provide the disclosures in its audited financial statements, the Proposed Alternative Disclosures would be required to be audited.[237] If not otherwise included in the consolidated financial statements or in the MD&A, the parent company would be required to include the Proposed Alternative Disclosures in its prospectus immediately following ''Risk Factors,'' if any, or otherwise, immediately following pricing information described in 17 CFR 229.503(c) (''Item 503(c) of Regulation S–K'').[238] Beginning with the parent company's annual report filed on Form 10–K for the fiscal year during which the first bona fide sale of the subject securities is completed, however, the parent company would have been required to provide the Proposed Alternative Disclosures in a footnote to its consolidated financial statements in its annual and quarterly reports. These proposed amendments would also apply to foreign private issuers and issuers offering securities pursuant to Regulation A and the forms applicable to such entities.[239]

ii. Comments on the Proposed Amendments

Comments on the proposed amendments were mixed. A few commenters generally supported the flexibility under the proposed amendments for the parent company to provide the Proposed Alternative Disclosures in specified locations outside its consolidated financial statements in the subject registration statement and Forms 10–K and 10–Q required to be filed during the fiscal year in which the first bona fide sale of the debt securities is completed, but would have required the parent company to provide the disclosures in a footnote to its consolidated financial statements in its annual and quarterly reports starting with its annual report filed on Form 10–K for the fiscal year during which the first bona fide sale of the debt securities is completed.[240]

A number of commenters stated that the Proposed Alternative Disclosures should be permitted to be presented outside of the parent company's consolidated financial statements in all cases, not just in the registration statement and Forms 10–K and 10–Q required to be filed during the fiscal year in which the first bona fide sale of

[228] To provide clarity to an issuer that its ability to omit the Summarized Financial Information required by final Rule 13–01(a)(4) is not limited to the four scenarios discussed herein, final Rule 13–01(a)(4)(vi) states: ''Notwithstanding that a parent company may omit this summarized financial information if not material . . .''

[229] *See* letters from Cravath and PWC.

[230] Securities Act Rule 430B(a).

[231] *See* letter from Cravath.

[232] *See* Securities Act Rule 430B(a) and *Securities Offering Reform,* Release No. 33–8591 (July 19, 2005) [70 FR 44722 (Aug. 3, 2005)] (''Securities Offering Reform'') at text accompanying note 520.

[233] *See* Securities Offering Reform at note 220.

[234] Rules 3–01 and 3–02 of Regulation S–X.

[235] *See* 17 CFR 229.303 (Item 303 of Regulation S–K).

[236] These proposed amendments also would apply to foreign private issuers and issuers offering securities pursuant to 17 CFR 230.251 through 230.263 (''Regulation A'') and the forms applicable to such entities. *See* Section III.D, ''Application of Proposed Amendments to Certain Types of Issuers,'' below.

[237] Regardless of where the Proposed Alternative Disclosures are presented in the filing, U.S. GAAP requires disclosure in the financial statements of the pertinent rights and privileges of the various securities outstanding. *See* ASC 470–10–50–5 and ASC 505–10–50–3.

[238] Subsequent to the issuance of the Proposing Release, the Commission amended and relocated the requirements previously contained in Item 503(c) to 17 CFR 229.105 [new Item 105 of Regulation S–K]. *See FAST Act Modernization and Simplification of Regulation S–K,* Release No. 33–10618 (Mar. 20, 2019) [84 FR 12674 (Apr. 2, 2019)].

[239] *See* Section III.D, ''Application of Amendments to Certain Types of Issuers,'' below.

[240] *See* letters from Ball Corp., Nareit, and WTW. While one commenter expressed support for the proposed amendment that would allow locating the disclosures outside the footnotes of the financial statements in certain instances, the commenter stated its belief that having a requirement for the disclosures to be audited creates additional cost over an area of accounting and disclosure where there is limited focus from the investment community. *See* letter from WTW.

the subject securities is completed.[241] One commenter suggested that the existing rule's requirement that the disclosures be included in the audited financial statements has driven would-be registered debt issuers to the Rule 144A debt market,[242] an effect other commenters asserted would continue if the Proposed Alternative Disclosures were required to be included in the consolidated financial statements in subsequent Exchange Act reports.[243] Several commenters asserted that not requiring these disclosures to be audited would reduce costs [244] and possibly allow issuers to more quickly register guaranteed debt securities and access capital markets.[245] A few commenters stated that requiring an audit of the Proposed Alternative Disclosures would provide little marginal benefit to investors.[246]

Other commenters, however, asserted that the flexibility to determine the location of the Proposed Alternative Disclosures under the proposed amendments could lead to investor confusion about the location of the disclosures,[247] and uncertainty as to the level of audit assurance that applied to the disclosures.[248] One commenter contended that the Proposed Alternative Disclosures should be required to be presented in a single location to avoid inconsistencies in the location and varied reliance by investors.[249] Another commenter stated that companies should not have the option to choose where their disclosures will appear, and that reported disclosures should be consistently reported in the same location.[250]

One commenter did not support locating the Proposed Alternative Disclosures outside the financial statements,[251] and another suggested either requiring the Proposed Alternative Disclosures to be audited or limiting unaudited disclosures to underwritten offerings.[252] One of these commenters argued that many investors place significant value on having required disclosures subject to annual audit and/or interim review, internal control over financial reporting, and XBRL tagging requirements, and not being subject to the forward-looking statements safe harbor.[253] Another commenter did not express a view on where the disclosures should be located, but indicated that investors may benefit from having the disclosures in the financial statements because they would be subject to audit and interim review requirements.[254]

Other commenters, however, recommended the disclosures be located outside the financial statements in all cases.[255] One of these commenters argued presentation outside the financial statements in all cases was appropriate as the Proposed Alternative Disclosures are supplementary to the financial statements.[256] This commenter asserted that this change would reduce costs of preparing the disclosures by allowing the information to be unaudited, and noted that the disclosures would still be subject to the parent company's disclosure controls and procedures and required certifications. Another of these commenters recommended the disclosures be required in the liquidity and capital resources section of the MD&A or in a separate section following ''Risk Factors'' as is currently done in the Rule 144A market and has been accepted by the investor community.[257] This commenter also observed that if disclosure outside the financial statements is sufficient at the time of the initial investment decision, it should be sufficient for future periods. Yet another of these commenters observed the Proposed Alternative Disclosures would be better presented in a discussion about a parent's liquidity in the MD&A as opposed to in the financial statements given the objective of the disclosures to provide an investor in a debt security with information about the related guarantee.[258]

Some commenters emphasized that, even if the Proposed Alternative Disclosures are allowed to be located outside of the financial statements, these disclosures would be derived from the same internal accounting records used to prepare the parent company's audited consolidated financial statements [259] and would be subject to the parent company's disclosure controls and procedures [260] and certification by the parent company's principal executive and principal financial officers.[261]

Some commenters asserted that underwriters will likely request independent auditors to provide comfort on financial information provided outside the consolidated financial statements in connection with registered offerings.[262] Two of these commenters indicated this would involve performing limited procedures on such information under Public Company Accounting Oversight Board (''PCAOB'') Auditing Standard 6101, *Letters for Underwriters and Certain Other Requesting Parties.*[263] One commenter suggested that such procedures may not result in a decrease in effort or cost for either auditors or registrants,[264] while the other commenter stated that while the scope and time required to perform such procedures is less than an audit, the auditor involvement may delay the time to market for underwritten offerings.[265] Another commenter noted that the proposed rules would cause issuers to incur costs related to the incremental procedures necessary for such comfort procedures but investors would lose the benefit arising out of the audit of the disclosures.[266] Another commenter recommended that, if the final rules allow issuers the flexibility to determine the location of the Proposed Alternative Disclosures, the Commission should provide examples to clarify when the Proposed Alternative Disclosures must be in the financial statements.[267]

Some commenters suggested that because the Proposed Alternative Disclosures would be relevant only to the investors of the guaranteed security, if these disclosures were required to be audited, this information should be included in an audited supplemental schedule that could be filed as an exhibit to the filing, similar to the supplemental schedules required under 17 CFR 210.12–01 through 210.12–29 (''Article 12 of Regulation S–X'').[268]

iii. Final Amendments

After considering comments received, we are adopting the amendments largely as proposed, with modifications. As discussed above, while a few

[241] *See, e.g.,* letters from ABA, Cravath, Davis Polk, Dell, Freeport, SIFMA, Simpson Thacher and Sullivan & Cromwell.

[242] *See* letter from Cravath.

[243] *See* letters from Dell and Sullivan & Cromwell.

[244] *See, e.g.,* letters from ABA, Ball Corp., Cravath, Davis Polk, Dell, Freeport, SIFMA, Simpson Thacher, Sullivan & Cromwell, and WTW.

[245] *See, e.g.,* letters ABA, BDO, Cravath, Davis Polk, Dell, and Simpson Thacher.

[246] *See, e.g.,* letters from Davis Polk, Dell, Freeport, and Sullivan & Cromwell.

[247] *See* letters from Deloitte, FedEx, and PWC.

[248] *See* letters from Deloitte and KPMG.

[249] *See* letter from KPMG.

[250] *See* letter from XBRL US, Inc.

[251] *See* letter from CII.

[252] *See* letter from BDO.

[253] *See* letter from CII.

[254] *See* letter from CAQ.

[255] *See, e.g.,* letters from FedEx, NYC Bar and PWC.

[256] *See* letter from FedEx.

[257] *See* letter from NYC Bar.

[258] *See* letter from PWC.

[259] *See* letters from Davis Polk and Freeport.

[260] *See* letters from Cravath and EY.

[261] *See* letter from FedEx.

[262] *See, e.g.,* letters from BDO, EY, Grant Thornton, KPMG, and Windstream.

[263] *See* letters from BDO and KPMG.

[264] *See* letter from KPMG.

[265] *See* letter from BDO.

[266] *See* letter from Grant Thornton.

[267] *See* letter from Deloitte.

[268] *See* letters from CAQ, EY, and PWC.

commenters either did not support locating the disclosures outside the financial statements or suggested limiting unaudited disclosures to underwritten offerings, others recommended the disclosures be located outside the financial statements in all cases. We continue to believe, however, that it is appropriate to provide parent companies the flexibility to select the location of the disclosures, including locating them outside the parent company's consolidated financial statements. In this regard, and consistent with the views of several commenters, we expect not requiring the disclosures to be audited will reduce costs and allow issuers to register guaranteed debt securities and access capital markets faster, which may encourage more such registered offerings.[269] Although we appreciate that some investors may place a value on having financial information subject to annual audit and/or interim review and other requirements that flow from including disclosures in the parent company's financial statements, the proposed flexibility afforded to the parent company in selecting the location of the Proposed Alternative Disclosures, including locating them outside the parent company's audited financial statements, took into account the nature of those disclosures as a supplement to the parent company's consolidated financial statements. We also agree with those commenters who observed that, even if the Revised Alternative Disclosures are located outside the financial statements, they would be derived from the same internal accounting records and subject to the parent company's disclosure controls and procedures and management certification requirements.

Accordingly, and consistent with the proposed rule, final Rule 13–01(b)[270] permits the parent company to provide the Revised Alternative Disclosures in a footnote to its consolidated financial statements or alternatively, in MD&A. If the disclosures are not otherwise included in the consolidated financial statements or in MD&A, the final rule requires the parent company to include the disclosures in its prospectus immediately following ''Risk Factors,'' if any, or otherwise, immediately following pricing information described in Item 105 of Regulation S–K.[271]

As discussed above, some commenters suggested that the proposed flexibility in selecting the location of the disclosure may cause investors confusion about the location and level of assurance applied. While the proposed rule provided flexibility on where to locate the disclosures, we believe the locations where disclosures may be provided are clearly specified and that investors generally understand the levels of assurance applied to disclosures included inside or outside the parent company's consolidated financial statements. If provided in the parent company's consolidated financial statements, consistent with existing Rule 3–10, the disclosures must be included in a footnote. If provided outside the parent company's consolidated financial statements, they must be included in MD&A, or in other specified locations if the parent company's consolidated financial statements and MD&A are not otherwise included in the filing.[272] Consistent with the proposed rule, if the parent company elects to provide the Revised Alternative Disclosures in a footnote to its audited consolidated financial statements, the Revised Alternative Disclosures must be audited. Conversely, the Revised Alternative Disclosures need not be audited if the parent company provides them outside the audited consolidated financial statements. A few commenters recommended that, if audited, the information be included in a supplemental schedule similar to the ones required by Article 12 of Regulation S–X. Under the existing rule, a parent company must include the Alternative Disclosures in financial statements footnotes but has discretion over where to locate them. We are not aware of any practice issues associated with this discretion, and believe investors understand how to locate the disclosures and understand the level of audit assurance associated with the disclosures if included in the financial statement footnotes. We are therefore not adopting this suggestion.

Under the proposed rule, although the parent company would initially have the flexibility to locate the disclosures outside of its consolidated financial statements in the subject registration statement and certain periodic reports filed thereafter, the parent company would have been required to provide the disclosures in a footnote to its consolidated financial statements starting with its annual report filed on Form 10–K for the fiscal year during which the first bona fide sale of the subject securities is completed. A number of commenters did not support this proposed requirement, and stated that the disclosures should be permitted to be presented outside of the parent company's consolidated financial statements in all cases, as described above. Some commenters asserted that it was incongruous for a heightened compliance obligation to apply after an offering,[273] and others expressed the view that if audited information is not necessary for an investment decision, it is not necessary thereafter.[274] One commenter noted that this requirement is disproportionally burdensome on repeat issuers of debt securities,[275] and another asserted that eliminating this proposed requirement would allow issuers to provide their disclosure in a consistent location and avoid unnecessarily providing it in different locations.[276]

We considered responses to the Commission's request for comment on the potential benefits or concerns for investors and issuers with either permitting the parent company to provide the proposed disclosures outside its financial statements in the proposed circumstances or permitting the parent company to provide the proposed disclosures outside its financial statements in all circumstances. Having considered these comments, and in light of the benefits of the proposed flexibility discussed above, we are persuaded that there is no reason to limit this flexibility to the subject registration statement and certain periodic reports filed thereafter. Thus, under the final rule, the parent company will have flexibility to locate the disclosures in a footnote to its consolidated financial statements or in

[269] We acknowledge that underwriters may request independent auditors to provide comfort on financial information provided outside the financial statements for registered offerings, which could limit the expected cost savings and delay the time to market. However, providing this flexibility will enable issuers and underwriters the option to present this supplemental information outside the financial statements when it is cost- and time-effective to do so and therefore may reduce frictions associated with registered offerings of guaranteed debt securities. We also observe, as one commenter noted, that the scope and time required to perform comfort procedures is less than an audit. *See* letter from BDO.

[270] Whereas this requirement was included in a note to proposed Rule 13–01(a), the final rule includes it in a separate paragraph, Rule 13–01(b).

[271] 17 CFR 229.105. As described above, subsequent to the issuance of the Proposing Release, the Commission amended and relocated the requirements previously contained in Item 503(c) of Regulation S–K to new Item 105 of Regulation S–K. The final amendments have been revised to reflect this change.

[272] These circumstances include when the consolidated financial statements and MD&A are included in previously filed reports that are incorporated by reference. In such instances, the disclosures are required to be provided in specified prominent locations.

[273] *See, e.g.,* letters from Cravath, Freeport, and Simpson Thacher.

[274] *See, e.g.,* letters from Davis Polk and PWC.

[275] *See* letter from Simpson Thacher.

[276] *See* letter from ABA.

the locations specified in Rule 13–01(b) in all of its filings, consistent with the recommendations of many commenters.

e. Recently Acquired Subsidiary Issuers and Guarantors

i. Proposed Amendments

The proposed rule would eliminate the requirement in existing Rule 3–10(g) to provide pre-acquisition audited financial statements of a recently acquired subsidiary issuer or guarantor in certain circumstances.[277] Although the proposed rule would not require specific disclosures about recently-acquired subsidiary issuers and guarantors, information about these recently acquired subsidiaries would have been required if material to an investment decision in the guaranteed security pursuant to proposed Rule 13–01(a)(5).

Due to the proposed deletion of Rule 3–10(g), the Commission also proposed a conforming change to remove paragraph (b) of Rule 12h–5.[278]

ii. Comments on the Proposed Amendments

Many commenters expressed general support for the proposed elimination of Rule 3–10(g).[279] Several of these commenters contended that existing Rule 3–10(g) was burdensome and that existing 17 CFR 210.3–05 [280] already requires disclosure of pre-acquisition financial statements of a significant acquired business.[281] One commenter asserted that the existing Rule 3–10(g) requirements often results in more detailed disclosure being provided for recently acquired entities than for other subsidiary issuers and guarantors.[282] Another commenter maintained that the requirements of existing Rule 3–10(g) caused it to alter guarantor structures in certain debt offerings.[283]

In response to the Commission's request for comment whether some other type of disclosure about recently acquired subsidiary issuers and guarantors should be required instead of pre-acquisition financial statements, one commenter recommended that the Commission consider requiring Summarized Financial Information of a recently acquired guarantor in registration statements if the guarantor is not already included in the Summarized Financial Information of the Obligor Group (*i.e.,* it is acquired after the most recent balance sheet date) and if the guarantor had a material effect on the financial capacity of the obligated group.[284] Some commenters noted that although the proposed amendments would not include a requirement similar to existing Rule 3–10(g), information about recently acquired subsidiaries would be required if material to an investment decision in the guaranteed security under proposed Rule 13–01(a)(5).[285] One commenter encouraged the Commission ''not to perpetuate separate disclosure rules in this context for recently acquired subsidiaries.'' [286] Another commenter indicated that the existing disclosure requirements under ASC 805, *Business Combinations,* would continue to provide sufficient information related to material subsidiaries acquired and their impact on the consolidated entity.[287]

iii. Final Amendments

After considering the public comments, we are adopting the proposed changes with certain modifications. We agree with those commenters that supported the proposed elimination of the pre-acquisition financial statements requirement of existing Rule 3–10(g), most of which cited the burdensome nature of the requirement and that existing Rule 3–05 of Regulation S–X already requires pre-acquisition financial statements of significant acquired business as reasons not to include such a requirement in the final rules.[288] Accordingly, as proposed, the final rule will not include such a requirement.

Under the proposed rule, although the requirement to provide pre-acquisition financial statements of recently acquired subsidiary issuers and guarantors in existing Rule 3–10(g) would be eliminated, information about such recently acquired subsidiaries would have been required if material to an investment decision in the guaranteed security pursuant to proposed Rule 13–01(a)(5).[289] As described above, we received limited comments specific to this requirement, with one commenter opposing separate disclosure rules for recently acquired subsidiary issuers and guarantors in this context [290] and another stating that existing disclosures required by U.S. GAAP were sufficient.[291] However, we agree with another commenter [292] that suggested Summarized Financial Information for recently acquired subsidiary guarantors should be included in registration statements if the guarantor is not already included in the Summarized Financial Information of the Obligor Group.[293] In this regard, under the proposed and final amendments, a subsidiary issuer or guarantor acquired after the parent company's most recent balance sheet date would not be included in the Summarized Financial Information specified in Rule 13–01(a)(4).[294] To address this potential information gap, and similar to the commenter's suggestion, the final rule requires, in certain circumstances (discussed below), pre-acquisition Summarized Financial Information for recently acquired subsidiary issuers and guarantors to be provided in a Securities Act registration statement [295] filed in

[277] *See* Section II.I of the Proposing Release for a detailed description of the pre-acquisition financial statements requirements of existing Rule 3–10(g).

[278] If the proposed removal of paragraph (b) of existing Rule 12h–5 was adopted, a subsidiary issuer or guarantor that was previously required to provide pre-acquisition financial statements pursuant to existing Rule 3–10(g) but was exempt from Exchange Act reporting by paragraph (b) of existing Rule 12h–5 would continue to be exempt from Exchange Act reporting through proposed Rule 12h–5.

[279] *See, e.g.,* letters from Cravath, Davis Polk, Dell, EY, FEI, Nareit, and T-Mobile.

[280] Rule 3–05 of Regulation S–X.

[281] *See, e.g.,* letters from Cravath, Davis Polk, Dell, FEI, and Nareit.

[282] *See* letter from FEI.

[283] *See* letter from T-Mobile. This commenter stated that the resources needed to compile the information necessary to meet the disclosure requirements of Regulation S–X and availability of the information related to pre-acquisition financial statements of recently acquired subsidiaries have directly resulted in alterations to the contemplated guarantor structure in its debt offerings where it would have been unable to provide the required disclosures, resulting in the exclusion of guarantees that would have otherwise been made available to investors.

[284] *See* letter from EY.

[285] *See* letters from Cravath and Nareit.

[286] *See* letter from Cravath.

[287] *See* letter from T-Mobile.

[288] *See, e.g.,* letters from Cravath, Davis Polk, Dell, FEI, and Nareit.

[289] The requirements applicable to recently acquired subsidiary issuers and guarantors have been included in final Rule 13–01(a)(5). Proposed Rule 13–01(a)(5) would have required disclosure of ''any other quantitative or qualitative information that would be material to making an investment decision with respect to the guaranteed security.'' Instead of this proposed requirement, the final amendments include Rules 13–01(a)(6) and (7). *See* discussion in Section III.C.2.c, ''When Disclosure is Required.''

[290] *See* letter from Cravath.

[291] *See* letter from T-Mobile.

[292] *See* letter from EY.

[293] While this commenter's suggestion only referred to recently acquired subsidiary guarantors, we believe this information need similarly extends to recently acquired subsidiary issuers.

[294] Unless disclosure is otherwise required (*e.g.,* the parent company provides disclosure pursuant to ASC 805, *Business Combinations,* or IFRS 3, *Business Combinations,* as applicable, or pre-acquisition financial statements are required due to the acquisition exceeding 50% significance under Rule 3–05 of Regulation S–X), an investor may not receive information about a subsidiary issuer or guarantor acquired after the balance sheet date. Additionally, such disclosures do not take into consideration that only certain entities within an acquired business may be obligated as issuers or guarantors.

[295] Consistent with existing Rule 3–10(g), this requirement is only applicable to Securities Act

Continued

connection with the offer and sale of the subject guaranteed security.

When considering pre-acquisition financial information requirements, we believe issuers benefit from certainty as to when such information is required.[296] We also believe that the pre-acquisition Summarized Financial Information required by the final rule should be consistent with what Rule 13–01(a)(4) requires for existing issuers and guarantors, as we do not see a basis for requiring varying levels of detail in this context.[297] Accordingly, final Rule 13–01(a)(5) will require pre-acquisition Summarized Financial Information when a parent company has acquired a significant ''business'' after the date of its most recent balance sheet included in its consolidated financial statements,[298] and that acquired business and/or one or more of its subsidiaries are obligated as issuers and/or guarantors.[299] Whether a ''business'' has been acquired will be determined in accordance with the guidance set forth in 17 CFR 210.11–01(d),[300] and the parent company would also need to treat acquisitions of related businesses as a single business acquisition in a manner consistent with Rule 3–05(a)(3). An acquired business will be deemed significant if it meets any of the conditions specified in the definition of significant subsidiary in Rule 1–02(w),[301] substituting 20 percent for 10 percent each place it appears therein, based on a comparison of the most recent annual financial statements of the acquired business and the parent company's most recent annual consolidated financial statements filed at or prior to the date of acquisition. To simplify compliance and provide certainty as to when disclosure is required, these significance tests are the same tests used to determine whether pre-acquisition financial statements are required for an acquired business pursuant to Rule 3–05 of Regulation S–X.[302]

Generally, under the final rule, a parent company will be required to provide pre-acquisition Summarized Financial Information of a recently acquired issuer or guarantor for those acquisitions where it will be required to provide pre-acquisition financial statements of the acquired business pursuant to Rule 3–05 of Regulation S–X.[303] We recognize that not all of the entities that compose an acquired business may be issuers and/or guarantors. Accordingly, the required Summarized Financial Information will only be for those entities acquired that are issuers or guarantors, and follows the form and content prescribed in new Rule 13–01(a)(4). We also recognize that the pre-acquisition Summarized Financial Information may be required in advance of when pre-acquisition financial statements are required pursuant to Rule 3–05 of Regulation S–X.[304] However, we believe investors in a registered debt offering should be provided with information about issuers and guarantors in advance of an investment decision, and we note that the level of detail required is far less than pre-acquisition financial statements required by Rule 3–05. In sum, while the adopted approach differs from the more principles-based approach in the proposal, we believe it will continue to alleviate burdens on issuers while providing greater certainty about when pre-acquisition financial information should be provided by identifying specific circumstances in which such information is likely to be material to an investment decision.

We also are adopting the conforming change to remove paragraph (b) of Exchange Act Rule 12h–5, as proposed.[305]

f. Continuous Reporting Obligation

i. Proposed Amendments

An issuer of securities is required to file Exchange Act reports with the Commission under Section 13(a), with respect to any class of securities registered pursuant to Sections 12(b) or 12(g), or for any class of securities for which it has a reporting obligation under Section 15(d) of the Exchange

registration statements. In subsequent Exchange Act reports, financial information of a recently acquired subsidiary issuer or guarantor will be included in the financial information of issuers and guarantors required by final Rule 13–01(a)(4).

[296] As described above, information about recently acquired subsidiaries would have been required under the proposed rule if material to an investment decision in the guaranteed security. Unlike disclosure that relates solely to the Obligor Group, which will be prepared by the parent company on an ongoing basis, and where materiality will therefore be evaluated regularly, in an acquisition context parent companies must rely on information provided by third parties to make a determination of whether the acquisition is significant and whether the related disclosure is material. A numerical threshold-based significance test provides parent companies with a level of certainty that allows them to efficiently make determinations of what level of disclosure is required in an environment where delay is costly. Also, where a parent company determines not to provide disclosure, investors would not receive information about the recently acquired subsidiary issuer's or guarantor's financial impact on the Obligor Group until the operating results of the acquired business have subsequently been reflected in the Summarized Financial Information of the Obligor Group. As a result, the impact of the acquisition may be difficult for investors to discern from other events affecting the Obligor Group, even where the acquisition may be economically significant. Thus, we expect a numerical threshold in the case of these disclosures could be less costly for parent companies and result in more consistent disclosure to investors where transactions are of economic significance.

[297] As pointed out by one commenter, the pre-acquisition financial statements required by existing Rule 3–10(g) result in more detail for recently acquired entities than for other subsidiary issuers and guarantors. *See* letter from FEI.

[298] Under the final amendments, pre-acquisition financial information of recently acquired subsidiary issuers and/or guarantors will not be required for acquisitions that occur before the date of the parent company's most recent balance sheet included in the parent company's financial statements. By contrast, under existing Rule 3–10(g), pre-acquisition financial statements are required if such subsidiary issuers and/or guarantors have not yet been included in the parent company's audited consolidated financial statements for nine months and the acquisition is significant.

[299] In our experience, recently acquired subsidiary issuers and guarantors would typically be considered a business because separate entities, subsidiaries, or divisions are presumed to be businesses.

[300] Rule 11–01(d).

[301] 17 CFR 210.1–02(w).

[302] Rule 3–05 provides for use of a 20% significance threshold, rather than the 10% threshold indicated in Rule 1–02(w). We note that the Commission has proposed amendments to the significance tests used in Rule 3–05 of Regulation S–X. *See Amendments to Financial Disclosures About Acquired and Disposed Businesses,* Release No. 34–85765 (May 3, 2019) [84 FR 24600 (May 28, 2019)]. Certain of these proposed amendments would affect the tests used to determine whether an acquired business is significant. If these significance tests are amended, the trigger for determining whether pre-acquisition financial information about recently acquired subsidiary issuers and guarantors would also change. We believe the alignment of these significance tests simplifies compliance for issuers while providing material information about recently acquired subsidiary issuers and guarantors for investors.

[303] There may be some circumstances where a registrant is required to provide this pre-acquisition Summarized Financial Information of a recently acquired issuer or guarantor, but is not required to provide pre-acquisition financial statements of the acquired business pursuant to Rule 3–05 of Regulation S–X. For example, a parent company that is a foreign private issuer that consummates an acquisition of a significant business after the date of the most recent balance sheet presented would be required to provide pre-acquisition Summarized Financial Information of a recently acquired issuer or guarantor pursuant to new Rule 13–01(a)(5), but may be able to omit the pre-acquisition financial statements of a greater than 20% but less than 50% significant acquired business from its registration statement pursuant to Rule 3–05(b)(4) and from any subsequent Exchange Act filings.

[304] For example, Rule 3–05(b)(4) of Regulation S–X in part permits, in certain circumstances, pre-acquisition financial statements of an acquired business to be omitted from a registration statement if the significance of the acquisition does not exceed 50% and the registration statement is declared effective no more than 74 calendar days after consummation of the acquisition. We note that filing requirements in Items 2.01 and 9.01 of Form 8–K may differ.

[305] A subsidiary issuer or guarantor that was previously required to provide pre-acquisition financial statements pursuant to existing Rule 3–10(g) but was exempt from Exchange Act reporting by paragraph (b) of existing Exchange Act Rule 12h–5 will continue to be exempt from Exchange Act reporting through amended Rule 12h–5.

Act.[306] Section 12(b) registration is required only for so long as the class of securities is listed for trading on a national securities exchange.[307] An issuer incurs a Section 15(d) reporting obligation for each class of securities that is the subject of a Securities Act registration statement that becomes effective.[308] Section 15(d)(1)[309] provides that if, at the beginning of any subsequent fiscal year, the securities of any class to which the registration statement relates are held of record by fewer than 300 persons, or in the case of a bank, a savings and loan holding company,[310] or bank holding company,[311] by fewer than 1,200 persons, the registrant's Section 15(d) reporting obligation is automatically suspended with respect to that class.[312] Title 17 CFR 240.12h–3 (''Rule 12h–3'') permits registrants to suspend a Section 15(d) reporting obligation at any time during a fiscal year provided the conditions of the rule are met.[313] A foreign private issuer likewise may terminate its Exchange Act reporting obligation regarding a class of equity securities under either Section 12(g) or Section 15(d) if it complies with the conditions of 17 CFR 240.12h–6 (''Rule 12h–6'').[314] Similarly, the periodic and current reporting requirements applicable to an issuer that has filed an offering statement for a Tier 2 offering that has been qualified pursuant to Regulation A[315] may be suspended if the issuer complies with the requirements of 17 CFR 230.257(d) (''Rule 257(d)'').[316]

The Commission explained in the 2000 Release that the parent company must continue to provide the Alternative Disclosures in its periodic reports for as long as the subject securities are outstanding.[317] This disclosure requirement continues to apply to the parent company even if the reporting obligation of its subsidiary issuer or guarantor with respect to the subsidiary's guaranteed securities or subsidiary's guarantees could be suspended under either Section 15(d) or Rule 12h–3 of the Exchange Act.

The Commission proposed that a parent company be permitted to cease providing the Proposed Alternative Disclosures if the corresponding subsidiary issuer's or guarantor's Section 15(d) obligation is suspended automatically by operation of Section 15(d)(1) or through compliance with Rule 12h–3. To implement this change, the proposed rule would eliminate the statement in existing Rule 3–10(a) that ''[e]very issuer of a registered security that is guaranteed and every guarantor of a registered security must file the financial statements required for a registrant by Regulation S–X.'' As proposed, if a subsidiary issuer or guarantor is required to file financial statements required by Regulation S–X with respect to the guarantee or guaranteed security, the subsidiary may omit such financial statements if it complies with conditions set forth in proposed Rule 3–10. The parent company would be able to cease providing the Proposed Alternative Disclosures for a subsidiary issuer or guarantor that is not required to file financial statements required by Regulation S–X with respect to the guarantee or guaranteed security.

As described above, Section 12(b) registration is required for so long as a class of securities is listed for trading on a national securities exchange. As a continued condition of eligibility to omit the financial statements of a subsidiary issuer or guarantor under the proposed rule, a parent company would be required to continue providing the Proposed Alternative Disclosures for so long as the subsidiary issuer or guarantor has a Section 12(b) reporting obligation with respect to the guarantee or guaranteed security. If the subsidiary issuer's or guarantor's reporting obligation with respect to the guarantee or guaranteed security is terminated under Section 12(b), the parent would be permitted to cease providing the Proposed Alternative Disclosures once the subsidiary issuer's and guarantor's Section 15(d) obligation is suspended automatically by operation of Section 15(d)(1) or through compliance with Rule 12h–3.

Under the proposed rule and consistent with the 2000 Release,[318] if a subsidiary issuer or guarantor with an Exchange Act reporting obligation for the guaranteed securities would initially be eligible to omit its financial statements, because it would meet the requirements of proposed Rule 3–10 and could rely on proposed Rule 12h–5, but later ceased to satisfy those requirements, that subsidiary would then be required to begin filing Exchange Act reports for the period during which it ceased to satisfy the requirements of proposed Rule 3–10. Also, the subsidiary would be required to present the financial statements that are required by Regulation S–X at the time a report is due, and would not be

[306] Section 12(g) registration is triggered when an issuer exceeds specified asset and ownership thresholds and only applies to equity securities.

[307] Accordingly, Section 12(b) reporting obligations are terminated when, for example, the class is delisted by the exchange or the registrant determines to no longer list the securities on a national securities exchange.

[308] 15 U.S.C. 78 j(a)(3).

[309] 15 U.S.C. 78o(d)(1).

[310] As that term is defined in Section 10 of the Home Owners' Loan Act, 12 U.S.C. 1461.

[311] As that term is defined in Section 2 of the Bank Holding Company Act of 1956, 12 U.S.C. 1841.

[312] The automatic statutory suspension of an issuer's Section 15(d) reporting obligation is not available as to any fiscal year in which the issuer's Securities Act registration statement becomes effective.

[313] Rule 12h–3 provides that the duty to file reports under Section 15(d) for a class of securities is suspended immediately upon the filing of a certification on Form 15, provided that the issuer has fewer than 300 holders of record, fewer than 500 holders of record where the issuer's total assets have not exceeded $10 million on the last day of each of the preceding three years, or, in the case of a bank, a savings and loan holding company, or a bank holding company, 1,200 holders of record; the issuer has filed its Section 13(a) reports for the most recent three completed fiscal years, and for the portion of the year immediately preceding the date of filing the Form 15 or the period since the issuer became subject to the reporting obligation; and a registration statement has not become effective or was required to be updated pursuant to Exchange Act Section 10(a)(3) during the fiscal year.

[314] Rule 12h–6 permits the termination of Exchange Act reporting regarding a class of equity securities under either Section 12(g) or Section 15(d) of the Exchange Act by a foreign private issuer if the U.S. average daily trading volume of the subject class of securities has been no greater than 5 percent of the average daily trading volume of that class of securities on a worldwide basis for a recent 12-month period; and the issuer has been an Exchange Act reporting company for at least one year, has filed or submitted all Exchange Act reports required for this period, and has filed at least one Exchange Act annual report; has not sold its securities in a registered offering in the United States, except for specified offerings, during the preceding 12 months (except for exempted securities offerings); and has maintained a listing on one or more exchanges for at least a year in a foreign jurisdiction that, either singly or together with one other foreign jurisdiction, constitutes the primary trading market for the issuer's subject class of securities. The proposed and final amendments also apply to foreign private issuers. *See* Section III.D.1, ''Foreign Private Issuers,'' below.

[315] 17 CFR 230.251–230.263.

[316] Rule 257(d) permits A Tier 2 issuer that has filed all reports required by Regulation A for the shorter of: (1) The period since the issuer became subject to such reporting obligation, or (2) its most recent three fiscal years and the portion of the current year preceding the date of filing Form 1–Z to immediately suspend its ongoing reporting obligation under Regulation A at any time after completing reporting for the fiscal year in which the offering statement was qualified, if the securities of each class to which the offering statement relates are held of record by fewer than 300 persons (1,200 persons for a bank or bank holding company) and offers or sales made in reliance on a Tier 2 offering statement are not ongoing. *See generally,* Securities Act Rules 257(d)(2) through (4). The proposed and final amendments apply to issuers offering securities pursuant to Regulation A and the forms applicable to such entities. *See* Section III.D.3, ''Offerings pursuant to Regulation A,'' below.

[317] *See* Section III.C.1 of the 2000 Release (''The parent company periodic reports must include the modified financial information permitted by paragraphs (b) through (f) of Rule 3–10. The parent company periodic reports must contain this information for as long as the subject securities are outstanding.'').

[318] *See* Section III.C.3. of the 2000 Release.

able to present the Proposed Alternative Disclosures that proposed Rule 3–10 would have allowed it to present for historical periods.

ii. Comments on the Proposed Amendments

Comments on the proposed amendments were generally supportive. Many commenters supported eliminating the existing Rule 3–10 requirement that the parent company provide continuous reporting of the Alternative Disclosures for as long as the guaranteed securities are outstanding if the parent company elects to provide the Alternative Disclosures in lieu of separate financial statements of eligible subsidiary issuers and guarantors.[319] One of these commenters stated that it ''supports the Commission's proposal to harmonize the treatment of the duration of the continuing reporting requirements so registrants that meet the criteria for presenting alternative disclosures and elect to do so are not unfairly burdened compared to those that elect to file separate audited annual and unaudited interim financial statements.'' [320] Another commenter stated that the existing rule's continuous reporting requirement ''is highly anomalous and frequently results in an expensive ongoing disclosure cost with no discernable benefit to investors following business combination transactions.'' [321] Some commenters suggested that eliminating these requirements would reduce burdens on issuers.[322]

Two commenters opposed eliminating existing Rule 3–10's continuous reporting requirement and suggested that the Commission retain the requirement.[323] These commenters argued that the Proposed Alternative Disclosures would be important to investors, and therefore the Commission should require continuous reporting for as long as the securities were outstanding.[324] One of these commenters contended that a failure to provide continuous reporting could result in a ratings withdrawal by a nationally recognized statistical rating organization (''NRSRO'') that tracks the security, and asserted that many investors cannot invest in securities without a rating.[325]

A few commenters asserted that requiring continuous reporting when an issuer's reporting obligation could be suspended is an anomaly.[326] One commenter indicated that the requirement is not needed because it has become commonplace for issuers to tailor contractual reporting obligations to meet the perceived needs of investors.[327]

iii. Final Amendments

After considering the comments received as well as the benefits and burdens of continued Exchange Act reporting when a subsidiary issuer or guarantor would otherwise be able to suspend its reporting obligations, we are eliminating, as proposed, the requirement that the parent company must continue to provide the Alternative Disclosures in its periodic reports for as long as the subject securities are outstanding. Instead, the parent company will be permitted to cease providing the Alternative Disclosures if the corresponding subsidiary issuer's or guarantor's Section 15(d) obligation is suspended automatically by operation of Section 15(d)(1) or through compliance with Rule 12h–3, thereby harmonizing the existing rule with the statutory reporting regime and the Commission's rules that govern when an issuer may terminate or suspend reporting. We agree with those commenters who stated that requiring continuous reporting when a subsidiary issuer's or guarantor's reporting obligation could be suspended is an anomaly and that eliminating such requirements would reduce burdens on issuers. We also do not believe it is necessary to require the parent company to continue providing the Revised Alternative Disclosures when the corresponding reporting obligations of its subsidiary issuers and guarantors with respect to the guaranteed security have been suspended or terminated. For similar reasons, we are making conforming amendments to provide analogous relief with respect to subsidiary issuers or guarantors that meet the definition of foreign private issuer and terminate their reporting obligations through compliance with Rule 12h–6, and subsidiary issuers or guarantors that have filed an offering statement for a Tier 2 offering that has been qualified pursuant to Regulation A and suspend their reporting obligations through compliance with Rule 257(d). In these circumstances, we see no reason why reporting obligations should be different for parent companies of these types of subsidiary issuers and guarantors.

Although these amendments may result in fewer entities providing the Revised Alternative Disclosures in periodic reports, if continued reporting is necessary due to the necessity of maintaining a rating for the debt security by a NRSRO or for other reasons, debt issuers and investors are free to negotiate the terms of debt instruments, including with respect to information to be provided about subsidiary issuers and guarantors, and to include the reporting requirements in the indentures governing the debt as they have done in the past.[328] Also, as described above, a parent company would continue to be required to provide the Revised Alternative Disclosures with respect to securities that are traded on a national securities exchange. Today's amendments do not change this requirement.

Lastly, under the final amendments, consistent with the Proposing Release and the 2000 Release,[329] if a subsidiary issuer or guarantor with an Exchange Act reporting obligation for the guaranteed securities were initially eligible to omit its financial statements, because it met the requirements of amended Rule 3–10 and could rely on amended Rule 12h–5, but later ceased to satisfy those requirements, that subsidiary will be required to begin filing Exchange Act reports for the period during which it ceased to satisfy the requirements of amended Rule 3–10. In addition, the subsidiary is required to present the financial statements that are required by Regulation S–X at the time a report is due and is not able to present the Revised Alternative Disclosures that amended Rule 3–10 would have allowed it to present for historical periods.

D. Application of Amendments to Certain Types of Issuers

Rule 3–10's requirements apply to several categories of issuers, including foreign private issuers,[330] smaller reporting companies (''SRCs''),[331] and issuers offering securities pursuant to Regulation A. The proposed amendments also would apply to these types of issuers. In certain circumstances, Rule 3–10 also applies to the financial information of third parties

[319] *See, e.g.,* letters from Cravath, Davis Polk, FedEx, Freeport, Nareit, PWC, and Sullivan & Cromwell.

[320] *See* letter from Freeport.

[321] *See* letter from Cravath.

[322] *See, e.g.,* letters from Cravath, Freeport, Nareit, and Sullivan & Cromwell.

[323] *See* letters from CII and Credit Roundtable.

[324] *See* letters from CII and Credit Roundtable.

[325] *See* letter from Credit Roundtable.

[326] *See* letters from Cravath and Davis Polk.

[327] *See* letter from Cravath.

[328] *See* letter from Cravath.

[329] *See* Section III.C.3. of the 2000 Release.

[330] *See* 17 CFR 230.405 and 240.3b–4 (defining ''foreign private issuer'').

[331] *See* 17 CFR 230.405 and 240.12b–2 (defining ''smaller reporting company'').

provided by issuers of asset-backed securities (''ABS'').

1. Foreign Private Issuers

a. Proposed Amendments

Under the proposal, foreign private issuers would continue to be required to comply with Rule 3–10, and would also be required to comply with proposed Rule 13–01. As foreign private issuers would be required to provide the disclosures specified in proposed Rule 13–01, Instruction 1 to Item 8 of Form 20–F would be amended to specifically require compliance with proposed Rule 13–01. The Commission also proposed amendments to conform Forms F–1 and F–3 to the streamlined structure of proposed Rule 3–10(a). General Instruction I.B of Form F–1 and the note to General Instruction I.A.5 of Form F–3 contain eligibility requirements for the use of these forms applicable to issuers and guarantors of guaranteed securities that are majority-owned subsidiaries. Rather than the current form language stating that Rule 3–10 specifies the financial statements that are required, the Commission proposed to amend these forms to instead state that the requirements of Rule 3–10 are applicable to financial statements for those subsidiary issuers or guarantors.

Existing Rule 3–10(a)(3) includes a reference, solely for convenience, directing foreign private issuers to Item 8.A of Form 20–F rather than having them go first to Rules 3–01 and 3–02 of Regulation S–X to determine the periods for which financial statements are required.[332] The Commission proposed to simplify the rule by deleting this reference.

Also, existing Rule 3–10(i)(12) requires a parent company that prepares its financial statements on a comprehensive basis other than U.S. GAAP or IFRS as issued by the International Accounting Standards Board to reconcile Consolidating Information to U.S. GAAP. Although the reconciliation requirement would be eliminated, proposed Rule 13–01(a)(5) would have required the parent company to disclose any other quantitative or qualitative information that would be material to making an investment decision with respect to the guaranteed security.

b. Comments on the Proposed Amendments

One commenter agreed that the proposed amendments should apply to foreign private issuers.[333] This commenter also recommended that the Commission confirm that the periods covered under the Summarized Financial Information would be required to track only those covered by a foreign private issuer's consolidated financial statements.[334] Another commenter suggested that, if the final amendments require interim reporting by issuers, the Commission should address the application of those requirements to foreign private issuers.[335]

One commenter opposed the proposal to eliminate the requirement that foreign private issuers using an accounting framework other than U.S. GAAP or IFRS reconcile that framework with U.S. GAAP.[336] This commenter maintained reconciliation promotes accounting discipline and thoroughness of the financial information. This commenter also contended that reconciliation was a key tool in educating investors about substantive differences between U.S. GAAP and other accounting standards. Another commenter expressed concern that eliminating the reconciliation requirement could result in investors receiving less consistent and relevant information, and that its elimination appears to contradict the view that the Summarized Financial Information is material to investors.[337]

c. Final Amendments

After considering public comments, we are adopting the amendments as proposed. Accordingly, foreign private issuers will be required to comply with amended Rule 3–10 as well as new Rule 13–01.

A few commenters requested the Commission confirm or address the periods of Summarized Financial Information that foreign private issuers would be required to present.[338] As specified in Rule 13–01(a)(4)(v), a parent company is required to disclose the Summarized Financial Information as of and for the most recently ended fiscal year and, if applicable, year-to-date interim period, included in the parent company's consolidated financial statements.

Although a few commenters opposed or expressed concern about the proposed elimination of the existing Rule 3–10(i)(12) requirement for a parent company that prepares its financial statements on a comprehensive basis other than U.S. GAAP or IFRS as issued by the International Accounting Standards Board to reconcile Consolidating Information to U.S. GAAP, we are eliminating this requirement as proposed. Because of the supplemental nature of the Revised Alternative Disclosures and the requirement in Item 18 of Form 20–F that the parent company's consolidated financial statements be reconciled to U.S. GAAP, we do not believe continuing to include a requirement to reconcile the financial information in the Revised Alternative Disclosures to U.S. GAAP is necessary. Although the reconciliation requirement would be eliminated, we note that Rules 13–01(a)(6) and (7)[339] require the parent company to disclose additional financial information about each guarantor if the information would be material for investors to evaluate the sufficiency of the guarantee, as well as sufficient information so as to make the financial and non-financial information presented not misleading.

For the same reasons described above,[340] we have created new Exhibit 17 within Item 19 of Form 20–F, which will require the identification of each subsidiary that is a guarantor, issuer, or co-issuer of each guaranteed security that the parent company issues or guarantees.

When a Canadian parent company and one or more subsidiaries register the offer and sale of guaranteed securities under the multijurisdictional disclosure system (''MJDS''),[341] the parent company and the subsidiaries incur reporting obligations under Section 15(d).[342] When a subsidiary issuer or subsidiary guarantor is also eligible to register the offer and sale of its security under the MJDS,[343] the financial

[332] Rule 3–01(h) of Regulation S–X and Rule 3–02(d) of Regulation S–X direct foreign private issuers to Item 8.A of Form 20–F.

[333] *See* letter from Sullivan & Cromwell.

[334] *See* letter from Sullivan & Cromwell.

[335] *See* letter from Deloitte.

[336] *See* letter from CII.

[337] *See* letter from KPMG.

[338] *See* letters from Deloitte and Sullivan & Cromwell.

[339] *See* discussion in Section III.C.2.c, ''When Disclosure is Required.''

[340] *See* discussion in Section III.C.2.b.iii, ''Non-Financial Disclosures.''

[341] The MJDS was adopted by the Commission to permit eligible Canadian issuers to satisfy the Commission's registration and reporting requirements by providing disclosure documents prepared in accordance with the requirements of Canadian securities regulatory authorities. *See Multijurisdictional Disclosure and Modifications to the Current Registration and Reporting System for Canadian Issuers,* Release No. 33–6902 (June 21, 1991) [56 FR 30036 (July 1, 1991)].

[342] 17 CFR 240.12h–4 (Exchange Act Rule 12h–4), however, exempts an issuer that has registered the offer and sale of securities under the Securities Act on Forms F–7, F–8 and F–80 from Section 15(d)'s Exchange Act reporting obligations, provided that the issuer is exempt from the obligations of Section 12(g) of the Exchange Act pursuant to 17 CFR 240.12g3–2(b) (Rule 12g3–2(b)). *See* Exchange Act Rule 12h–4.

[343] General Instruction I.H of Form F–10 permits majority-owned subsidiaries to register the offer and

Continued

statements that would appear in the registration statement and in any annual report on Form 40–F [344] filed by the Canadian parent company would not be affected by amended Rule 3–10 or new Rule 13–01. Instead, the disclosure would be in accordance with Canadian disclosure standards. When a subsidiary issuer or subsidiary guarantor is not eligible to register the offer and sale of its security under the MJDS,[345] however, the requirements of amended Rule 3–10 will be applicable to financial statements of that subsidiary.

2. Smaller Reporting Companies

a. Proposed Amendments

Note 3 to Rule 8–01 of Regulation S–X requires compliance with existing Rule 3–10 if the subsidiary of an SRC issues securities guaranteed by the SRC or the subsidiary guarantees securities issued by the SRC, except that the periods presented are those required by 17 CFR 210.8–02.[346] Because the subsidiary issuer or guarantor is itself a registrant, it is required to file financial statements meeting the requirements of Regulation S–X. Such financial statements may be prepared in accordance with 17 CFR 210.8–01 through 210.8–08 [347] so long as the subsidiary issuer or guarantor qualifies as an SRC.[348] Consistent with the existing rule, if the conditions of proposed Rule 3–10 are satisfied, the subsidiary issuer's or guarantor's financial statements could be omitted. While the substance of this requirement would not change, the Commission proposed amendments to Note 3 to Rule 8–01 to conform it to the streamlined structure of proposed Rule 3–10(a). Rather than stating that the subsidiary issuer or guarantor of the SRC issuer or guarantor must present financial statements as required by existing Rule 3–10, Note 3 to Rule 8–01 would instead state that the requirements of proposed Rule 3–10 are applicable to financial statements of the subsidiary issuer or guarantor. In addition, the Commission proposed to add a sentence to Note 3 to Rule 8–01 to require an SRC to provide the disclosures specified in proposed Rule 13–01. Lastly, because Item 1 of Part I of Form 10–Q permits an SRC to provide the information required by Rule 8–03 of Regulation S–X if it does not provide the information required by Rule 10–01, the proposed rule would add Rule 8–03(b)(7) to require compliance with Rules 3–10 and 13–01.

b. Comments on the Proposed Amendments

One commenter agreed that the proposed amendments should apply to SRCs.[349] Another commenter supported the proposed amendments to Note 3 to Rule 8–01 of Regulation S–X to conform it to the streamlined structure of proposed amendments Rule 3–10(a).[350]

c. Final Amendments

After considering the public comments, we are adopting the amendments as proposed. We believe that investors in smaller reporting companies will benefit from the simplified disclosures that will result from the amendments and that the cost of providing the disclosures will be reduced for smaller reporting companies. We are amending Note 3 to Rule 8–01 which, rather than stating that the subsidiary issuer or guarantor of the SRC issuer or guarantor must present financial statements as required by existing Rule 3–10, will state that the requirements of Rule 3–10 are applicable to financial statements of the subsidiary issuer or guarantor. The final amendments also add a sentence to Note 3 to Rule 8–01 to require an SRC to provide the disclosures specified in proposed Rule 13–01. Finally, because Item 1 of Part I of Form 10–Q permits an SRC to provide the information required by Rule 8–03 of Regulation S–X if it does not provide the information required by Rule 10–01, we have added Rule 8–03(b)(6) [351] to require compliance with Rules 3–10 and 13–01.

3. Offerings pursuant to Regulation A

a. Proposed Amendments

In connection with offerings made pursuant to Regulation A, Forms 1–A,[352] 1–K,[353] and 1–SA [354] direct an entity (''Regulation A Issuer'') to present financial statements of a subsidiary that issues securities guaranteed by the parent company or guarantees securities issued by the parent company as required by Rule 3–10 for the same periods as the Regulation A Issuer's financial statements,[355] because under these circumstances such subsidiary issuers or guarantors would themselves be Regulation A Issuers. Consistent with existing requirements, if the conditions of proposed Rule 3–10 are satisfied, the subsidiary issuer's or guarantor's financial statements could be omitted. While the substance of this requirement would not change, the Commission proposed amendments to Forms 1–A, 1–K, and 1–SA to conform the requirements to the streamlined structure of proposed Rule 3–10(a). Rather than stating that the subsidiary issuer or guarantor of the parent company must present financial statements as required by existing Rule 3–10, Forms 1–A, 1–K, and 1–SA would instead state that the requirements of proposed Rule 3–10 are applicable to financial statements of the subsidiary issuer or guarantor. Additionally, the proposed amendments would modify each form to require the disclosures specified in proposed Rule 13–01 and specify the location of the disclosures, similar to the proposed note to Rule 13–01(a) but consistent with the requirements of Regulation A. However, if a parent company elects to provide the disclosures in its audited financial statements, the Proposed Alternative Disclosures would be required to be audited.

b. Comments on the Proposed Amendments

One commenter expressed support for applying the proposed amendments to Regulation A issuers.[356]

c. Final Amendments

After considering the public comments, we are adopting the amendments as proposed with minor technical modifications. We believe that investors in Regulation A offerings will benefit from the simplified disclosures that will result from the amendments and that the cost of providing the disclosures will be reduced for Regulation A Issuers.

sale of securities on that form if various conditions are met.

[344] 17 CFR 249.240f.

[345] This situation arises when the subsidiary issuer or subsidiary guarantor is not incorporated in Canada. In this situation, registrants have filed the registration statement on a combined form (*e.g.,* Form F–10/S–4), depending on what registration form the subsidiary is eligible to use.

[346] Rule 8–02 of Regulation S–X.

[347] Article 8 of Regulation S–X.

[348] 17 CFR 229.10(f).

[349] *See* letter from Sullivan & Cromwell.

[350] *See* letter from ABA.

[351] Proposed Rule 8–03(b)(7) would have sequentially followed existing 17 CFR 210.8–03(b)(6) [Rule 8–03(b)(6) of Regulation S–X]. Subsequent to the issuance of the Proposing Release, the Commission eliminated Rule 8–03(b)(6). *See Disclosure Update and Simplification,* Release No. 33–10532 (Aug. 17, 2018) [83 FR 50204 (Oct. 4, 2018)]. The final amendments have been revised to reflect this change. The requirements in proposed Rule 8–03(b)(7) have been included in new Rule 8–03(b)(6).

[352] 17 CFR 239.90.

[353] 17 CFR 239.91.

[354] 17 CFR 239.92.

[355] Forms 1–A and 1–K also specify the audit requirements applicable to financial statements of other entities, which includes those of subsidiary issuers and guarantors of an issuer offering guaranteed securities pursuant to Regulation A. The Commission did not propose any changes to these audit requirements for circumstances where the separate financial statements of subsidiary issuers and guarantors are filed.

[356] *See* letter from Sullivan & Cromwell.

Rather than stating that the subsidiary issuer or guarantor of the parent company must present financial statements as required by existing Rule 3–10, Forms 1–A, 1–K, and 1–SA have been amended to state that the requirements of Rule 3–10 are applicable to financial statements of the subsidiary issuer or guarantor. The final amendments also modify each form to require the disclosures specified in Rule 13–01 and specify the location of the disclosures, similar to Rule 13–01(b) but consistent with the requirements of Regulation A. However, if a parent company elects to provide the disclosures in its audited financial statements, the Revised Alternative Disclosures will be required to be audited.

The final amendments also include a technical modification to address the definition of the ''parent company'' as it relates to issuers under Regulation A. One element of the definition of ''parent company'' in amended Rule 3–10(b)(1)(ii) is that the parent company ''is, or as a result of the subject Securities Act registration statement will be, an Exchange Act reporting company.'' As a result, strict application of this definition would exclude Regulation A Issuers that are not and will not become Exchange Act reporting companies (*i.e.,* those issuers only report pursuant to Regulation A). As stated in the Proposing Release, we believe these amendments should apply to Regulation A Issuers. Accordingly, we are adopting a technical modification to Forms 1–A, 1–K, and 1–SA to clarify the applicability of the definition of parent company as it relates to Regulation A Issuers.

In addition, as described above, subsidiary issuers and guarantors that are permitted to omit their separate financial statements under Rule 3–10 are also automatically exempt from Exchange Act reporting under Exchange Act Rule 12h–5. Regulation A does not currently provide for a similar exemption from reporting under the Rule 257(b) reporting requirements for subsidiary issuers and guarantors. As a further technical modification, to ensure consistency in the treatment of subsidiary issuers and guarantors under the Exchange Act and Regulation A, we are adding a new paragraph to Rule 257(b) of Regulation A specifying that subsidiary issuers and guarantors that are permitted to omit their separate financial statements from Forms 1–A, 1–K and 1–SA through the application of Rule 3–10 are automatically exempt from the periodic and current reporting requirements of Rule 257(b) of Regulation A. Consistent with Rule 12h–5, a subsidiary issuer or guarantor that later ceases to satisfy the requirements of Rule 3–10 (*e.g.,* it ceases to be a consolidated subsidiary of the parent company), would then be required to begin filing reports under Rule 257(b) for the period during which it ceased to satisfy the requirements of Rule 3–10.

Lastly, for the same reasons described above,[357] we have created new Exhibit 17 within Item 17 of Form 1–A, which will require the identification of each subsidiary that is a guarantor, issuer, or co-issuer of each guaranteed security qualified or being qualified under Regulation A that the parent company issues or guarantees. This exhibit will also be required in Form 1–K by Item 8(b) of Part II of that form, and in Form 1–SA by Item 4(b) of that form.

4. Issuers of Asset-Backed Securities—Third Party Financial Statements

a. Proposed Amendments

The disclosure items for issuers of ABS, set forth in 17 CFR 229.1100 through 229.1125,[358] specify circumstances when an ABS issuer must provide financial information for certain third parties [359] in its filings. For example, under Regulation AB, financial information about significant obligors of pool assets and guarantors of those pool assets may be required. In lieu of providing the financial information of certain unrelated significant obligors, if certain conditions are met, Item 1100(c)(2) of Regulation AB permits the ABS issuer to reference the significant obligor's Exchange Act reports (or, for certain circumstances, its parent's Exchange Act reports) on file with the Commission. One of these conditions is that the significant obligor meets one of the categories of eligible significant obligors specified in Item 1100(c)(2)(ii) of Regulation AB. Of these eligible categories, two relate to pool assets guaranteed by a parent or subsidiary of the significant obligor, as outlined in Items 1100(c)(2)(ii)(C) and (D). For these two categories, Item 1100(c)(2)(ii) permits an ABS issuer to reference Exchange Act reports containing the parent's consolidated financial statements if the information requirements of Rule 3–10 of Regulation S–X and certain other conditions are satisfied.

The Commission proposed conforming amendments to Items 1100(c)(2)(ii)(C) and (D) of Regulation AB because of the proposal to relocate the disclosure requirements associated with issuers and guarantors of guaranteed securities to proposed Rule 13–01. Thus, rather than refer to the information requirements of Rule 3–10, Items 1100(c)(2)(ii)(C) and (D) would instead state that disclosures specified in proposed Rule 13–01 must be provided in the reports to be referenced and that financial statements of the subsidiary third party or subsidiary guarantor, as applicable, may be omitted if the requirements of proposed Rule 3–10 are satisfied. The function of the eligible categories in Items 1100(c)(2)(ii)(C) and (D) would not change under the proposed revisions.

Additionally, the Commission proposed conforming amendments to Items 1112, 1114, and 1115 of Regulation AB and Item 504 of Regulation S–K because the citations to Regulation S–X in those item requirements refer to Regulation S–X as encompassing ''§§ 210.1–01 through 210.12–29.'' Those citations would be updated to include proposed Rules 13–01 and 13–02 of Regulation S–X.

b. Comments on the Proposed Amendments

We did not receive any comments that addressed the proposed conforming amendments to Regulation AB.

c. Final Amendments

We are adopting the amendments as proposed. Under the final amendments, rather than referring to the information requirements of Rule 3–10, Items 1100(c)(2)(ii)(C) and (D) instead state that disclosures specified in Rule 13–01 must be provided in the reports to be referenced and that financial statements of the subsidiary third party or subsidiary guarantor, as applicable, may be omitted if the requirements of Rule 3–10 are satisfied. The function of the eligible categories in Items 1100(c)(2)(ii)(C) and (D) will not change due to these revisions. Further, we have made conforming amendments to Items 1112, 1114, and 1115 of Regulation AB and Item 504 of Regulation S–K because the citations to Regulation S–X in those item requirements refer to Regulation S–X as encompassing ''§§ 210.1–01 through 210.12–29.'' These citations

[357] *See* discussion in Section III.C.2.b.iii, ''Non-Financial Disclosures.''

[358] Regulation AB.

[359] These third parties include: (1) Significant obligors of pool assets, (17 CFR 229.1112(b)); (2) entities that provide credit enhancement and other support, except for certain derivative instruments, (17 CFR 229.1114(b)(2)); and (3) certain derivative instrument counterparties, (17 CFR 229.1115(b)). Depending on the specified measures of significance, the financial information required for these third parties ranges from selected financial data required by 17 CFR 229.301 (Item 301 of Regulation S–K) to audited financial statements meeting the requirements of Regulation S–X (except Rule 3–05 of Regulation S–X and 17 CFR 210.11–01 through 210.11–03 (Article 11 of Regulation S–X)).

have been updated to include Rules 13–01 and 13–02 of Regulation S–X.[360]

IV. Rule 3–16 of Regulation S–X

Rule 3–16 contains requirements for affiliates whose securities are pledged as collateral for securities registered or being registered. Existing Rule 3–16 requires a registrant to provide separate annual and interim [361] financial statements for each affiliate whose securities constitute a ''substantial portion'' of the collateral for any class of securities registered or being registered as if the affiliate were a separate registrant (''Rule 3–16 Financial Statements'').[362] Rule 1–02(b) of Regulation S–X defines an ''affiliate'' by stating that an ''*affiliate* of, or a person *affiliated* with, a specific person is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified'' (emphasis in original).[363] In practice, affiliates whose securities collateralize a registered security are almost always consolidated subsidiaries of that registrant.

Whether an affiliate's portion of the collateral is a ''substantial portion'' is determined by comparing the highest amount among the aggregate principal amount, par value, book value, or market value of the affiliate's securities to the principal amount of the securities registered or being registered. If the highest of those values equals or exceeds 20 percent of the principal amount of the securities registered or being registered for any fiscal year presented by the registrant, Rule 3–16 Financial Statements are required.[364]

The requirements in existing Rule 3–16 have remained unchanged for many years,[365] and we proposed changes to improve the disclosures required by the rule.

V. Amendments to Rule 3–16 and Partial Relocation to Rule 13–02

A. Overarching Principle

The final amendments to Rule 3–10 are based on the principle that investors in guaranteed securities rely primarily on the consolidated financial statements of the parent company as supplemented by details about the subsidiary issuers and guarantors when making investment decisions. Similarly, the final amendments to Rule 3–16 are based on our belief that the investors in securities that are collateralized by securities of a registrant's affiliate(s) rely primarily on the consolidated financial statements of the registrant and supplemental details about the affiliate(s) whose securities are pledged when making investment decisions. The pledge of collateral is a residual equity interest that could potentially be foreclosed upon only in the event of default and almost always relates to an affiliate whose financial information is already included in the registrant's consolidated financial statements.[366] While we believe information about the affiliate(s) whose securities are pledged as collateral is material for an investor to consider potential outcomes in the event of foreclosure, we believe that separate financial statements of each such affiliate are not material in most situations. Rather, we believe the nature and extent of disclosures about the affiliate(s) and the related collateral arrangement should be consistent with the supplemental nature of the information and better balanced with the cost of providing such disclosures.

Several commenters expressed support for the overarching principle that the consolidated financial statements of the registrant are the most relevant information for investors when making investment decisions about that registrant's securities that are collateralized by securities of its affiliates.[367]

B. Overview of the Proposed and Final Amendments

1. Proposed Amendments

The proposed rule would replace the existing requirement—that a registrant provide separate financial statements for each affiliate whose securities are pledged as collateral—with a requirement that a registrant provide financial and non-financial disclosures about the affiliate(s) and the collateral arrangement as a supplement to the registrant's consolidated financial statements. Similar to the proposed disclosures for issuers and guarantors of guaranteed securities discussed above, the proposed amendments would give registrants the flexibility to provide the proposed disclosures inside or outside the registrant's audited annual and unaudited interim financial statements in registration statements covering the offer and sale of the collateralized securities and any related prospectus, as well as annual and quarterly Exchange Act periodic reports required to be filed during the fiscal year in which the first bona fide sale of the subject securities is completed.[368] Accordingly, the disclosure requirements in Rule 3–16 would have been amended and relocated to proposed Rule 13–02 and Rule 3–16 would have been removed and reserved.

Additionally, instead of requiring disclosure only when the pledged securities meet or exceed a numerical threshold relative to the securities registered or being registered under the existing rule's ''substantial portion'' test, the proposed amendments would require the specified disclosures unless they are not material to holders of the collateralized security. Further, the proposed changes would have required disclosure of any additional information about the collateral arrangement and each affiliate whose security is pledged as collateral that would be material to making an investment decision with respect to the collateralized security. The proposed amendments, comments received, and final amendments are discussed further below.

2. Comments on the Proposed Amendments

Comments on the proposed amendments were generally supportive. Several commenters supported the proposed amendments to replace existing Rule 3–16 with simplified financial and non-financial disclosures about the affiliates and collateral

[360] Similar to the conforming amendments that update references to Regulation S–X to include new Rules 13–01 and 13–02, we have also made a similar conforming amendment to Item 1100(c)(2)(ii)(F) of Regulation AB. Item 1100(c)(2)(ii)(F) of Regulation AB referred to Regulation S–K, but the related citation extended only from §§ 229.10 through 229.1208. As Regulation S–K extends from §§ 229.10 through 229.1305, we have made a corresponding conforming change.

[361] Rule 3–16 Financial Statements are not required in quarterly reports, such as on Form 10–Q. *See* Section III.A.6. of the 2000 Release.

[362] Rule 3–16(a) of Regulation S–X. These financial statements are required to be provided for the periods required by Rules 3–01 and 3–02 of Regulation S–X.

[363] Rule 1–02(b) of Regulation S–X.

[364] Rule 3–16(b) of Regulation S–X.

[365] *See Separate Financial Statements Required by Regulation S–X,* Release No. 33–6359 (Nov. 6, 1981) [46 FR 56171 (Nov. 16, 1981)].

[366] Generally, in the event of default, the holders of debt without the benefit of a pledge of collateral are comparatively disadvantaged. In the event of default, a holder of a debt security can make claims for payment directly against the issuer. Unpledged assets of an issuer's subsidiaries would generally only be indirectly accessible to the holder through bankruptcy proceedings, subordinate to direct claims against those subsidiaries or their assets. A debt security that is secured by a pledge of collateral typically allows a holder to make direct claims to that collateral in the event of default.

[367] *See, e.g.,* letters from Cravath, Davis Polk, EY, FEI, and Nareit.

[368] *See* Section V.F, ''Location of Disclosures and Audit Requirement,'' below.

arrangements.[369] Some commenters asserted the proposed amendments to Rule 3–16 would benefit investors, who would receive information critical to making informed decisions in a simpler format, as well as registrants by reducing the costs of conducting these types of debt offerings.[370] Several commenters indicated that the requirements of existing Rule 3–16 were overly burdensome and have caused many issuers to structure transactions to avoid application of existing Rule 3–16, by either avoiding pledges of an affiliate's securities or pursuing unregistered offerings where separate financial statements are not included.[371] One commenter who expressed general support for the Commission's effort to amend Rule 3–16 recommended that the Commission eliminate Rule 3–16 without amending or replacing it.[372] This commenter asserted that other disclosure requirements and market incentives were sufficient to cause registrants to disclose relevant material information in offerings of debt secured by securities of affiliates.

3. Final Amendments

After considering the public comments, we are adopting the amendments largely as proposed, with modifications. Although one commenter recommended eliminating rather than amending or replacing existing Rule 3–16, as supported by several other commenters, the final amendments replace the requirement to provide separate financial statements of an affiliate with financial and non-financial disclosures about the affiliate(s) and collateral arrangement(s). We agree with those commenters that asserted such a change will benefit investors who would receive information critical to making informed decisions in a simpler format, as well as registrants by reducing offering costs.[373] These amended financial and non-financial disclosures will be included in new Rule 13–02 [374] and are discussed below.[375]

C. Financial Disclosures

1. Level of Detail

a. Proposed Amendments

Existing Rule 3–16 requires separate financial statements of each affiliate whose securities constitute a substantial portion of the collateral. These affiliates whose securities are pledged as collateral are almost always consolidated subsidiaries of the registrant, and their financial information is thus already reflected in the registrant's consolidated financial statements. Proposed Rule 13–02(a)(4) would require Summarized Financial Information, a widely understood and common set of requirements, for each such affiliate, which would include select balance sheet and income statement line items.[376] Disclosure of additional line items of financial information beyond what is specified in proposed Rule 13–02(a)(4) would have been required by proposed Rule 13–02(a)(5) if material to an investment decision. For example, if a material amount of reported revenues of the affiliate(s) are derived from transactions with related parties, such as other subsidiaries of the registrant whose securities are not pledged as collateral, disclosure of such related party revenues would be required.

The proposed rule did not include a financial statement requirement for when the affiliate is either a non-subsidiary controlled affiliate of the registrant or a controlling affiliate of the issuer, because practice has demonstrated that affiliates whose securities are pledged as collateral are almost always consolidated subsidiaries of the registrant. In the rare circumstances where the affiliate is not a consolidated subsidiary of the registrant, proposed Rule 13–02(a)(5) would have required the registrant to disclose any other quantitative or qualitative information that would be material to making an investment decision with respect to the collateralized security.[377] Because the unconsolidated affiliate's financial information is not included in the registrant's consolidated financial statements, the Commission indicated in the Proposing Release that it would expect disclosure beyond what is specified in proposed Rule 13–02(a)(1) through (4) to be provided in these circumstances.[378] In this regard, separate financial statements of the unconsolidated affiliate may be necessary if material to an investment decision.[379]

b. Comments on the Proposed Amendments

Several commenters generally supported the proposal to replace the separate financial statements of an affiliate required by existing Rule 3–16 with Summarized Financial Information.[380] Some commenters asserted that the proposed amendment would reduce a registrant's costs and burdens [381] while still providing investors with clear and sufficient information.[382]

One commenter urged the Commission to adopt an even more simplified and flexible approach, based on the commenter's assertion that offerings pursuant to Rule 144A include less detail than what is required in Summarized Financial Information.[383] This commenter recommended that the final rule only require quantitative disclosure of revenue, operating income, assets, and liabilities of the relevant affiliates as a group.

Additionally, although they mostly agreed with the proposed amendment to replace the separate financial statements of an affiliate with less detailed financial information, a few commenters stressed that the Commission should require more information than is called for by Summarized Financial Information.[384] One commenter indicated that the final rule should include the balance sheet and income statement information of the collateralizing subsidiaries in a level of detail similar to that specified in Article

[369] *See, e.g.,* letters from Davis Polk, Dell, EY, FEI, Grant Thornton, Nareit, NYC Bar, PWC, and Sullivan & Cromwell.

[370] *See, e.g.,* letters from Davis Polk, EY, and FEI.

[371] *See* letters from Cravath, Davis Polk, Dell, NYC Bar, and PWC.

[372] *See* letter from Cravath.

[373] *See, e.g.,* letters from Davis Polk, EY, and FEI.

[374] The disclosures specified in proposed Rule 13–02(a) would be required ''[f]or each class of security registered or being registered . . .'' As a technical modification, final Rule 13–02(a) has been revised to require the disclosures specified therein ''[f]or each security subject to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, and for each security the offer and sale of which is being registered under the Securities Act of 1933, . . .''

[375] As a transitional matter, the final amendments do not eliminate existing Rule 3–16, which will continue to be applicable to registered collateralized securities with collateral release provisions issued and outstanding as of the effective date of the final amendments. *See* Section VI.B ''Rule 3–16 Collateral Release Provisions.''

[376] As with proposed Rule 13–01(a)(4), Summarized Financial Information would be the information specified in Rule 1–02(bb)(1) of Regulation S–X.

[377] *See* Section V.E, ''When Disclosure is Required.''

[378] *See* Section V.C,1 of the Proposing Release.

[379] *See* proposed Rule 13–02(a)(5). *See also* 17 CFR 210.3–13 (''Rule 3–13 of Regulation S–X'').

[380] *See, e.g.,* letters from Cravath, Davis Polk, EY, and FEI.

[381] *See, e.g.,* letters from Davis Polk, EY, FEI, and PWC.

[382] *See* letters from EY and FEI.

[383] *See* letter from NYC Bar.

[384] *See, e.g.,* letters from EY and PWC.

10 of Regulation S–X.[385] Another commenter recommended that the Commission require additional disclosures regarding intercompany and related-party transactions to accompany and thereby enhance the transparency of the Summarized Financial Information when securities of affiliates are pledged as collateral in a manner similar to its recommendations for the level of detail in the proposed amendments to Rule 3–10.[386]

c. Final Amendments

We are adopting amendments in substantially the form proposed, but with modifications in response to comments received. As described above, one commenter recommended different and more limited information than what is required by Summarized Financial Information and another recommended more detailed information. However, and consistent with our rationale for the corresponding requirement in the final amendments to Rule 13–01(a)(4) discussed above,[387] we agree with those commenters that supported requiring Summarized Financial Information. We believe the select balance sheet and income statement line items that Summarized Financial Information requires are focused on the information that is most likely to be material to an investment decision and should be less burdensome for registrants to prepare than Rule 3–16 Financial Statements. Under the final amendments, disclosure of additional line items of financial information beyond the line items specified in Summarized Financial Information is required if necessary to comply with Rule 13–02(a)(6) and (7).[388]

Although the Commission requested comment on whether the final rules should specifically address the rare circumstances where the affiliate is not a consolidated subsidiary of a registrant, we did not receive any comments. As such, consistent with the proposal, the final rule does not include requirements specific to non-subsidiary affiliates, such as a non-subsidiary controlled affiliate of the registrant or a controlling affiliate of the issuer. However, and also consistent with the proposal, in the rare circumstances where the affiliate is not a consolidated subsidiary of the registrant, Rules 13–02(a)(6) and (7) would require the registrant to provide any financial and narrative information about each such affiliate if the information would be material for investors to evaluate the pledge of the affiliate's securities as collateral and sufficient information so as to make the financial and non-financial information presented not misleading.[389] Because the unconsolidated affiliate's financial information is not included in the registrant's consolidated financial statements, in these circumstances disclosure beyond what is specified in Rule 13–02(a)(1) through (4) may need to be provided. In this regard, separate financial statements of the unconsolidated affiliate may be necessary to satisfy the requirements of Rules 13–02(a)(6) and (7).[390]

The Proposing Release included an example of when incremental disclosure of related party revenues would be required under the proposed rule.[391] Specifically, if a material amount of reported revenues of the affiliate(s) are derived from transactions with related parties, such as other subsidiaries of the registrant whose securities are not pledged as collateral, disclosure of such related party revenues would be required. Instead of including this as an example of when disclosure would be required under Rule 13–02(a)(6) and (7), we agree with the commenter that recommended including a requirement to separately disclose intercompany and related-party transactions in addition to Summarized Financial Information, which the commenter asserted would enhance the transparency of the Summarized Financial Information.[392] Accordingly, as adopted, Rule 13–02(a)(4)(iii) requires an affiliate's amounts due from, amounts due to, and transactions with certain entities not included in that affiliate's Summarized Financial Information to be presented in separate line items, to the extent material. Such entities include the registrant, any of the registrant's subsidiaries not included in the Summarized Financial Information of the affiliate,[393] and related parties. For example, material revenue transactions between an affiliate and a separate non-pledged subsidiary of the registrant that is not included in that affiliate's financial information (*i.e.,* the non-pledged subsidiary would not be a consolidated subsidiary of the affiliate) must be presented in a separate line item. If the transaction was between the affiliate and another affiliate whose securities are pledged, and those affiliates' Summarized Financial Information is presented on a combined basis pursuant to Rule 13–02(a)(4)(i), separate presentation of the transaction is not required as it will be required to be eliminated in accordance with Rule 13–02(a)(4)(ii).[394] We expect clearly establishing this expectation as a stated requirement will assist in the preparation of the disclosures and provide useful information to investors, and agree with one commenter that such separate disclosure enhances the transparency of the Summarized Financial Information presented.[395]

Lastly, for the same reasons described in connection with the corresponding requirement in final Rule 13–01(a)(4),[396] final Rule 13–02(a)(4) includes a requirement to briefly describe the basis of presentation applicable to each of the required financial disclosures therein. In addition to simplifying the final rule, we believe this requirement will better inform users about the form and content of the disclosures provided pursuant to final Rule 13–02(a)(4).[397] We believe

[385] *See* letter from PWC.

[386] *See* letter from EY. In its comments on the level of detail in the proposed amendments to Rule 3–10, the commenter recommended requiring disclosure of investments held by the obligated group in non-obligated subsidiaries, intercompany or related-party transactions between the obligated and non-obligated groups, and when the obligated group includes variable interest entities, a cross-reference to the relevant disclosures in the consolidated financial statements.

[387] *See* discussion in Section III.C.2.a.i.(C), ''Level of Detail.''

[388] Proposed Rule 13–02(a)(1) through (4) set forth proposed requirements to disclose specific financial and non-financial information. Proposed Rule 13–02(a)(5), which would have required disclosure of ''any other quantitative or qualitative information that would be material to making an investment decision with respect to the collateralized security,'' was included to require disclosure about the collateral arrangements and affiliates whose securities are pledged that would be material but was not otherwise already required by the specified proposed financial and non-financial disclosures. Instead of proposed Rule 13–02(a)(5), the final amendments include Rules 13–02(a)(6) and (7), which require disclosure of ''[a]ny financial and narrative information about each such affiliate if the information would be material for investors to evaluate the pledge of the affiliate's securities as collateral'' and ''[s]ufficient information so as to make the financial and non-financial information presented not misleading,'' respectively. *See* discussion within Section V.E.3, ''When Disclosure is Required.''

[389] *See* Section V.E, ''When Disclosure is Required.''

[390] *See also* Rule 3–13 of Regulation S–X.

[391] *See* Section V.C.1 of the Proposing Release. Such disclosure would have been required by proposed Rule 13–02(a)(5).

[392] *See* letter from EY. This commenter suggested flexibility to provide these disclosures as either explanatory notes or separate line items. Based on the nature of these items, and to drive consistency in the disclosures between registrants, Rule 13–02(a)(4)(iii) requires the amounts to be in separate line items.

[393] These entities include, for example, other affiliates whose securities are pledged as collateral but whose Summarized Financial Information required by Rule 13–02(a)(4) is presented separately from the affiliate in question, as well as other subsidiaries of the registrant that are not subsidiaries of the affiliate.

[394] *See* Section V.C.2, ''Presentation on a Combined Basis.''

[395] *See* letter from EY.

[396] *See* Section III.C.2.a.i.(C), ''Level of Detail.''

[397] Such disclosure could state, for example, that the financial information presented is that of the

such disclosure enhances the understandability of the financial information provided.

2. Presentation on a Combined Basis

a. Proposed Amendments

The existing test used to determine whether the securities of an affiliate constitute a ''substantial portion'' of the collateral for securities registered or being registered is required to be performed for each affiliate whose securities are pledged. In the Proposing Release, the Commission noted that the existing requirements can result in potentially confusing disclosure about the extent of collateral.[398] For example, when the securities of a registrant's subsidiary (''Subsidiary A'') are pledged as collateral and the securities of an entity consolidated by Subsidiary A (''Subsidiary B'') are also pledged, separate Rule 3–16 Financial Statements may be required for both Subsidiary A and Subsidiary B. In such a scenario, Subsidiary B's assets, liabilities, operations, and cash flows would be included twice (*i.e.,* in the financial statements of both Subsidiary A and Subsidiary B). The proposed amendments would permit a registrant to disclose the financial information of consolidated affiliates on a combined rather than individual basis. Proposed Rule 13–02(a)(4) would require intercompany transactions between affiliates presented on a combined basis to be eliminated. Unlike the proposed amendments to Rule 13–01, because the securities pledged as collateral are an equity interest in that pledgor affiliate, the financial information of all subsidiaries that would be consolidated by that affiliate would be included in the Summarized Financial Information presented pursuant to proposed Rule 13–02(a)(4), even if the securities of those subsidiaries are not pledged as collateral.[399]

The proposed rule took into consideration that there may be circumstances where separate financial information about certain affiliates is material to an investment decision. Accordingly, when the information provided in response to proposed Rule 13–02 is applicable to one or more, but not all, affiliates, proposed Rule 13–02(a)(4) would require separate disclosure of Summarized Financial Information for the affiliates to which it is applicable. For example, if securities of one, but not all, of the affiliates that are pledged as collateral are subject to a contractual or statutory delay from being transferred to the holder of the collateralized security in the event of default, disclosure of these facts and circumstances would be required by proposed Rule 13–02(a)(2). In that case, proposed Rule 13–02(a)(4) would require separate disclosure of the Summarized Financial Information specified in proposed Rule 13–02(a)(4) for that affiliate.

Generally, a pledge of an affiliate's securities as collateral includes all of the outstanding ownership interests in that affiliate, which are held directly or indirectly by the entity issuing the debt securities. There could be circumstances where either the pledge of collateral does not include all of the outstanding ownership interests in the affiliate held by the issuing entity, or certain ownership interests in the affiliate are held by a third party and therefore unpledged. In such cases, disclosure of these facts and circumstances would be required by proposed Rule 13–02(a)(5), which would have required disclosure of any other quantitative or qualitative information that would be material to making an investment decision with respect to the collateralized security. If such circumstances were applicable to one or more, but not all, affiliates, proposed Rule 13–02(a)(4) would require separate disclosure of Summarized Financial Information for the affiliates to which it is applicable.

b. Comments on the Proposed Amendments

The majority of comments we received on the proposed amendments supported permitting issuers to disclose the financial information of the group of consolidated affiliates whose securities are pledged on a combined rather than individual basis.[400] One commenter contended that providing this type of disclosure would allow issuers to focus on disclosure that is material and important to investors for making an informed investment decision.[401]

Consistent with its comments on proposed Rule 13–01(a)(4), one commenter asserted the proposed amendment that would require registrants to separately present the Summarized Financial Information for an affiliate if the required qualitative disclosures differed within the group of affiliates was overly prescriptive.[402] This commenter recommended permitting greater flexibility in such instances, such as allowing a registrant to present Summarized Financial Information for the aggregate group with supplemental qualitative or quantitative disclosure regarding material differences within the group.

c. Final Amendments

After considering the public comments, we are adopting the amendments substantially as proposed with modifications, including separating certain requirements within proposed Rule 13–02(a)(4) into distinct subparagraphs for clarity.

As supported by several commenters, we are adopting the proposed amendment that permits the supplemental financial disclosures of affiliates specified in Rule 13–02(a)(4) to be provided on a combined basis. Specifically, Rule 13–02(a)(4)(i) will permit the Summarized Financial Information of each affiliate whose securities are pledged as collateral that is consolidated in the registrant's consolidated financial statements to be presented on a combined basis, and Rule 13–02(a)(4)(ii) will require that intercompany balances and transactions between affiliates whose information is presented on a combined basis to be eliminated.[403] We agree with the commenter that stated that the ability to provide the financial information on a combined basis would allow registrants to focus on disclosure that is material and important to investors without omitting information investors need for

affiliates whose securities are pledged as collateral for the registered securities. If applicable, the disclosure could also state, for example: That the financial information of affiliates is presented on a combined basis; intercompany balances and transactions between affiliates have been eliminated; that the affiliate's amounts due from, amounts due to, and transactions with the registrant, any of the registrant's subsidiaries not included in the summarized financial information of the affiliate(s) subsidiaries, and related parties have been presented in separate line items; and that financial information of certain identified affiliates has been presented separately due to disclosed facts and circumstances applicable to those subsidiaries (as required by Rule 13–02(a)(4)(iv)).

[398] *See* Section V of the Proposing Release.

[399] Proposed Rule 13–01 would prohibit combining the financial information of non-issuer and non-guarantor subsidiaries of issuers and guarantors with that of issuers and guarantors in the Proposed Alternative Disclosures in order to distinguish the financial information of entities that are legally obligated to pay from those that are not. Proposed Rule 13–02 relates to pledged residual equity interests in affiliates as opposed to guarantees to pay, and as such, no similar prohibition is necessary.

[400] *See, e.g.,* letters from Cravath, Davis Polk, Dell, NYC Bar, and PWC.

[401] *See* letter from Dell.

[402] *See* letter from EY.

[403] Proposed Rule 13–02(a)(4) would have required, in part, that ''[i]ntercompany transactions between affiliates whose summarized financial information is presented on a combined basis shall be eliminated.'' While we are adopting the amendments substantially as proposed, final Rule 13–02(a)(4)(ii) clarifies that intercompany ''balances'' must also be eliminated in this regard.

an informed investment decision.[404] Consistent with the proposed amendments, unlike the final amendments to Rule 13–01, because the securities pledged as collateral are an equity interest in that pledgor affiliate, the financial information of all subsidiaries that would be consolidated by that affiliate will be included in the Summarized Financial Information presented pursuant to Rule 13–02(a)(4), even if the securities of those subsidiaries are not pledged as collateral.[405]

We are adopting, substantially as proposed, the requirement that when information provided in response to Rule 13–02 is applicable to one or more, but not all, affiliates, separate disclosure of Summarized Financial Information for the affiliates to which the information applies is required. This requirement is stated in Rule 13–02(a)(4)(iv). For clarity, the final rule includes an example of disclosure required by Rule 13–02 that would trigger separate disclosure for the affected affiliates.[406] The example is disclosure that is required by Rule 13–02(a)(3): ''the trading market for the affiliate's security pledged as collateral or a statement that there is no market.'' Consistent with the corresponding requirement in final Rule 13–01(a)(4)(iv), we believe a registrant should consider materiality[407] and exercise judgment in determining the appropriate level of aggregation of affiliates based on the nature of the disclosure. In this regard, it may be useful to consider quantitative factors, such as the financial significance of the affected affiliates, and qualitative factors, such as the nature of the facts and circumstances applicable to the affiliates. For example, if the trading market for an affiliate's security is the same as some but not all affiliates, and such similar affiliates represent a substantial portion of the Summarized Financial Information of the combined affiliates, aggregation of the Summarized Financial Information of such affiliates may be appropriate depending on the facts and circumstances. Conversely, it may not be appropriate to aggregate the Summarized Financial Information of such affiliates where the trading markets for the securities are different.

One commenter stated its belief that requiring separate presentation of the Summarized Financial Information applicable to affected affiliates under proposed Rule 13–02(a)(4) is overly prescriptive.[408] Consistent with final amendments to Rule 13–01(a)(4)(iv), while we do believe separate disclosure of Summarized Financial Information for the affected affiliates would be appropriate in most cases, we also agree with this commenter's suggestion that it could be acceptable to present Summarized Financial Information for the combined affiliates with supplemental qualitative and/or quantitative disclosure to inform investors about the disclosures affecting one or more, but not all affiliates. Accordingly, Rule 13–02(a)(4)(iv) permits, in limited circumstances, narrative disclosure to be provided in lieu of the separate Summarized Financial Information of the affected affiliates to which the paragraph otherwise requires. The limited circumstances when a narrative may be provided are when such separate financial information applicable to the affected affiliates can be easily explained and understood. For example, if certain terms and conditions of the collateral arrangement are applicable to one affiliate, and that affiliate constitutes a similar percentage of the combined group of affiliates' assets, liabilities, and operations, narrative disclosure may be permissible depending on the facts and circumstances. In other circumstances, such as if that affiliate's financial significance to the combined group of affiliates is not easily explained (*e.g.,* the affiliate constitutes varying proportions of each line item within the combined group of affiliates' Summarized Financial Information), narrative disclosure would not be sufficient.

As described in the Proposing Release, generally, a pledge of an affiliate's securities as collateral includes all of the outstanding ownership interests in that affiliate, which are held directly or indirectly by the entity issuing the debt securities. There could be circumstances where either the pledge of collateral does not include all of the outstanding ownership interests in the affiliate held by the issuing entity, or certain ownership interests in the affiliate are held by a third party and therefore unpledged. In such cases, disclosure of these facts and circumstances would be required by Rules 13–02(a)(6) and (7) if material for investors to evaluate the pledge of the affiliate's securities as collateral, or so as to make the financial and non-financial information presented not misleading.[409] If such circumstances are applicable to one or more, but not all, affiliates, Rule 13–02(a)(4)(iv) would require separate disclosure of Summarized Financial Information for the affiliates to which it is applicable.

3. Periods to Present

a. Proposed Amendments

Proposed Rule 13–02(a)(4) would require the disclosure of Summarized Financial Information as of, and for, the most recently ended fiscal year and interim period included in the registrant's consolidated financial statements. Under the existing rule, Rule 3–16 Financial Statements are not required in quarterly reports, such as on Form 10–Q.[410] The proposed rule would require disclosure in quarterly filings, such as Form 10–Q. Because Item 1 of Part I of Form 10–Q requires a registrant to provide the information required by Rule 10–01 of Regulation S–X, the Commission proposed adding Rule 10–01(b)(10) to require compliance with proposed Rule 13–02.

b. Comments on the Proposed Amendments

Comments on the proposed amendments were mixed. A few commenters supported providing the disclosure of the Summarized Financial Information as of, and for, the most recently ended fiscal year and interim period included in the registrant's consolidated financial statements.[411] However, some commenters suggested that the Commission should not require interim disclosures unless there had been a material change since the most recent annual period.[412] Two of these commenters contended that this change would be consistent with Article 10 of Regulation S–X.[413] One commenter

[404] *See* letter from Dell.

[405] Rule 13–01(a)(4)(iii) requires the financial information of non-issuer and non-guarantor subsidiaries of issuers and guarantors to be excluded from the financial information of issuers and guarantors in order to distinguish the financial information of entities that are legally obligated to pay from those that are not. Rule 13–02 relates to pledged residual equity interests in affiliates as opposed to guarantees to pay, and as such, no similar prohibition is necessary.

[406] This example is being included to clarify one situation requiring separate presentation of the Summarized Financial Information applicable to some but not all affiliates.

[407] The disclosures specified in Rule 13–02(a) are required to the extent material. Rules 13–02(a)(6) and (7) require disclosure of ''[a]ny financial and narrative information about each such affiliate if the information would be material for investors to evaluate the pledge of the affiliate's securities as collateral,'' and ''[s]ufficient information so as to make the financial and non-financial information presented not misleading,'' respectively. *See* discussion within Section V.E.3, ''When Disclosure is Required.''

[408] *See* letter from EY.

[409] *Supra* note 388.

[410] *See* Section III.A.6 of the 2000 Release.

[411] *See* letters from Grant Thornton and NYC Bar.

[412] *See* letters from Deloitte, EY, FEI, and PWC.

[413] *See* letters from Deloitte and PWC.

stated that interim reporting would be burdensome and costly.[414] This commenter asserted annual disclosure should be sufficient for investors to make informed investment decisions.

c. Final Amendments

After considering the comments received, we are adopting the amendments as proposed, with one clarification. As adopted, consistent with final Rule 13–01(a)(4)(v), final Rule 13–02(a)(4)(v) requires the financial disclosures to be provided as of and for the most recently ended fiscal year and year-to-date interim period included in the registrant's consolidated financial statements.

We are not adopting the approach some commenters recommended, which would have required the most recent interim period in limited circumstances, such as when there had been a material change since the most recent annual period. We continue to believe, as the Commission stated in the Proposing Release, that the most recent interim period should be provided so that investors can make decisions based on the most recent information available.[415] Furthermore, while we acknowledge the concerns about the burden to provide interim information in all cases, consistent with our rationale for the corresponding requirement in the final amendments to Rule 13–01(a)(4)(v),[416] we believe the adopted approach will significantly reduce burdens on issuers while providing investors with the information they need to make informed investment decisions. For similar reasons, we are adopting the proposal that requires the amended disclosures in quarterly filings, such as Form 10–Q. To accomplish this, because Item 1 of Part I of Form 10–Q requires a registrant to provide the information required by Rule 10–01 of Regulation S–X, we have added Rule 10–01(b)(10) to require compliance with Rule 13–02. Proposed Rule 13–02(a)(4) did not specify that the required interim period was only for the most recent year-to-date period. In certain filings, such as a registrant's Form 10–Q for its second and third fiscal quarters, both year-to-date and quarter-to-date interim financial statements are required to be presented for the registrant. To avoid any such confusion, and consistent with the proposed rule's intent and suggestions from certain commenters,[417] the final rule's interim period requirement has been revised to clarify that only the most recent year-to-date interim period is required.

D. Non-Financial Disclosures

1. Proposed Amendments

Under the existing rule, a registrant is not required to provide non-financial disclosures about the affiliates and the collateral arrangement unless they would be included as part of the Rule 3–16 Financial Statements. In addition to proposing amendments to the financial information required about the affiliates whose securities are pledged as collateral, the proposed rule would also require specific non-financial disclosures to be provided. Proposed Rules 13–02(a)(1) through (3) would require certain non-financial disclosures about the securities pledged as collateral, each affiliate whose securities are pledged, the terms and conditions of the collateral arrangement, and whether a trading market exists for the pledged securities. While the proposed requirements comprised the items the Commission believed would most likely be material to an investor, there could be additional facts and circumstances specific to particular affiliates that would be material to holders of the collateralized security. In that case, proposed Rule 13–02(a)(5) would have required disclosure of those facts and circumstances.[418] Additionally, when a non-financial disclosure is applicable to one or more, but not all, affiliates, proposed Rule 13–02(a)(4) would require separate disclosure of Summarized Financial Information for the affiliates to which it is applicable.[419]

2. Comments on the Proposed Amendments

Comments on the proposed amendments were generally supportive. Some commenters generally supported the proposed rule's requirement to provide, to the extent material, certain non-financial disclosures about the securities pledged as collateral, each affiliate whose securities are pledged, the terms and conditions of the collateral arrangement, and whether a trading market exists for the pledged securities.[420] One asserted that such disclosure would be helpful to investors.[421]

One commenter, however, stated that it was not clear why a description of the security pledged as collateral and disclosure of each affiliate whose security is pledged would be meaningful to an investor in the context of financial disclosures.[422] This commenter recommended that the Commission consider requiring such disclosures be included as an exhibit to the filing similar to the list of subsidiaries required by Item 601.

3. Final Amendments

After considering the comments received, we are adopting the amendments largely as proposed with modifications based on comments received. Consistent with the Proposing Release, we believe these requirements will result in enhanced narrative disclosures that would improve investor understanding of the affiliates and the collateral arrangement(s) and make the financial disclosures they accompany easier to understand. While the adopted non-financial disclosures are composed of the items we believe are most likely to be material to an investor, disclosure of additional facts and circumstances is required if necessary to comply with Rule 13–02(a)(6) and (7).[423] Additionally, when a non-financial disclosure is applicable to one or more, but not all, affiliates, Rule 13–02(a)(4)(iv) requires, to the extent it is material, separate disclosure of Summarized Financial Information for the affiliates to which the non-financial disclosure applies.[424]

Consistent with the final amendments to Rule 13–01 and our related rationale,[425] while we are not adopting one commenter's [426] suggestion that disclosure of the identification of the security pledged as collateral only be required upon registration of the collateralized securities and the related prospectuses, we are adopting the commenter's alternative suggestion that this disclosure be included in an exhibit to the subject filing.[427] Due to this

[414] *See* letter from SIFMA.

[415] *See* Section V.C.3 of the Proposing Release.

[416] *See* discussion in Section III.C.2.a.iii.(C), ''Periods to Present.''

[417] *See, e.g.,* letters from EY, FEI, and PWC.

[418] *See* discussion in Section V.E, ''When Disclosure is Required.''

[419] *See* discussion in Section V.C.2, ''Presentation on a Combined Basis.''

[420] *See* letters from Davis Polk, FEI, and NYC Bar.

[421] *See* letter from Davis Polk.

[422] *See* letter from PWC.

[423] *Supra* note 388.

[424] *See* discussion in Section V.C.2, ''Presentation on a Combined Basis.''

[425] *See* discussion in Section III.C.2.b.iii, ''Non-Financial Disclosures.''

[426] *See* letter from PWC.

[427] *See* amended Item 601(a) and new Item 601(b)(22) of Regulation S–K. A registrant will be required to list, under an appropriately captioned heading that identifies the associated securities, each of its affiliates whose security is pledged as collateral for the registrant's security registered or being registered. For each affiliate, the security or securities pledged as collateral must also be identified. An affiliate need not be listed more than once so long as its role as affiliate whose security is pledged as collateral for a registrant's security is clearly indicated with respect to each applicable security. Similarly, if an affiliate required to be

Continued

change, we have revised Rule 13–02(a)(1) to require a description of the securities pledged as collateral and the affiliates whose securities are pledged as collateral. We believe this approach will provide the information to investors in a more efficient manner and make the accompanying financial and non-financial disclosures easier to understand.

E. When Disclosure Is Required

1. Proposed Amendments

As discussed above,[428] existing Rule 3–16 requires separate financial statements for each affiliate whose securities are pledged as collateral when those securities constitute a ''substantial portion'' of the collateral. If the numerical thresholds specified in the rule are not met, no disclosure is required. At the same time, if the numerical thresholds are met, Rule 3–16 Financial Statements may be required even though the affiliate represents an insignificant portion of the registrant's consolidated financial statements. The proposed rule would replace this test with one based on materiality, similar to the framework in proposed Rule 13–01.[429] Under this approach, investors would be provided with disclosure where it is material, whereas under the existing rule, no disclosure would be provided unless the collateral represented a ''substantial portion.''

Proposed Rule 13–02(a) would have required the disclosures specified in proposed Rule 13–02(a)(1) through (4) to the extent material to holders of the collateralized security. For example, under the proposed rule, if the Summarized Financial Information of the combined affiliates required by proposed Rule 13–02(a)(4) is not materially different from corresponding amounts in the registrant's consolidated financial statements, the information could be omitted. While the disclosures specified in proposed Rule 13–02(a)(1) through (4) could have been omitted if not material to holders of the collateralized security, for clarity, proposed Rule 13–02(a)(4) would have required the registrant to include a statement that the financial disclosures have been omitted and disclose the reason(s) why the disclosures are not material.

Conversely, there may be additional information about the collateral arrangement and affiliates beyond the financial disclosures specified in proposed Rule 13–02(a)(4) or the non-financial disclosures specified in proposed Rules 13–02(a)(1) through (3) that would be material to holders of the collateralized security. Accordingly, proposed Rule 13–02(a)(5) would have required disclosure of any quantitative or qualitative information that would be material to making an investment decision with respect to the collateralized security. For example, additional financial information beyond what is required by Summarized Financial Information would have been required if that information is material to an investment decision in the collateralized security.

2. Comments on the Proposed Amendments

Comments on the proposals were mixed. Several commenters generally supported replacing existing Rule 3–16's ''substantial portion'' test with a principles-based materiality standard.[430] Two commenters asserted that the existing ''substantial portion'' test could lead to registrants disclosing information that is not essential to making an informed investment decision.[431] One of these commenters contended that moving to a materiality standard under the proposed amendments would only require registrants to incur the cost to provide the required disclosure when doing so would be helpful to investors.[432] However, a few commenters supported some type of numerical threshold for establishing whether disclosure would be deemed not material.[433] One commenter suggested establishing a 50% numerical threshold as a non-exclusive safe harbor at or below which the share collateral would be deemed not material and above which the registrant must evaluate materiality.[434] The other commenter suggested retaining existing Rule 3–16's 20% threshold in the form of a safe harbor, such that any collateral arrangement that does not trigger the existing rule would be deemed not material for the purposes of the new rule.[435]

Consistent with comments received in connection with the corresponding requirement in proposed Rule 13–01(a)(5),[436] a number of commenters opposed proposed Rule 13–02(a)(5), which would have required disclosure of any information that would be material to making an investment decision with respect to the collateralized security.[437] One commenter expressed concern that this requirement possibly went beyond the Commission's existing materiality standard.[438] Some commenters asserted that the proposed requirement would cause uncertainty for issuers and auditors as they seek to apply and assess the adequacy of the disclosures.[439] One commenter asserted that the proposed requirement would override all other relevant disclosure obligations;[440] another commenter questioned whether the Commission was proposing to modify the overall materiality assessment in its disclosure framework;[441] and a third commenter stated its belief that in addition to creating litigation risk, the proposed rule could extend the duty to disclose material information beyond information specific to the guarantee, such as pending merger negotiations and other potential transactions.[442] However, one commenter supported this proposed requirement ''because it would provide relevant information, not otherwise explicitly required by the [p]roposed [r]ule, which would likely render the disclosures taken as a whole to be more useful for investment decisions.''[443]

Consistent with comments received in connection with the corresponding requirement in proposed Rule 13–01(a)(4),[444] some commenters opposed the requirement in proposed Rule 13–

identified in this exhibit is also required to be identified as an issuer, co-issuer, or guarantor of a guaranteed security in this exhibit, the entity need not be listed more than once so long as its role as issuer, co-issuer, or guarantor of a guaranteed security and/or as affiliate whose security is pledged as collateral for a registrant's security is clearly indicated with respect to each applicable security. This exhibit will be required in Forms S–1, S–3, S–4, SF–1, SF–3, S–11, F–1, F–3, F–4, 10, 10–Q, and 10–K. In addition, we are making corresponding revisions to the exhibit requirements of Form 20–F by creating new Exhibit 17 within Item 19, and Form 1–A by creating new Exhibit 17 within Item 17. This exhibit will also be required in Forms 1–K and 1–SA. *See* discussion in Section V.H.3.c, ''Offerings pursuant to Regulation A''.

[428] *See* Section IV, ''Rule 3–16 of Regulation S–X.''

[429] Whether a disclosure specified in proposed Rule 13–02 may be omitted or whether additional disclosure would have been required by proposed Rule 13–02(a)(5), as discussed below, depends on whether it would be material to a reasonable investor. *See* Section III.C.2.c.iii, ''When Disclosure is Required,'' above.

[430] *See, e.g.,* letters from CII, Cravath, Davis Polk, Deloitte, EY, and FEI.

[431] *See* letters from Davis Polk and Dell.

[432] *See* letter from Davis Polk.

[433] *See* letters from NYC Bar and SIFMA.

[434] *See* letter from SIFMA.

[435] *See* letter from NYC Bar.

[436] *See* Section III.C.2.c.ii, ''When Disclosure is Required.''

[437] *See, e.g.,* letters from ABA, BDO, CAQ, Cravath, Davis Polk, Deloitte, EY, KPMG, PWC, Shearman, and Sullivan & Cromwell.

[438] *See* letter from ABA.

[439] *See, e.g.,* letters from BDO, CAQ, EY, and PWC.

[440] *See* letter from Cravath.

[441] *See* letter from Deloitte.

[442] *See* letter from Shearman.

[443] *See* letter from CII.

[444] *See* Section III.C.2.c.ii, ''When Disclosure is Required.''

02(a)(4) that would require issuers to disclose, if the required financial disclosures were omitted because they were not material, a statement to that effect and the reasons therefore.[445] Some commenters asserted that such disclosure would not be useful to investors,[446] could possibly result in an increase in liability,[447] and was counter to the Commission's objective of focusing on material disclosures and providing a principles-based framework.[448] One commenter suggested that the Commission should make clear that, if the proposal were adopted, issuers would only need to make a simple statement that management does not believe the information is material.[449] In contrast, one commenter specifically supported this part of proposed Rule 13–02(a)(4), asserting that the requirement would provide clarity about which disclosures were omitted and why.[450]

One commenter expressed concern that there could be uncertainty over the application of proposed Rule 13–02 because of possible overlap in disclosure requirements when a subsidiary is a guarantor, in which case proposed Rules 3–10 and 13–01 would apply, and also has securities pledged as collateral, in which case proposed Rule 13–02 would apply.[451] This commenter suggested that the Commission clarify that proposed Rule 13–02 would apply only to the extent proposed Rules 3–10 and 13–01 would not be applicable because investors would generally consider the guarantee to be more valuable than pledged securities.

3. Final Amendments

We are adopting the amendments largely as proposed with modifications based on comments received. As supported by several commenters,[452] the final amendments replace existing Rule 3–16's ''substantial portion'' numerical thresholds with a requirement to provide all disclosures specified in the final rule, unless such information is not material.[453] Whereas proposed Rule 13–02(a) required the proposed financial and non-financial disclosures ''to the extent material to holders of the collateralized security,'' the final rule has been revised to require the financial and non-financial disclosures ''to the extent material,'' which is discussed in further detail below. A few commenters suggested including numerical thresholds in the rule for determining whether financial information may be omitted.[454] We are not adopting this suggestion, as we agree with those commenters that supported the proposal to require information the registrant believes is material to investors. In these circumstances, and consistent with our rationale for the corresponding requirement in the final amendments to Rule 13–01(a),[455] we believe requiring disclosure to the extent material provides investors with information useful to an investment decision and avoids certain potential challenges associated with numerical thresholds.[456]

We are not adopting the suggestion by one commenter that we require compliance with Rule 13–02 only to the extent Rules 3–10 and 13–01 do not apply.[457] This suggestion was based on the commenter's belief that there could be uncertainty over the application of proposed Rule 13–02 because of what the commenter views as possible overlaps in disclosure requirements when a subsidiary is a guarantor, in which case proposed Rules 3–10 and 13–01 would apply, and also has securities pledged as collateral, in which case proposed Rule 13–02 would apply. This commenter asserted that investors would generally consider the guarantee to be more valuable than pledged securities. However, we do not agree that disclosure about only the guarantee should be required in such circumstances. Where a subsidiary is an issuer or guarantor of a guaranteed security and its securities also are pledged as collateral, each are separate credit enhancements for which different disclosure may be necessary. We believe that requiring compliance with both rules in these circumstances will help to ensure that material information is provided to investors about each credit enhancement.

The proposed rule sets forth financial and non-financial disclosures that were focused on information the Commission expected were most likely to be material. It also included proposed Rule 13–02(a)(5), which would have required disclosure of ''any other quantitative or qualitative information that would be material to making an investment decision with respect to the collateralized security.'' The intent of this proposed requirement was to elicit disclosure about the affiliate(s) and the collateral arrangement(s) that would be material but was not otherwise specifically required by the proposed financial and non-financial disclosures. As described above, comments on this proposed requirement were consistent with those received on the corresponding requirement in proposed Rule 13–01(a)(5). While one commenter supported this proposed requirement, many others did not.

In response to the comments received, instead of proposed Rule 13–02(a)(5), we are adopting Rules 13–02(a)(6) and (7), which are similar to the disclosures required by final Rule 13–01(a)(6) and (7) but tailored to apply to collateral arrangements. In this regard, whereas final Rule 13–01(a)(6) requires disclosure of any information that would be material for investors to evaluate the ''sufficiency of the guarantee,'' final Rule 13–02(a)(6) requires disclosure of ''[a]ny financial and narrative information about each such affiliate if the information would be material for investors to evaluate the pledge of the affiliate's securities as collateral.'' Similarly, final Rule 13–02(a)(7) is consistent with final Rule 13–01(a)(7), requiring disclosure of ''[s]ufficient information so as to make the financial and non-financial information presented not misleading.'' For the same reasons cited in adopting final Rule 13–01(a)(6) and (7),[458] we believe these requirements capture the disclosures the proposed rule was intended to elicit while addressing the concerns raised by commenters as discussed above. Notwithstanding these requirements in the final rule, Securities Act Rule 408(a) and Exchange Act Rule 12b–20 require a registrant to disclose, in addition to the information expressly required to be included, such further material information, if any, as may be necessary to make the required statements, in the light of the circumstances under which they are made not misleading. While some commenters indicated these requirements provide sufficient investor protections,[459] we believe the

[445] *See* letters from Cravath, EY, KPMG, and SIFMA.

[446] *See* letters from Debevoise and KPMG.

[447] *See* letters from Debevoise and SIFMA.

[448] *See* letter from Debevoise.

[449] *See* letter from SIFMA.

[450] *See* letter from CII.

[451] *See* letter from NYC Bar.

[452] *See, e.g.,* letters from CII, FedEx, FEI, Nareit, and Sullivan & Cromwell.

[453] Whether a disclosure specified in proposed Rule 13–02 may be omitted, as discussed below, depends on whether it would be material to a reasonable investor. *See* Section III.C.2.c, ''When Disclosure is Required,'' above.

[454] *See* letters from NYC Bar and SIFMA.

[455] *See* discussion in Section III.C.2.c.iii, ''When Disclosure is Required.''

[456] For example, one commenter asserted that the existing rule's ''substantial portion'' test could lead to registrants disclosing information that is not essential to making an informed investment decision. *See* letter from Dell.

[457] *See* letter from NYC Bar.

[458] *See* discussion in Section III.C.2.c.iii, ''When Disclosure is Required.''

[459] *See, e.g.,* letters from Deloitte and EY.

requirements in final Rule 13–02(a)(6) and (7), in addition to these other requirements, will help to ensure that material information is provided to investors.

Based on comments received on proposed Rule 13–02(a)(5), we have also revised Rule 13–02(a) for clarity, consistent with revisions to Rule 13–01(a).[460] Proposed Rule 13–02(a) would have required disclosures ''to the extent material to holders of the collateralized security'' and was not intended to introduce a nuanced or different materiality analysis specific to these disclosure requirements. A registrant's responsibility to determine whether the disclosures specified in Rule 13–02 are material is not different from how it assesses materiality in connection with other information it files with the Commission. Accordingly, final Rule 13–02 has been revised to require the financial and non-financial disclosures ''to the extent material.''

Proposed Rule 13–02(a)(4) would have required, if the financial disclosures specified in proposed Rule 13–02(a)(4) were omitted because they are not material, disclosure of a statement to that effect and the reasons therefore. Most of the commenters that discussed this proposed requirement did not support it.[461] In response to these comments, and for the same reasons cited in adopting final amendments to the corresponding requirement in final Rule 13–01,[462] we are not adopting this requirement as proposed. Instead, we are adopting an approach that should help address concerns[463] about the need for greater certainty as to the circumstances when omission of financial disclosures may be appropriate, while continuing to provide investors with the basic reasons as to why the financial information was omitted. As adopted, Rule 13–02(a)(4)(vi) identifies two scenarios, which we believe are the most common situations under which the financial information would not be material. If the scenario is applicable and disclosed, the registrant could then omit the financial disclosures. The two scenarios are:

(1) The assets, liabilities and results of operations of the combined affiliates whose securities are pledged as collateral are not materially different than the corresponding amounts presented in the consolidated financial statements of the registrant;[464] and

(2) The combined affiliates whose securities are pledged as collateral have no material assets, liabilities or results of operations.[465]

Similar to the corresponding amendments to Rule 13–01,[466] while we believe these scenarios encompass most of the situations under which the required financial information would not be material, these scenarios are not intended to be exclusive. As discussed below, there may be other circumstances in which it would be appropriate to omit the required financial information on the basis that it is not material.

In the first scenario, we believe financial information of the combined affiliates would not be material to an investor as it is not materially different than that of the consolidated registrant.[467] If the related scenario was disclosed, investors would not need supplemental financial information as it would largely duplicate the corresponding information in the registrant's consolidated financial statements. In the second scenario, we believe disclosure that the combined group of affiliates has no material assets, liabilities or results of operations obviates the need for supplemental disclosures as an investor would know such information would not be material.

While we believe these scenarios generally capture the situations under which the financial information would not be material and may be omitted, there may be other scenarios under which the registrant may conclude Summarized Financial Information is not necessary. These scenarios would be evaluated under the general materiality provision of Rule 13–02(a). Based on this analysis, if a registrant determines that not all of the required financial information is material, the information that is not material may be omitted without additional disclosure or explanation. Thus, under the final rule, the registrant could either rely on one of the identified scenarios, if applicable, to omit information that is not material, or make its own assessment based upon a consideration of other relevant facts and circumstances.[468] We believe this approach will preserve the principles-based nature of Rule 13–02 while providing greater certainty for issuers, and appropriate transparency for investors, regarding the information required to be disclosed.

F. Location of Disclosures and Audit Requirement

1. Proposed Amendments

Similar to the proposed disclosures for issuers and guarantors of guaranteed securities discussed above,[469] the proposed amendments would give registrants the flexibility to provide the proposed disclosures inside or outside the registrant's audited annual and unaudited interim financial statements in registration statements covering the offer and sale of the collateralized securities and any related prospectus, as well as annual and quarterly Exchange Act periodic reports required to be filed during the fiscal year in which the first bona fide sale of the subject securities is completed.

Accordingly, the note to proposed Rule 13–02(a) would have allowed the registrant to provide the disclosures required by this section in a footnote to its consolidated financial statements or, alternatively, in MD&A in the registration statement covering the offer and sale of the subject securities and any related prospectus, and in Exchange Act reports on Form 10–K, Form 20–F, and Form 10–Q required to be filed during the fiscal year in which the first bona fide sale of the subject securities is completed. If not otherwise included in the consolidated financial statements or in MD&A, the registrant would be required to include the disclosures in its prospectus immediately following ''Risk Factors,'' if any, or otherwise, immediately following pricing information described in Item 503(c) of Regulation S–K.[470] The registrant, however, would be required to provide the disclosures in a footnote to its consolidated financial statements in its annual and quarterly reports beginning with its annual report filed on Form 10–K or Form 20–F for the fiscal year during which the first bona fide sale of

[460] *See* discussion in Section III.C.2.c.iii, ''When Disclosure is Required.''

[461] *See, e.g.,* letters from Cravath, EY, KPMG, and SIFMA.

[462] *See* discussion in Section III.C.2.c.iii, ''When Disclosure is Required.''

[463] *See, e.g.,* letter from Shearman.

[464] This scenario is contained in Rule 13–02(a)(4)(vi)(A).

[465] This scenario is contained in Rule 13–02(a)(4)(vi)(B).

[466] *See* discussion in Section III.C.2.c.iii, ''When Disclosure is Required.''

[467] Rule 13–02(a)(4)(vi) clarifies that this scenario does not apply where separate disclosure of the Summarized Financial Information of one or more, but not all affiliates, is required by Rule 13–02(a)(4)(iv).

[468] To provide clarity to an issuer that its ability to omit the Summarized Financial Information required by final Rule 13–02(a)(4) is not limited to the four scenarios discussed herein, final Rule 13–02(a)(4)(vi) states: ''Notwithstanding that a registrant may omit this summarized financial information if not material . . . ''

[469] *See* Section III.C.2.d.i, ''Location of Revised Alternative Disclosures and Audit Requirement.''

[470] As described above, subsequent to the issuance of the Proposing Release, the Commission amended and relocated the requirements previously contained in Item 503(c) of Regulation S–K to new Item 105 of Regulation S–K.

the subject securities is completed. If the registrant provides the proposed disclosures in its financial statements, the disclosures would be subject to annual audit, interim review, internal control over financial reporting, and XBRL tagging requirements.[471] These proposed amendments would also apply to foreign private issuers and issuers offering securities pursuant to Regulation A and the forms applicable to such entities.[472]

2. Comments on the Proposed Amendments

Comments on the proposed amendments were mixed, and several commenters expressed views on these proposed amendments that were similar to their views on the corresponding proposed location and audit requirement for disclosures about issuers and guarantors of guaranteed securities discussed above.[473] Some commenters stated that the proposed disclosures should be permitted to be presented outside the registrant's consolidated financial statements in all cases, not just in the registration statement and Forms 10–K and 10–Q required to be filed during the fiscal year in which the first bona fide sale of the subject securities is completed.[474] A few commenters asserted that not requiring the proposed disclosures to be audited would reduce costs[475] and possibly allow issuers to more quickly register these securities and access capital markets.[476] A few commenters stated that requiring an audit of the proposed disclosures would provide little marginal benefit to investors,[477] and one of these commenters argued that this proposed requirement would discourage issuers from pursuing registration of the original offering of the securities.[478]

Other commenters, however, asserted that the flexibility to determine the location of the proposed disclosures under the proposed amendments could lead to investor confusion about the location of the disclosures,[479] and uncertainty as to the level of audit assurance that applied to the disclosures.[480] One commenter contended that the proposed disclosures should be required to be presented in a single location to avoid inconsistencies in the location and varied reliance by investors.[481] Another commenter stated that companies should not have the option to choose where their disclosures will appear, and that reported disclosures should be consistently reported in the same location.[482]

One commenter did not support locating the proposed disclosures outside the financial statements.[483] This commenter argued that many investors place significant value on having required disclosures subject to annual audit and/or interim review, internal control over financial reporting, and XBRL tagging requirements, and not subject to the forward-looking statements safe harbor.

Other commenters, however, recommended the disclosures be located outside the financial statements in all cases.[484] One of these commenters recommended the disclosures be required in the liquidity and capital resources section of the MD&A or in a separate section following ''Risk Factors'' as is currently done in the Rule 144A market and has been accepted by the investor community.[485] This commenter also observed that if disclosure outside the financial statements is sufficient at the time of the initial investment decision, it should be sufficient for future periods. The other commenter observed the Proposed Alternative Disclosures would be better presented in a discussion about a parent's liquidity in the MD&A as opposed to in the financial statements given the objective of the disclosures to provide an investor in a debt security with information about the related guarantee.[486]

Some commenters emphasized that, even if the proposed disclosures are allowed to be located outside of the financial statements, these disclosures would be derived from the same internal accounting records used to prepare the registrant's audited consolidated financial statements[487] and would be subject to the registrant's disclosure controls and procedures.[488]

Some commenters asserted that underwriters will likely request independent auditors to provide comfort on financial information provided outside the consolidated financial statements in connection with registered offerings.[489] Two of these commenters indicated this would involve performing limited procedures on such information under PCAOB Auditing Standard 6101, *Letters for Underwriters and Certain Other Requesting Parties.*[490] One commenter suggested that such procedures may not result in a decrease in effort or cost for either auditors or registrants,[491] while the other commenter stated that while the scope and time required to perform such procedures is less than an audit, the auditor involvement may delay the time to market for underwritten offerings.[492] Another commenter noted that the proposed rules would cause issuers to incur costs related to the incremental procedures necessary for such comfort procedures but investors would lose the benefit arising out of the audit of the disclosures.[493]

A few commenters suggested that because the proposed disclosures would be relevant only to the investors of the subject security, if these disclosures were required to be audited, this information should be included in an audited supplemental schedule that could be filed as an exhibit to the filing, similar to the supplemental schedules required under Article 12 of Regulation S–X.[494]

3. Final Amendments

After considering comments received, we are adopting the amendments largely as proposed, with modifications. As discussed above, while one commenter did not support locating the disclosures outside the financial statements, others recommended the disclosures be located outside the financial statements in all cases. We continue to believe, however, and for the same reasons cited in adopting the corresponding final amendments to Rule 3–10,[495] that it is appropriate to provide registrants the flexibility to select the location of the disclosures, including locating them outside the registrant's consolidated financial statements. In this regard, and consistent with the views of several commenters, we expect not requiring the disclosures to be audited will reduce costs and allow issuers to register the

[471] *See* Section III.C.2.d, ''Location of Revised Disclosures and Audit Requirement.''

[472] *See* Section V.H, ''Application of Amendments to Certain Types of Issuers,'' below.

[473] *See* Section III.C.2.d.ii, ''Location of Revised Alternative Disclosures and Audit Requirement.''

[474] *See, e.g.,* letters from Cravath, Davis Polk, SIFMA, and Sullivan & Cromwell.

[475] *See* letters from Davis Polk and Sullivan & Cromwell.

[476] *See* letters BDO and Davis Polk.

[477] *See* letters from Davis Polk, and Sullivan & Cromwell.

[478] *See* letter from Sullivan & Cromwell.

[479] *See* letter from PWC.

[480] *See* letter from KPMG.

[481] *See* letter from KPMG.

[482] *See* letter from XBRL US, Inc.

[483] *See* letter from CII.

[484] *See* letters from NYC Bar and PWC.

[485] *See* letter from NYC Bar.

[486] *See* letter from PWC.

[487] *See* letter from Davis Polk.

[488] *See* letters from Cravath and EY.

[489] *See, e.g.,* letters from BDO, EY, Grant Thornton, and KPMG.

[490] *See* letters from BDO and KPMG.

[491] *See* letter from KPMG.

[492] *See* letter from BDO.

[493] *See* letter from Grant Thornton.

[494] *See* letters from EY and PWC.

[495] *See* discussion in Section III.C.2.d.iii, ''Location of Revised Alternative Disclosures and Audit Requirement.''

subject securities and access capital markets faster, which may encourage more such registered offerings.[496]

Accordingly, and consistent with the proposed rule, final Rule 13–02(b)[497] permits the registrant to provide the disclosures required by final Rule 13–02(a) in a footnote to its consolidated financial statements or alternatively, in MD&A. If the disclosures are not otherwise included in the consolidated financial statements or in MD&A, the final rule requires the registrant to include the disclosures in its prospectus immediately following ''Risk Factors,'' if any, or otherwise, immediately following pricing information described in Item 105 of Regulation S–K.[498]

As discussed above, some commenters asserted that the flexibility to determine the location of the proposed disclosures under the proposed amendments could lead to investor confusion about the location of the disclosures and uncertainty as to the level of assurance applied. While the proposed rule provided flexibility on where to locate the disclosures, we believe the locations where disclosures may be provided are clearly specified, and that investors generally understand the levels of assurance applied to disclosures included inside or outside the registrant's consolidated financial statements. If provided in the registrant's consolidated financial statements, the disclosures must be included in a footnote. If provided outside the registrant's consolidated financial statements, they must be included in MD&A, or in other specified locations if the registrant's consolidated financial statements and MD&A are not otherwise included in the filing.[499] Consistent with the proposed rule, if the registrant elects to provide the amended disclosures in a footnote to its audited consolidated financial statements, the disclosures must be audited. Conversely, the disclosures need not be audited if the registrant provides them outside the audited consolidated financial statements. Also consistent with the proposed rule, the final rule specifies the locations where disclosures must be provided. Similar to the proposed amendments to Rule 3–10, a few commenters recommended that, if audited, the information be included in a supplemental schedule similar to the ones required by Article 12 of Regulation S–X. We are not adopting this suggestion for the same reasons cited in connection with final amendments to Rule 3–10.[500]

Under the proposed rule, although the registrant would initially have the flexibility to locate the disclosures outside of its consolidated financial statements in the subject registration statement and certain periodic reports filed thereafter, the registrant would have been required to provide the disclosures in a footnote to its consolidated financial statements starting with its annual report filed on Form 10–K for the fiscal year during which the first bona fide sale of the subject securities is completed. Comments on this proposed requirement were consistent with the corresponding proposed change to Rule 3–10, albeit from fewer commenters. Consistent with our rationale for the corresponding final amendments to Rule 3–10,[501] and as recommended by several commenters, we are not adopting this requirement. Under the final rule, the registrant will have flexibility to locate the disclosures in a footnote to its consolidated financial statements or in the locations specified in Rule 13–02(b) in all of its filings.

G. Recently Acquired Affiliates Whose Securities Are Pledged as Collateral

1. Proposed Amendments

Existing Rule 3–16 does not contain a specific requirement to provide pre-acquisition financial information of recently acquired affiliates whose securities are pledged as collateral. However, if a recently acquired affiliate meets the substantial portion threshold in the existing rule, financial statements for periods prior to the date of acquisition by the registrant are required to be filed.

In connection with the proposed amendments to the pre-acquisition financial statement requirement for recently acquired subsidiary issuers and guarantors, while the proposed rule would contain no specific requirement, the Commission stated in the Proposing Release that information about recently acquired subsidiaries would be required if material to an investment decision in the guaranteed security pursuant to proposed Rule 13–01(a)(5).[502] Similarly, no specific requirement was included in proposed Rule 13–02, but information about recently acquired affiliates would have been required if material to an investment decision in the collateralized security pursuant to proposed Rule 13–02(a)(5).

2. Comments on the Proposed Amendments

We received no public comments specific to pre-acquisition financial information of recently acquired affiliates. However, we considered comments received in connection with the proposed amendments to Rule 3–10(g).[503] As it related to the proposed amendments to Rules 3–10 and 13–01, one commenter encouraged the Commission ''not to perpetuate separate disclosure rules in this context for recently acquired subsidiaries.''[504] One commenter recommended that the Commission should consider requiring Summarized Financial Information of a recently acquired guarantor in registration statements if the guarantor is not already included in the Summarized Financial Information of the obligated group (*i.e.,* it is acquired after the most recent balance sheet date) and if the guarantor had a material effect on the financial capacity of the obligated group.[505] Another commenter indicated that the existing disclosure requirements under ASC 805–10–50 would continue to provide sufficient information related to material subsidiaries acquired and their impact on the consolidated entity.[506]

3. Final Amendments

Under the proposed rule, information about such recently acquired affiliates would have been required if material to an investment decision in the collateralized security pursuant to proposed Rule 13–02(a)(5).[507] The disclosures required by Rule 13–01 and 13–02 are similar in many respects, and we believe such similarities should

[496] *See supra* note 269.

[497] Whereas this requirement was included in a note to proposed Rule 13–02(a), the final rule includes it in a separate paragraph, Rule 13–02(b).

[498] 17 CFR 229.105. As described above, subsequent to the issuance of the Proposing Release, the Commission amended and relocated the requirements previously contained in Item 503(c) of Regulation S–K to new Item 105 of Regulation S–K. The final amendments have been revised to reflect this change.

[499] These circumstances include when the consolidated financial statements and MD&A are included in previously filed reports that are incorporated by reference. In such instances, the disclosures are required to be provided in specified prominent locations.

[500] *See* discussion in Section III.C.2.d.iii, ''Location of Revised Alternative Disclosures and Audit Requirement.''

[501] *See* Section III.C.2.d.iii, ''Location of Revised Alternative Disclosures and Audit Requirement.''

[502] *See* Section III.C.2.e of the Proposing Release.

[503] *See* Section III.C.2.e.ii, ''Recently Acquired Subsidiary Issuers and Guarantors.''

[504] *See* letter from Cravath.

[505] *See* letter from EY.

[506] *See* letter from T-Mobile.

[507] The requirements applicable to recently acquired affiliates whose securities are pledged as collateral have been included in final Rule 13–02(a)(5). Proposed Rule 13–02(a)(5) would have required disclosure of ''any other quantitative or qualitative information that would be material to making an investment decision with respect to the collateralized security.'' Instead of this proposed requirement, the final amendments include Rules 13–02(a)(6) and (7). *See* discussion within Section V.E.3, ''When Disclosure is Required.''

extend to pre-acquisition financial information of recently acquired affiliates. After considering the comments received, we are adopting amendments requiring disclosure similar to what is required for recently acquired subsidiary issuers and guarantors by new Rule 13–01(a)(5). Our rationale for these amendments is consistent with our rationale for adopting the amendments to new Rule 13–01(a)(5).[508] To that end, in certain circumstances (discussed below), pre-acquisition Summarized Financial Information for recently acquired affiliates will be required to be provided in a Securities Act registration statement[509] filed in connection with the offer and sale of the subject collateralized security. Similar to the amendments to final Rule 13–01(a)(5), the pre-acquisition Summarized Financial Information will be required when a registrant has acquired a significant ''business'' after the date of its most recent balance sheet included in its consolidated financial statements, and that acquired business and/or one or more of its subsidiaries are affiliates whose securities are pledged as collateral. Whether a ''business'' has been acquired will be determined in accordance with the guidance set forth in § 210.11–01(d), and the registrant would also need to treat acquisitions of related businesses as a single business acquisition in a manner consistent with § 210.3–05(a)(3). An acquired business will be deemed significant if it meets any of the conditions specified in the definition of significant subsidiary in § 210.1–02(w), substituting 20 percent for 10 percent each place it appears therein, based on a comparison of the most recent annual financial statements of the acquired business and the registrant's most recent annual consolidated financial statements filed at or prior to the date of acquisition. To simplify compliance and provide certainty as to when disclosure is required, these significance tests are the same tests used to determine whether pre-acquisition financial statements are required for an acquired business pursuant to Rule 3–05 of Regulation S–X.

Generally, under the final rule, a registrant will be required to provide pre-acquisition Summarized Financial Information of a recently acquired affiliate for those acquisitions where it will be required to provide pre-acquisition financial statements of the acquired business pursuant to Rule 3–05 of Regulation S–X.[510] We recognize that not all of the entities that comprise an acquired business may be affiliates whose securities are pledged. Accordingly, the required Summarized Financial Information will only be for those entities acquired that are affiliates whose securities are pledged, and follows the form and content prescribed in new Rule 13–02(a)(4). We also recognize that the pre-acquisition Summarized Financial Information may be required in advance of when pre-acquisition financial statements are required pursuant to Rule 3–05 of Regulation S–X.[511] However, we believe investors in a registered debt offering should be provided with information about affiliates whose securities are pledged in advance of an investment decision, and we note that the level of detail required is far less than pre-acquisition financial statements required by Rule 3–05.

H. Application of Amendments to Certain Types of Issuers

Rule 3–16's requirements apply to several categories of issuers, including foreign private issuers, SRCs, and issuers offering securities pursuant to Regulation A. The proposed amendments would also apply to these types of issuers, because, for the reasons discussed above, we believe investors would benefit from the simplified and improved disclosures that would result from the proposed amendments and the cost of providing the disclosures would be reduced for these types of issuers.

1. Foreign Private Issuers

a. Proposed Amendments

Foreign private issuers are required to comply with existing Rule 3–16. Under the proposal, Rule 3–16 would be eliminated and foreign private issuers would be required to comply with the disclosures specified in proposed Rule 13–02. Accordingly, Instruction 1 to Item 8 of Form 20–F would be amended to specifically require compliance with proposed Rule 13–02.

b. Comments on Proposed Amendments

We received one comment on this aspect of the proposed amendments. The commenter recommended that the Commission confirm that the periods covered under the Summarized Financial Information would be required to track only those covered by a foreign private issuer's consolidated financial statements.[512]

c. Final Amendments

After considering public comments, we are adopting the proposed amendments with modifications. For clarity, as the final amendments do not delete existing Rule 3–16, Instruction 1 to Item 8 of Form 20–F will be amended to make reference to required compliance with Rule 3–16.[513] Consistent with the proposal, that instruction also will be modified to require compliance with proposed Rule 13–02.

One commenter requested the Commission confirm the periods of Summarized Financial Information that foreign private issuers would be required to present.[514] Consistent with our response to a similar comment on proposed Rule 13–01, as specified in Rule 13–02(a)(4)(v), a registrant is required to disclose the Summarized Financial Information as of and for the most recently ended fiscal year and, if applicable, year-to-date interim period, included in the registrant's consolidated financial statements.

Lastly, for the same reasons described above,[515] we have created new Exhibit 17 within Item 19 of Form 20–F, which will require the identification of each affiliate whose security is pledged as collateral, as well as the identification of the security or securities pledged as collateral.

2. Smaller Reporting Companies

a. Proposed Amendments

Note 4 to Rule 8–01 of Regulation S–X requires financial statements to be presented as required by Rule 3–16 for an SRC's affiliate whose securities constitute a substantial portion of the

[508] *See* Section III.C.2.e.iii, ''Recently Acquired Subsidiary Issuers and Guarantors.''

[509] This requirement is only applicable to Securities Act registration statements. In subsequent Exchange Act reports, financial information of a recently acquired affiliate whose securities are pledged as collateral will be included in the financial information of affiliates required by final Rule 13–02(a)(4).

[510] *See* discussion in Section III.C.2.e.iii, ''Recently Acquired Subsidiary Issuers and Guarantors.''

[511] For example, Rule 3–05(b)(4) of Regulation S–X in part permits, in certain circumstances, pre-acquisition financial statements of an acquired business to be omitted from a registration statement if the significance of the acquisition does not exceed 50% and the registration statement is declared effective no more than 74 calendar days after consummation of the acquisition. Note that filing requirements in Items 2.01 and 9.01 of Form 8–K may differ.

[512] *See* letter from Sullivan & Cromwell.

[513] This instruction cites rules under which a foreign private issuer may be required to provide financial statements or financial information for entities other than the issuer. This instruction, however, does not currently make reference to Rule 3–16. As the proposed and final amendments make reference to new Rule 13–02, for clarity, the instruction has been revised to also make reference to Rule 3–16.

[514] *See* letter from Sullivan & Cromwell.

[515] *See* discussion in Section V.D.3, ''Non-Financial Disclosures.''

collateral for securities registered or being registered, except that the periods presented are those required by Rule 8–02 of Regulation S–X. As the proposed amendments would have eliminated Rule 3–16 and required the disclosures specified in proposed Rule 13–02, SRCs would be required to comply with proposed Rule 13–02. A corresponding change to Note 4 to Rule 8–01 was therefore proposed. Additionally, as proposed Rule 13–02(a)(4) specifies the periods of Summarized Financial Information that would be required to be presented, no reference to the periods required by Rule 8–02 of Regulation S–X in Note 4 to Rule 8–01 is necessary and would be removed. Lastly, because Item 1 of Part I of Form 10–Q permits a SRC to provide the information required by Rule 8–03 of Regulation S–X if it does not provide the information required by Rule 10–01, the Commission proposed adding Rule 8–03(b)(8) to require compliance with proposed Rule 13–02.

b. Comments on Proposed Amendments

We did not receive any comments that addressed this aspect of the proposed amendments.

c. Final Amendments

We are adopting the proposed amendments with modifications. We believe that investors in smaller reporting companies will benefit from the simplified disclosures that will result from the amendments and that the cost of providing the disclosures will be reduced for smaller reporting companies. As the final amendments do not delete existing Rule 3–16, we are not adopting the proposed amendment that would have eliminated the reference to that requirement in Note 4 to Rule 8–01, nor are we eliminating the reference to the periods required in such financial statements. We are, however, adopting the proposed change that requires compliance with Rule 13–02, but with slightly different wording than proposed. The final amendments to Note 4 to Rule 8–01 establish that the requirements of final Rules 3–16 and 13–02 are applicable if a smaller reporting company's securities registered or being registered are collateralized by the securities of the smaller reporting company's affiliates,[516] and that the periods presented for purposes of compliance with final Rule 3–16 are those required by Rule 8–02. Finally, as proposed, because Item 1 of Part I of Form 10–Q permits an SRC to provide the information required by Rule 8–03 of Regulation S–X if it does not provide the information required by Rule 10–01, we have added Rule 8–03(b)(7) to require compliance with Rule 13–02.[517]

3. Offerings Pursuant to Regulation A

a. Proposed Amendments

In connection with offerings made pursuant to Regulation A, Forms 1–A and 1–K direct a Regulation A Issuer to comply with Rule 3–16 for the same periods as the Regulation A Issuer's financial statements and specifies the applicable audit requirements. Accordingly, the proposed rule would have replaced the existing requirement in those forms that Regulation A Issuers comply with Rule 3–16 with a requirement to provide the disclosures specified in proposed Rule 13–02 and specify the location of the disclosures, similar to the proposed note to Rule 13–02(a) but consistent with the requirements of Regulation A.[518] Additionally, consistent with the discussion above about requiring registrants to comply with proposed Rule 13–02 in filings made on Form 10–Q, a requirement to comply with proposed Rule 13–02 would be added to Form 1–SA.

b. Comments on Proposed Amendments

We did not receive any comments that addressed this aspect of the proposed amendments.

c. Final Amendments

We are adopting the proposed amendments with modifications. We believe that investors in Regulation A offerings will benefit from the simplified disclosures that will result from the amendments and that the cost of providing the disclosures will be reduced for Regulation A Issuers. As the final amendments do not delete existing Rule 3–16, we are not adopting the proposed amendment that would have eliminated the existing requirement in Forms 1–A and 1–K that Regulation A Issuers comply with Rule 3–16. We are, however, adopting the proposed change to those forms that requires compliance with Rule 13–02, but with slightly different wording than proposed. The final amendments to Forms 1–A and 1–K establish that the requirements of final Rules 3–16 and 13–02 are applicable if a Regulation A Issuer's securities qualified or being qualified pursuant to Regulation A are collateralized by the securities of the issuer's affiliates.[519] We are also adopting the proposed requirement specifying the location of the disclosures, similar to Rule 13–02(b) but consistent with the requirements of Regulation A. Consistent with the discussion above about requiring registrants to comply with Rule 13–02 in filings made on Form 10–Q, a requirement to comply with Rule 13–02 has been added to Form 1–SA. Lastly, for the same reasons described above,[520] we have created new exhibit 17 within Item 17 of Form 1–A, which will require the identification of each affiliate whose security is pledged as collateral, as well as the identification of the security or securities pledged as collateral. This exhibit will also be required in Form 1–K by Item 8(b) of Part II of that form, and in Form 1–SA by Item 4(b) of that form.

VI. Transition to Final Amendments and Rule 3–16 Collateral Release Provisions

A. Transition to Final Amendments

A number of commenters recommended that the Commission provide transition guidance or a phase-in period for proposed Rules 13–01 and 13–02.[521] In response to these concerns, we are providing the following transition period for compliance to mitigate any potential burdens that issuers may experience in transitioning to the final amendments:

For Securities Act registration statements:[522]

[516] Because the final amendments do not eliminate existing Rule 3–16, which will continue to be applicable to registered collateralized securities with collateral release provisions issued and outstanding as of the effective date of the final amendments, amended Note 4 to Rule 8–01 states, for clarity, that final Rule 13–02 must be followed unless amended Rule 3–16 applies. *See* Section VI.B ''Rule 3–16 Collateral Release Provisions.''

[517] Proposed Rule 8–03(b)(8) would have sequentially followed existing Rule 8–03(b)(6) of Regulation S–X [17 CFR 210.8–03(b)(6)] and proposed Rule 8–03(b)(7). As described within Section III.D.2 ''Smaller Reporting Companies,'' subsequent to the issuance of the Proposing Release, the Commission eliminated Rule 8–03(b)(6). The final amendments have been revised to reflect this change. The requirements in proposed Rule 8–03(b)(8) have been included in new Rule 8–03(b)(7), which follows new Rule 8–03(b)(6).

[518] If a Regulation A Issuer elects to provide the proposed disclosures in its audited financial statements, such disclosures would be required to be audited.

[519] Because the final amendments do not eliminate existing Rule 3–16, which will continue to be applicable to registered collateralized securities with collateral release provisions issued and outstanding as of the effective date of the final amendments, amended Forms 1–A and 1–K state, for clarity, that final Rule 13–02 must be followed unless amended Rule 3–16 applies. *See* Section VI.B ''Rule 3–16 Collateral Release Provisions.''

[520] *See* discussion in Section V.D.3, ''Non-Financial Disclosures.''

[521] *See* letters from BDO, CAQ, Cravath, Deloitte, EY, FedEx, Grant Thornton, KPMG, NYC Bar, PWC, and Shearman.

[522] This transition period is also applicable to filings made in connection with offerings of securities pursuant to Regulation A, including Form 1–A and post-qualification amendments thereto.

• Any registration statement that is first filed on or after January 4, 2021, must comply with the final amendments; and

• Any post-effective amendment filed on or after January 4, 2021, to include either the registrant's latest audited financial statements in the registration statement or to update the prospectus under Section 10(a)(3) must comply with the final amendments.

For Exchange Act registration statements:

• Any registration statement that is first filed on or after January 4, 2021, must comply with the final amendments.

For Exchange Act periodic reports: [523]

• If the reporting company was required to comply with the final amendments in a registration statement, all Exchange Act periodic reports for periods ending after that registration statement became effective must comply with the final amendments; and

• For all other Exchange Act reporting companies, the annual report on Form 10–K or Form 20–F, as applicable, for fiscal years ending after January 4, 2021, and quarterly reports on Form 10–Q for quarterly periods ending after January 4, 2021, must comply with the final amendments.[524]

Voluntary compliance with the final amendments in advance of January 4, 2021, will be permitted. After voluntary compliance, subsequent Exchange Act or Regulation A periodic reports must comply with the final rules.

B. Rule 3–16 Collateral Release Provisions

As described in the Proposing Release,[525] registrants often structure debt agreements to release affiliate securities pledged as collateral if the disclosure requirements of Rule 3–16 would be triggered, thereby depriving investors of that collateral protection. Some commenters observed that in many registered debt offerings, the indenture will contain such collateral release provisions.[526] Commenters expressed concern that, depending on the wording of such collateral release provisions in previously issued indentures, the proposed elimination of existing Rule 3–16 and new requirements in proposed Rule 13–02 could change the collateral available to holders of these debt securities, causing unintended credit consequences.[527]

In response to these comments, so as not to change the amount of collateral available to investors in previously issued debt securities that include collateral release provisions, the final amendments will not apply to existing collateralized debt securities with such provisions. To accomplish this, the final amendments do not eliminate existing Rule 3–16 as was proposed. Instead, Rule 3–16 has been amended to include a scope paragraph stating that the requirements of Rule 3–16 apply to each registered security issued and outstanding before January 4, 2021 for which the registrant has not previously been required to provide Rule 3–16 Financial Statements.[528] While we recognize that these investors will not receive the disclosures required by Rule 13–02, their investment decision in such securities presumably contemplated the release of collateral were it to exceed the substantial portion threshold, and we note that these investors have historically not received supplemental information. In contrast to those indentures with collateral release provisions, the new disclosures will apply to existing collateralized debt securities that do not contain such provisions. To accomplish this, final Rule 13–02 includes a scope paragraph stating that the requirements of new Rule 13–02 apply to each registered security issued and outstanding before January 4, 2021, for which the registrant has previously been required to provide Rule 3–16 Financial Statements. Finally, any collateralized debt securities issued on or after the compliance date of the final amendments must comply with new Rule 13–02, which is clearly stated in the scope paragraph to final Rule 13–02.

VII. Other Matters

If any of the provisions of these rules, or the application thereof to any person or circumstance, is held to be invalid, such invalidity shall not affect other provisions or application of such provisions to other persons or circumstances that can be given effect without the invalid provision or application.

Pursuant to the Congressional Review Act,[529] the Office of Information and Regulatory Affairs has designated these rules a ''major rule,'' as defined by 5 U.S.C. 804(2).

VIII. Economic Analysis

A. Introduction

As discussed above, we are adopting amendments to the financial disclosure requirements in Rules 3–10 and 3–16 of Regulation S–X to improve those requirements for both investors and registrants. These amendments may result in simplified disclosures that highlight information that is material to investment decisions. They may also serve to reduce existing regulatory burdens that otherwise inhibit registrants from engaging in registered debt offerings that are backed by guarantees or pledges of affiliate securities as collateral and may unnecessarily restrict the set of investment opportunities available to some investors. The discussion below addresses the potential economic effects of the final amendments, including the likely benefits and costs, as well as the likely effects on efficiency, competition, and capital formation, measured against a baseline that includes both current regulatory requirements and current market practices. We also discuss the potential economic effects of certain alternatives to the amendments. Throughout this analysis, we draw on academic studies and incorporate public comments, where appropriate.

We are mindful of the costs and benefits of our rules. Section 2(b) of the Securities Act, Section 3(f) of the Exchange Act, Section 2(c) of the Investment Company Act, and Section 202(c) of the Investment Advisers Act require us, when engaging in rulemaking that requires us to consider or determine whether an action is necessary or appropriate in (or, with respect to the Investment Company Act, consistent with) the public interest, to consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation.[530] Additionally, Exchange Act Section 23(a)(2) requires us, when adopting rules under the Exchange Act, to consider, among other things, the impact that any new rule would have on competition and not to

[523] This transition period is also applicable to periodic reporting pursuant to Rule 257 of Regulation A, including Forms 1–K and 1–SA.

[524] For example, a registrant with a fiscal year ending on January 31st would be required to comply with the final amendments in its Form 10–K for its fiscal year ended January 31, 2021, and subsequent quarterly reports on Form 10–Q starting with its Form 10–Q for the quarterly period ended April 30, 2021. As another example, a registrant with a fiscal year ending on December 31st would be required to comply with the final amendments in its Forms 10–Q for quarterly periods ended March 31, 2021, June 30, 2021, and September 30, 2021, and in its Form 10–K for its fiscal year ended December 31, 2021.

[525] *See* Section II of the Proposing Release.

[526] *See* letters from Cravath, NYC Bar, PWC, and Shearman.

[527] *See supra* note 526.

[528] A registrant that has issued securities with collateral release provisions would not have been required to provide Rule 3–16 Financial Statements. Requiring continued compliance with the requirements of existing Rule 3–16 will allow such collateral release provisions to operate as intended and not change the amount of collateral available to investors.

[529] 5 U.S.C. 801 *et seq.*

[530] 15 U.S.C. 77b(b), 78c(f), 80a–2(c), and 80b–2(c).

adopt any rule that would impose a burden on competition that is not necessary or appropriate in furtherance of the Exchange Act.[531]

B. Baseline and Affected Parties

The existing regulatory requirements of Rules 3–10 and 3–16 under Regulation S–X are described above[532] and have prompted registrants to adopt disclosure and business practices specifically designed to comply with or avoid these requirements. We analyze the economic effects of the final amendments by assessing their impact on affected parties as compared to the current disclosure regime, including both existing disclosure requirements and available exemptions, where applicable.

The parties that are likely to be affected by these amendments include issuers and guarantors of guaranteed debt securities, issuers of debt securities collateralized by securities of those issuers' affiliate(s), and investors in each of these types of securities.[533]

1. Market Participants

The first main group of market participants affected by the amendments consists of issuers and guarantors of guaranteed debt securities and issuers of debt securities collateralized by securities of those issuers' affiliate(s). These issuers will be affected because the disclosures called for by the amendments will differ from the content and format of disclosures currently required to be presented in registered debt offerings and in certain ongoing reporting. Additionally, issuers and guarantors of guaranteed debt securities may be affected by amendments to the eligibility conditions that must be met to omit the separate financial statements of subsidiary issuers and guarantors of guaranteed debt securities. The amendments may also alter the capital raising decisions of potential issuers.

The second group of market participants affected by the amendments consists of investors in these securities. These investors can be divided into three main categories: (1) Qualified Institutional Buyers (''QIBs'');[534] (2) institutional investors (other than QIBs); and (3) non-institutional (retail) investors. In addition to the change in content and location of the disclosed information presented to them, which is discussed below in Section VII.C.1.b, the impact on these investors will also depend on whether there is a change in the number of registered debt offerings by new issuers, issuers that would have offered debt securities under Rule 144A before the amendments,[535] or both, as a result of the amendments.

Currently, there are four options that issuers typically consider in deciding whether and how to issue guaranteed or collateralized debt securities. First, issuers may offer and sell guaranteed and/or collateralized debt securities in a registered securities offering and provide the required disclosures and any separate financial statements under existing Rules 3–10 and 3–16. Second, issuers may opt to offer the debt securities in transactions that rely on Rule 144A's safe harbor exemption from Securities Act registration, with guarantees or pledges of affiliate securities as collateral and registration rights. This may allow issuers to access the capital markets more quickly because they would not have to provide the disclosures required by existing Rules 3–10 and 3–16 at the time of the Rule 144A offering. Issuers do, however, have to provide the disclosures and financial statements required by existing Rules 3–10 and 3–16 when the unregistered debt securities are exchanged for debt securities issued in a registered offering. Third, issuers may opt to offer the debt securities in transactions that rely on Rule 144A's safe harbor exemption from Securities Act registration, with guarantees or pledges of affiliate securities as collateral, but without registration rights. Under this approach, issuers do not have to provide the disclosures or financial statements required by existing Rules 3–10 and 3–16, but issuers and investors are not afforded the benefits of registration. Fourth, issuers may structure a registered offering without including guarantees or pledges of affiliated securities as collateral. In this case, while issuers do not have to provide disclosures or financial statements required by existing Rules 3–10 and 3–16, they may incur a higher cost of capital than if they had structured their debt securities offerings with these credit enhancements. Issuers in this category may decide not to offer these credit enhancements because the cost of providing the required disclosures exceeds the premium that must be paid to issue the debt on an unsecured basis.

Collateralized debt offerings are often structured to include collateral release provisions, which automatically reduce the amount of pledged collateral that investors might receive in the event of default if it would trigger the existing requirement for a registrant to file Rule 3–16 Financial Statements. To the extent the practice of structuring these offerings in this manner changes as a result of the final amendments, investors may experience both a change in the number of investment opportunities in collateralized debt, as well as a change in the information presented to them in registered offerings.

2. Market Conditions

To provide context for debt securities offerings likely to be impacted by the final amendments, Table 1 provides estimates of the number and dollar amount of all registered debt offerings and Rule 144A debt offerings per year since 2013.[536] The dollar volume of registered debt and Rule 144A offerings generally appears to be higher in recent years (*i.e.,* 2016, 2017, 2018) than in earlier years (*i.e.,* 2013, 2014, 2015), which may be a result of improving macroeconomic conditions and a low interest rate environment.[537]

[530] 15 U.S.C. 77b(b), 78c(f), 80a–2(c), and 80b–2(c).

[531] 15 U.S.C. 78w(a)(2).

[532] *See* Section II for Rule 3–10 and Section IV for Rule 3–16.

[533] While the amendments would apply to registered closed end funds and business development companies (''BDCs''), and could thereby affect registered investment advisers, based on staff experience, we believe closed end funds

[534] 17 CFR 230.144A(a)(1).

[535] Only QIBs can participate in Rule 144A offerings; retail and institutional investors other than QIBs are unable to participate in such offerings.

[536] These estimates are based on staff analysis of data from the Mergent database. Data specific to offerings of guaranteed securities and offerings of securities collateralized by the securities of an issuer's affiliate(s) is unavailable. We begin our sample in the post-financial crisis timeframe in order to exclude capital raising concerns, liquidity shocks, and other constraints that are exogenous to our baseline analysis. For perspective, the amount of funding obtained through the registered debt market on an annual basis is much larger than that obtained through the registered equity market. *See Access to Capital and Market Liquidity Report.*

[537] *See id.*

TABLE 1—REGISTERED DEBT AND RULE 144A DEBT OFFERINGS FROM 2013—2018

Year	Registered debt		Rule 144A	
	Number of offerings *	$ Amount (bil)	Number of offerings *	$ Amount (bil)
2013	1,509	1,052	969	512
2014	1,597	1,113	920	530
2015	1,560	1,206	808	575
2016	1,639	1,329	785	526
2017	1,853	1,298	995	657
2018	1,671	1,132	871	658

Source: DERA staff analysis.

* The number of registered offerings and amounts raised do not include registered exchanges of debt securities previously issued pursuant to an exemption from Securities Act registration, such as Rule 144A. Based on staff analysis of Commission filings on Forms S–4 and F–4, there was an average of 129 registered exchange offers per year between 2013 and 2018, seeking an average (median) amount of proceeds of approximately $146 billion ($140 billion) per year. These estimates are based on information disclosed at the time of initial filing; actual offering amounts may have differed upon effectiveness of the registration statement. Debt securities with registration rights are usually issued under Rule 144A and, thus, may also be included in the columns summarizing Rule 144A offerings. One study estimates that approximately 98% of high-yield Rule 144A bonds and 40% of investment-grade Rule 144A bonds have registration rights. *See* Miles Livingston & Lei Zhou, The Impact of Rule 144A Debt Offerings Upon Bond Yields and Underwriter Fees, 31 Fin. Mgmt. 5 (2002).

According to studies examining registered debt offerings and debt offerings made under Rule 144A, the two types of debt offerings have distinct characteristics. Issuers offering debt securities under Rule 144A have, on average, lower credit quality and higher information asymmetry than registered debt offerings.[538] These conditions may increase the likelihood that investors require guarantees and collateral from these issuers relative to investment grade issuers who may not need such credit enhancements. This is consistent with studies that have found the cost of capital associated with debt offerings made under Rule 144A to be higher than the cost of capital in registered debt offerings.[539] According to these studies, there are two main benefits of Rule 144A offerings: (1) The speed of issuance, given the absence of a registration requirement; and (2) relatively high liquidity, given the possibility to exchange the securities for registered securities.[540]

As discussed above,[541] existing Rule 3–10 requires that every issuer of a registered security that is guaranteed and every guarantor of a registered security file the financial statements required for a registrant by Regulation S–X, except under certain circumstances when Alternative Disclosures are permitted. There are two forms of Alternative Disclosures prescribed by the existing rule: (1) Consolidating Information; and (2) a brief narrative. Consolidating Information is the most common type of Alternative Disclosure under existing Rule 3–10. Table 2 presents data on the number of unique registrants and filings that included Consolidating Information under Rule 3–10 in that filing for the period 2013–2018.[542]

TABLE 2—ESTIMATED NUMBER OF UNIQUE REGISTRANTS AND FILINGS INCLUDING CONSOLIDATING INFORMATION UNDER EXISTING RULE 3–10

Year	Number of unique registrants	Number of total filings	10–K	10–Q	20–F	S–1	S–4	F–4
2013	533	1834	431	1339	12	15	34	3
2014	530	1861	461	1360	10	9	21	0
2015	500	1750	437	1288	9	5	11	0
2016	469	1641	417	1199	8	1	16	0
2017	403	1430	369	1043	5	1	11	0
2018	349	1261	328	922	6	0	4	0

Source: DERA staff analysis of Edgar Filings.

[538] *See, e.g.,* Matteo P. Arena, The Corporate Choice Between Public Debt, Bank Loans, Traditional Private Debt Placements, and 144A Debt Issues, 36 Rev. of Quantitative Fin. & Acct. 391 (2011).

[539] *See* George W. Fenn, Speed of Issuance and the Adequacy of Disclosure in the 144A High-Yield Debt Market, 56 J. of Fin. Econ. 383 (2000); Miles Livingston & Lei Zhou, The Impact of Rule 144A Debt Offerings Upon Bond Yields and Underwriter Fees, 31 Fin. Mgmt. 5 (2002); Susan Chaplinsky & Latha Ramchand, The Impact of SEC Rule 144A on Corporate Debt Issuance by International Firms, 77 J. of Bus. 1073 (2004); Usha R. Mittoo & Zhou Zhang, The Evolving World of Rule 144A Market: A Cross-Country Analysis (2010) (unpublished working paper) (University of Manitoba, Winnipeg MD). The studies of Fenn (2000) and Chaplinsky and Ramchand (2004) find the yield premium decreased over time, whereas the study of Livingston and Zhou (2002) and unpublished working paper of Mittoo and Zhang (2011) do not observe that trend. Mittoo and Zhang (2011), however, find that the yield premium increased after the Sarbanes-Oxley Act was enacted.

[540] *See, e.g.,* Fenn (2000), note 539 above.

[541] *See* Section II.A, ''Background.''

[542] To identify these disclosures, we searched all Forms 10–K, 10–Q, 20–F, S–1, S–4, and F–4 and their amendments using XBRL tags most commonly associated with Consolidating Information. The amounts in the table represent the number of annual, quarterly, and periodic filings including amendments that are unique for the covered period in each calendar year from 2013–2018. We also searched Forms S–4, S–11, 10, F–1, F–4, SF–1, SF–3, 1–A, 1–K, and 1–SA using XBRL tags most commonly associated with Consolidating Information. However, this extrapolation method did not provide meaningful results because registrants rarely include XBRL tags for these affected forms. For example, only one percent of Form S–4 filings include XBRL tags. Therefore, to provide a more meaningful estimate of the number of these forms that include the Alternative Disclosures, we conducted separate database searches for filings of those forms using specific search terms. We were unable to find any filings on the remaining affected forms that included the Alternative Disclosures. Our analysis did not include Forms S–3 or F–3, because Consolidating Information included with those registration statements is typically incorporated by reference from Exchange Act reports.

The second and less common form of Alternative Disclosures under existing Rule 3–10 is a brief narrative. While we believe the number of filings including the brief narrative form of Alternative Disclosure is smaller than the number of filings using Consolidating Information, we are unable to determine that number due to methodological and data extraction challenges.[543]

As discussed above,[544] under existing Rule 3–16, a registrant is required to provide Rule 3–16 Financial Statements for each affiliate whose securities, which are pledged as collateral, constitute a substantial portion of the collateral for any class of securities registered or being registered. Table 3 presents data on the number of filings and unique registrants that included Rule 3–16 Financial Statements since 2013. The number of registrants remained steady over this period. Due to the manual process by which we attained these estimates, there are likely more registrants providing Rule 3–16 Financial Statements than are reflected here.[545]

TABLE 3—ESTIMATED NUMBER OF UNIQUE REGISTRANTS AND FILINGS INCLUDING RULE 3–16 FINANCIAL STATEMENTS

Year	Number of unique registrants	Number of total filings	10–K	20–F
2013	7	7	6	1
2014	7	7	6	1
2015	7	7	6	1
2016	7	7	6	1
2017	7	7	6	1
2018	7	7	6	1

Source: DERA staff analysis of EDGAR filings.

C. Anticipated Economic Effects

In this section we discuss the anticipated economic benefits and costs of the amendments to Rules 3–10 and 3–16.

1. Amendments to Rule 3–10 and Partial Relocation to Rule 13–01

The final rules amend the disclosure requirements in Rule 3–10 of Regulation S–X to better align those requirements with the needs of investors and to simplify and streamline the disclosure obligations of registrants. We expect the amendments to benefit issuers and investors.

As a result of the overall reduced burdens associated with the amendments, investors may benefit from access to more registered offerings that are structured to include guarantees and, accordingly, the additional protections that come with a registered offering. Also, an increase in the overall use of guarantees could reduce structural subordination issues that arise. Typically, all of a parent company's subsidiaries support the parent company's debt-paying ability. However, in the event of default, the holders of debt without the benefit of guarantees are disadvantaged as compared to the direct creditors of any subsidiary not providing a guarantee. In the event of default, a holder of a debt security issued by a parent company can make claims for payment directly against the issuer and guarantors. In a bankruptcy proceeding, the assets of non-guarantor subsidiaries that are not issuers typically would be accessible only by the holder indirectly through the parent's equity interest. In such a proceeding, without a direct guarantee, the claims of the holder would be structurally subordinate to the claims of other creditors, including trade creditors of those subsidiaries. The less burdensome disclosures under the final amendments may lead to greater use of guarantees to address these structural subordination issues, which could result in more efficient risk sharing within corporate groups and potentially a lower cost of capital for registrants.

Furthermore, the less burdensome disclosures may lead issuers to register the initial offerings of guaranteed securities rather than opting to issue them under Rule 144A with registration rights. Issuers may be able to access the capital markets more quickly than under the existing Rule 3–10 requirements because it is likely to take issuers less time and cost to prepare Summarized Financial Information under the final amendments than to prepare Consolidating Information under existing Rule 3–10. By registering the initial offering, these issuers would incur the cost of only one offering, rather than two; that is, issuers would not incur any additional costs associated with exchanging the guaranteed debt securities issued in an unregistered Rule 144A offering for guaranteed debt securities issued in an offering registered under the Securities Act.

Commenters generally agreed with these assessments.[546] Some commenters argued that the expected reduction in registrants' costs and burdens of providing the proposed disclosures would lead to an increase in the number of registered debt offerings with guarantees.[547] One commenter suggested that this increase would result from the disclosures that would be required in proposed Rule 13–01 more closely resembling the disclosure practice in the Rule 144A and Regulation S market.[548] One commenter noted that, although the proposed amendments would reduce the burdens of registering offerings of guaranteed securities, the proposed amendments may not result in a significant increase in such offerings because of the general

[543] These narrative disclosures are typically no more than a paragraph in length and vary in content based on the three scenarios under which the brief narrative can be provided. We conducted text searches of EDGAR filings in an attempt to accurately identify issuers providing narrative disclosure under Rule 3–10. However, given the variation in phrasing in these paragraphs, the search did not produce meaningful results.

[544] *See* Section IV, ''Rule 3–16 of Regulation S–X.''

[545] There are no XBRL tags specific to Rule 3–16. To identify these disclosures, we searched all Forms 10–K, 10–Q, 20–F, S–1, S–3, S–4, S–11, F–1, F–3, F–4, 10, 1–A, 1–K, and 1–SA and their amendments using a text search on the word combination ''Rule 3–16.'' We applied different text search combinations and found that using ''Rule 3–16'' offered the most accurate search results. Even so, we received hundreds of false hit returns. These were mainly registrants mentioning ''Rule 3–16'' as part of a description of collateral release provisions. That is, if Rule 3–16 were triggered, the debt agreement would release the collateral that triggered Rule 3–16. We manually sifted through these false returns to identify the positive results listed in Table 3.

[546] *See, e.g.,* letters from Ball Corp., Cravath, Davis Polk, Eaton Corp., EY, FEI, and Simpson Thacher.

[547] *See, e.g.,* letters from Ball Corp., Davis Polk, EY, and FEI.

trend toward Rule 144A transactions.[549] Even so, the commenter asserted that the proposed amendments could result in more uniform and better financial disclosures for investors if they are incorporated into market practice for Rule 144A offerings. Another commenter, however, was skeptical that, due to the proposed amendments, high-yield issuers using the Rule 144A market would return to the registered market ''to a meaningful extent'' because, according to that commenter, the Rule 144A market has ''largely eliminated the historical pricing benefits'' of registered offerings.[550]

Several commenters provided us with burden estimates regarding the disclosure requirements of Rule 3–10. One commenter noted that presentation of Consolidating Information required under existing rules comprises approximately 10% of the total pages in its Forms 10–Q and 10–K and the preparation of this information is both costly and time consuming.[551] Another commenter indicated that the existing Rule 3–10 disclosure requirements add approximately one week of additional time to the preparation of its annual and quarterly reports on Forms 10–K and 10–Q, respectively, and stated that its annual report for 2017 included nine pages of Rule 3–10 disclosures even though its compliance with the terms of its credit facility and indentures is measured based on consolidated financial statement amounts and not guarantor financial information.[552] One commenter stated that its 2017 annual report on Form 10–K contained 27 pages of Rule 3–10 disclosures.[553] Another commenter estimated that the existing Rule 3–10 disclosure requirements add approximately three weeks of additional time annually to the preparation of its quarterly and annual reports.[554] One commenter stated that the preparation and review of its Consolidating Information is time-consuming and costly, requiring approximately 280 hours per year.[555]

a. Eligibility Conditions To Omit Financial Statements of Subsidiary Issuer or Guarantor

As detailed in Section III.C.1.b, ''Consolidated Subsidiary Condition,'' the final amendments will replace one of the conditions that must be met to be eligible to omit the separate financial statements of a subsidiary issuer or guarantor—that the subsidiary issuer or guarantor be 100%-owned by the parent company—with a condition that the subsidiary issuer or guarantor be consolidated in the parent company's consolidated financial statements. This change will permit the parent company to omit the separate financial statements of a consolidated subsidiary issuer or guarantor even if third parties hold non-controlling ownership interests in that subsidiary issuer or guarantor. However, the final rule will require, to the extent material, a description of any factors that may affect payments to holders of the guaranteed security, such as the rights of a non-controlling interest holder.

In addition to the change from 100%-owned to consolidation, we are simplifying the other eligibility conditions. Namely, as discussed in Section III.C.1.d, ''Eligible Issuer and Guarantor Structures Condition,'' the final amendments will replace the five specific issuer and guarantor structures currently eligible under the existing rule with a broader two-category framework. Under these changes, separate financial statements of consolidated subsidiary guarantors may be omitted for each issuer and guarantor structure that is eligible. Additionally, unlike the existing rule, the nature of the subsidiary guarantees, including whether the guarantee is full and unconditional or joint and several, will no longer impact the eligibility to omit separate subsidiary financial statements and instead will only impact the extent of disclosure in the Revised Alternative Disclosures.

Overall, these final amendments should permit a broader scope of issuers and guarantors to be eligible to provide the Revised Alternative Disclosures in lieu of separate financial statements of each subsidiary issuer and guarantor than under existing Rule 3–10. This, in turn, will reduce the compliance costs associated with preparation of disclosures for these registered debt offerings and ongoing periodic reporting. To the extent there are more issuers and guarantors that are eligible to provide the Revised Alternative Disclosures in lieu of separate financial statements of each subsidiary issuer and guarantor under amended Rule 3–10, these entities may be more likely to register their guaranteed debt offerings, either at the outset or through an exempt offering with registration rights. As a result, some issuers may realize a lower cost of capital. Such an outcome would be consistent with previous studies that have found the cost of capital associated with registered debt offerings to be lower than that of private offerings made under Rule 144A,[556] although other issuer characteristics indicative of creditworthiness would remain relevant with respect to the cost of capital, regardless of offering method. Additionally, subsidiary issuers and guarantors that are currently required to file separate financial statements because they do not meet existing Rule 3–10's eligibility criteria could have reduced compliance costs to the extent they meet the revised eligibility criteria under the final Rule 3–10 and the Revised Alternative Disclosures are provided in lieu of their separate financial statements.

Certain investors could also benefit from the final amendments to the eligibility conditions. If issuers opt to register debt offerings, rather than structure them as private offerings using Rule 144A, then new investors—namely, non-QIB institutional investors and retail investors who cannot participate in Rule 144A offerings—would be eligible to participate in the offerings. To the extent that the final amendments to the eligibility conditions encourage additional registered debt offerings, more investment opportunities would be made available, and a resulting increase in market participation could improve the overall competitiveness and efficiency of the capital markets. Furthermore, registered debt offerings would benefit investors by extending to them the protections associated with registration.

We expect little, if any, adverse effect on issuers and guarantors of guaranteed debt securities from these final amendments. We also believe the adverse effects on investors, if any, are likely to be limited. Under the existing rule, investors receive separate financial statements of subsidiary issuers and guarantors if these entities are less than 100%-owned by the parent company. If these subsidiaries are consolidated in the parent company's financial statements and all other conditions of amended Rule 3–10 are met, investors may no longer receive the separate financial statements of these subsidiary issuers and guarantors. In such cases, although investors would not receive the detailed information about each such subsidiary issuer or guarantor included in the separate financial statements, a parent company would be required to provide, to the extent material, financial and non-financial information for consolidated subsidiary issuers and guarantors with non-controlling interests, as well as a description of any factors associated

[548] *See* letter from Cravath.
[549] *See* letter from NYC Bar.
[550] *See* letter from Shearman.
[551] *See* letter from T-Mobile.
[552] *See* letter from Windstream.
[553] *See* letter from WTW.
[554] *See* letter from Freeport.
[555] *See* letter from FedEx.

with non-controlling interest holders that may affect payments to holders of the guaranteed security. Where all eligibility conditions of the final rule are met, we believe the Revised Alternative Disclosures will provide the information investors need to make informed investment decisions with respect to a guaranteed security.

b. Disclosure Requirements

As detailed in Section III.C.2, ''Disclosure Requirements,'' one of the conditions in the existing rule for omitting separate financial statements of a subsidiary issuer or guarantor is providing the Alternative Disclosures in the footnotes to the parent company's consolidated financial statements. The final rule retains the requirement to provide the Alternative Disclosures, but with modifications. We address below the amendments related to the Alternative Disclosures (the Revised Alternative Disclosures).

i. Financial and Non-Financial Disclosures

As described in Section III.C.2.a, ''Financial Disclosures,'' the final rules should simplify the financial disclosures required by current Rule 3–10 by replacing Consolidating Information with a requirement to provide Summarized Financial Information. The level of detail currently required in Consolidating Information often contributes to multiple pages of detail in the parent company's financial statements. The Summarized Financial Information is intended to focus on the information that we believe is most likely to be material to an investment decision. Additional line items beyond what is required in the Summarized Financial Information are required to be disclosed if they are material for investors to evaluate the sufficiency of the guarantee and/or are necessary to make the financial and non-financial information presented not misleading. Additionally, the final rules require that an issuer's or guarantor's receivables from, payables to, and transactions with non-obligated subsidiaries and related parties be presented in separate line items. This requirement in the final rule, which is a change from the proposal, should enhance the transparency of the Summarized Financial Information and further an investor's evaluation of the sufficiency of the guarantee. At the same time, we do not expect this requirement to impose significant costs on issuers.

The final amendments should simplify the disclosures and reduce the cost of compliance, and could engender further benefits. For example, academic literature finds that simplified financial statements are associated with more efficient price discovery, and that investors on average take more time to incorporate complex financial disclosures.[557] More generally, we believe the final amendments will provide investors with streamlined and easier to understand financial information that we believe is material to an investment decision. Thus, to the extent that the final amendments have their intended effect of reducing complexity while maintaining the material completeness of financial disclosures, we anticipate that the financial disclosures that result from the final amendments will improve price discovery, enhance the allocative efficiency of markets, and facilitate capital formation. Commenters generally agreed with such arguments, asserting that providing the Summarized Financial Information instead of the Consolidating Information would reduce an issuer's burdens [558] while continuing to provide investors with sufficient information to make informed investment decisions.[559]

Under the final rules, a parent company will generally be permitted to provide financial disclosures about the Obligor Group on a combined basis rather than on a disaggregated basis. As proposed, if non-financial disclosure provided in response to Rule 13–01 were applicable to one or more, but not all, issuers and/or guarantors, such as where a subsidiary's guarantee is limited to a particular dollar amount, separate disclosure of Summarized Financial Information for the affected issuers and/or guarantors would be required, to the extent material. In a change from the proposal, the final rules will permit, in limited circumstances (*i.e.,* where the separate financial information of the affected issuers and guarantors can be easily explained and understood), narrative disclosure in lieu of separate disclosure of the financial information of the subsidiary issuers and guarantors affected by those factors. This change to the final rule is expected to reduce the compliance burden for registrants without loss of relevant information for investors. By simplifying and streamlining the disclosure of financial and non-financial information, this amendment could also facilitate investors' information processing, leading to more efficient investment decisions.[560]

Whereas the existing rule required issuers and guarantors to account for their investments in non-issuer and non-guarantor subsidiaries under the equity method of accounting within the Alternative Disclosures, the final rules require the complete exclusion of non-issuer and non-guarantor subsidiary financial information from the combined financial information of the Obligor Group. In this regard, investments in non-issuer and non-guarantor subsidiaries held by issuers and guarantors will be excluded from the financial information of the issuers and guarantors. The financial information depicted will be only that of the issuers and guarantors. This requirement represents a change from the proposal, which would have permitted parent companies to determine the method of exclusion. We acknowledge that a parent company may have incurred lower costs under the proposed amendments by being able to select the method of excluding non-issuer and non-guarantor subsidiary information at its choice (*e.g.,* the parent company would likely incur lower costs if its systems were already designed to utilize a particular method). However, under the final amendments, a parent company is not required to justify that its selected method was reasonable under the circumstances as was proposed, and we expect in most circumstances that requiring exclusion of non-issuer and non-guarantor subsidiary financial information will be a less costly presentation than methods that would have required the disclosure of such financial information under the proposed amendments or than the required used of the equity method under the existing rule. By requiring the complete exclusion of non-issuer and non-guarantor subsidiary financial information, the final rule will also avoid potential confusion among issuers and investors about the appropriate method of exclusion.

To the extent that investors are indifferent about whether payment under the guaranteed security comes from the issuer or one or more guarantors in the same consolidated group, or both, the disclosure resulting from the final amendments would not adversely impact investment decisions and could offer investors more readable, streamlined financial information. To

[557] *See* Haifeng You & Xiao-jun Zhang, Financial Reporting Complexity and Investor Underreaction to 10–K Information, 14 Rev. of Acct. Stud. 559 (2009); Brian P. Miller, The Effects of Reporting Complexity on Small and Large Investor Trading, 85 Acct. Rev. 2107 (2010); Alastair Lawrence, Individual Investors and Financial Disclosure, 56 J. of Acct. & Econ. 130 (2013).

[558] *See, e.g.,* letters from Ball Corp., Eaton Corp., EY, FEI, Freeport, KPMG, NYC Bar, Sullivan & Cromwell, and T-Mobile.

[559] *See, e.g.,* letters from Ball Corp., EY, FedEx, FEI, Freeport, and Sullivan & Cromwell.

[560] *See supra* note 557.

the extent that increased readability without loss of material information would facilitate investor evaluation of whether the entities in the Obligor Group have the ability to make payments as required under the guaranteed security, the final amendments may promote the efficiency of security prices and investor portfolios. Consistent with potential benefits from these changes, a growing body of academic literature finds that financial statement readability affects the information environment and that more readable statements are associated with lower cost of debt capital and reduced bond rating agency disagreement.[561] Some commenters argued that providing this information on a combined basis would still provide investors with material information in making an investment decision [562] while also reducing a burdensome requirement for issuers.[563]

The final rule also will require that Summarized Financial Information be provided for the most recently ended fiscal year and year-to-date interim period, if applicable, included in the parent company's consolidated financial statements, rather than for the additional periods specified under existing Rules 3–01 and 3–02 of Regulation S–X. This is intended to provide information that is material to an investment decision while reducing compliance costs for registrants. Some commenters, however, recommended requiring the most recent interim period only in limited circumstances, such as when there had been a material change since the most recent annual period.[564] While we acknowledge the concerns about the burden to provide interim information in all cases, we note that the final amendments already significantly reduce the burdens on parent companies by eliminating the earliest two years of required Summarized Financial Information and, in filings on Form 10–Q, by eliminating both the quarter-to-date interim period requirement in filings covering more than one fiscal quarter and comparable prior year interim period(s), as applicable. Under the final amendments, investors will continue to receive the most recent interim and annual period information, and we continue to believe this is the most appropriate approach to reducing burdens for parent companies while providing investors with the relevant information they need to make informed investment decisions.

In addition, the final rules will require non-financial disclosures to supplement the amended financial disclosures with additional information, to the extent material. This would include information about how payments to holders of guaranteed securities may be affected by such factors as the issuer and guarantor structure, the terms and conditions of the guarantees, the impact of non-controlling ownership interests, or other facts and circumstances specific to the offering. These final amendments should enhance the information provided to investors about the investment without imposing significant burdens on registrants. Overall, this should lead to greater transparency and reduce information asymmetries between issuers and investors.

Finally, as with any change to reporting format and presentation of information, the final amendments may lead companies and investors to incur costs to adjust to the new disclosures. As further discussed in Sections VIII.C.1.b.ii and iii below, we do not expect such costs to be substantial.

ii. When Disclosure Is Required

As explained in Section III.C.2.c, ''When Disclosure is Required,'' we are eliminating the numerical thresholds of existing Rule 3–10 that are used to determine the form and content of disclosure.[565] Instead, disclosures specified in new Rule 13–01 will be required unless such information would not be material. Additionally, the final rule will require disclosure of any financial and narrative information about each guarantor if it would be material for investors to evaluate the sufficiency of the guarantee, and disclosure of sufficient information to make the financial and non-financial information presented not misleading. While numerical thresholds may be easier to apply than a materiality standard that requires judgment, this change will allow for a more principles-based disclosure approach that is more tailored to the specific circumstances and the needs of investors.[566] Furthermore, registrants are already well-versed in making judgements about whether disclosure is material as part of complying with other disclosure requirements.

Despite being unable to estimate the number of filings that provide brief narrative disclosures under the existing Alternative Disclosure, we do not expect parent companies currently providing the brief narrative to incur significant costs to provide the Revised Alternative Disclosures. For example, where Alternative Disclosures under the current rule constitute only a brief narrative, we generally believe separate financial disclosures about the issuers and guarantors of the guaranteed securities likely would not be material and therefore could be omitted under the amendments.

Proposed Rule 13–01(a)(4) would have required, if the financial disclosures specified in proposed Rule 13–01(a)(4) were omitted because they are not material, disclosure of a statement to that effect and the reasons therefore. As discussed above, we did not adopt this proposed requirement.[567] In a change from the proposal, the final rule identifies four scenarios which we believe generally capture the situations under which the financial disclosures would not be material. These scenarios are intended to help address concerns [568] about the need for greater certainty as to the circumstances when the omission of financial disclosures may be appropriate while continuing to provide investors with the basic reasons as to why the financial information was omitted in a manner similar to existing Rule 3–10's narrative exceptions. If the scenario is applicable and disclosed, the parent company could then omit the financial disclosures. We believe the greater certainty afforded to a parent company that chooses to rely on one of the identified scenarios, if applicable, will result in lower burdens in preparing the disclosure. If one of the identified scenarios does not apply, however, the parent company has the option to make its own assessment

[561] *See* Samuel B. Bonsall & Brian P. Miller, The Impact of Narrative Disclosure Readability on Bond Ratings and the Cost of Debt, 22 Rev. of Acct. Stud. 608 (2017).

[562] *See, e.g.,* letters from Dell, FedEx, and Sullivan & Cromwell.

[563] *See, e.g.,* letters from Davis Polk, KPMG, and Sullivan & Cromwell.

[564] *See, e.g.,* letters from ABA, Ball Corp., Comcast, Dell, Deloitte, EY, FedEx, FEI, and PWC.

[565] While we are eliminating the numerical thresholds of existing Rule 3–10 used to determine the form and content of disclosure for existing issuers and guarantors and instead requiring disclosure to the extent material, the final amendments continue to use a numerical test for determining whether pre-acquisition financial information of recently acquired subsidiary issuers and guarantors is required. *See* discussion in Section VIII.C.1.b.iv, ''Recently Acquired Subsidiary Issuers and Guarantors.''

[566] A number of academic studies have explored the use of numerical thresholds and ''when material'' disclosure standards. The majority of these papers highlight a preference for principles-based ''when material'' standard. *See generally, e.g.,* Eugene A. Imhoff Jr. & Jacob K. Thomas, *Economic Consequences of Accounting Standards: The Lease Disclosure Rule Change,* 10 J. of Acct. & Econ. 277 (1988) (providing evidence that management modifies existing lease agreements to avoid crossing numerical threshold for lease capitalization).

[567] *See* discussion in Section III.C.2.c.iii, ''When Disclosure is Required.''

[568] *See, e.g.,* letter from Shearman.

based upon a consideration of other relevant facts and circumstances under the general materiality provision of Rule 13–01(a).

Allowing the parent company to omit information that is not material will lower the costs of disclosure relative to existing requirements and may help focus investor attention on decision-relevant information. This could also increase the risk that a parent company would omit, potentially inadvertently, value-relevant information, and that investors may make suboptimal investment decisions. Such risk will be mitigated, however, by the requirement to disclose any financial and narrative information about each guarantor if it would be material for investors to evaluate the sufficiency of the guarantee and sufficient information to make the financial and non-financial information presented not misleading. Also, omitting material information would subject issuers and guarantors to increased litigation risk, providing incentive for issuers to make careful determinations on the form and content of disclosures.

In certain settings, there is academic evidence that allowing issuers to make principles-based disclosure decisions using a materiality criterion is consistent with investor preferences.[569] However, there is also evidence of investor benefits from rules-based reporting standards.[570] While the final amendments could result in reduced comparability across registrants and transactions, investors could benefit from disclosures that are more tailored to the material facts and circumstances through registrants' application of a principles-based standard.

iii. Location of Alternative Disclosures and Audit Requirement

The final amendments will allow the parent company the choice of whether to provide the Revised Alternative Disclosures in its consolidated financial statement footnotes or, alternatively, in MD&A. If not otherwise included in the consolidated financial statements or MD&A, the disclosures must be provided in other specified prominent locations. Under the proposed amendments, this flexibility of where to locate the disclosures would only be available in the registration statement covering the offer and sale of the subject securities and any related prospectus, and in Exchange Act reports on Forms 10–K and 10–Q required to be filed during the fiscal year in which the first bona fide sale of the subject securities is completed. Under the final amendments, consistent with the recommendation of a number of commenters,[571] the parent company will have flexibility to locate the disclosures in a footnote to its consolidated financial statements or in the locations specified in Rule 13–01(b) in all of its filings.

If the parent company were to provide the Revised Alternative Disclosures in its consolidated financial statements, consistent with the existing rule, the disclosures would be subject to annual audit, interim review, and internal control over financial reporting requirements. Investors may perceive this choice of placement to mean the disclosures are more reliable.

In contrast, if the parent company were to provide the Revised Alternative Disclosures outside its financial statements, lower compliance costs would likely result with respect to these filings. Consistent with this, some commenters argued that not requiring the disclosures to be audited will reduce costs.[572] While we generally expect lower compliance costs for parent companies that provide the Revised Alternative Disclosures outside of their consolidated financial statements, these parent companies may incur other costs, such as due diligence activities (*e.g.,* comfort letters).[573] Additionally, this optionality may reduce the potential for delay in offerings that exists under the current rule due to the requirement to have the Alternative Disclosures audited. Parent companies using this option to provide the disclosures outside the consolidated financial statements may be able to register guaranteed debt offerings and go to market more quickly than under the existing rule. This may allow parent companies to more promptly access favorable market conditions. Several commenters agreed with our assessment that such an option would allow issuers to register guaranteed debt securities and access capital markets faster.[574]

Although these disclosures are supplemental in nature, investors may nevertheless perceive them to be less reliable if a parent company provides these disclosures outside its financial statements as they would not benefit from an audit or interim review conducted by the auditor. Some commenters asserted that the flexibility to determine the location of the Proposed Alternative Disclosures under the proposed amendments could lead to investor confusion about the location of the disclosures,[575] and uncertainty as to the level of audit assurance that is applied to the disclosures.[576] One commenter did not support locating the Proposed Alternative Disclosures outside the financial statements,[577] and another suggested either requiring the Proposed Alternative Disclosures be audited or limiting unaudited disclosures to underwritten offerings.[578] One of these commenters indicated that many investors place significant value on having required disclosures subject to annual audit and/or interim review, internal control over financial reporting, and XBRL tagging requirements, and not subject to the forward-looking statements safe harbor.[579] To the extent that investors prefer the Revised Alternative Disclosures to be included in the parent company's financial statements, their willingness to invest may be influenced or they may discount the information provided in the unaudited portion of the disclosure, potentially reducing the amount of information incorporated into security prices and increasing the issuer's cost of capital.

Additionally, the amount of information that investors receive in the registration statement and in certain Exchange Act periodic reports could be affected by the choice of placement. The safe harbor for forward-looking information under PSLRA is not available for disclosures provided in the financial statements. A parent company providing the Revised Alternative Disclosures outside its consolidated financial statements may be more likely to voluntarily supplement those required disclosures with forward-looking information, as compared to a parent company that provides the Revised Alternative Disclosures in its

[569] *See* Usha Rodrigues & Mike Stegemoller, *An Inconsistency in SEC Disclosure Requirements? The Case of the ''Insignificant'' Private Target,* 13 J. of Corp. Fin. 251 (2007) (providing evidence, in the context of mergers and acquisitions, that numerical thresholds can deviate from investor preferences).

[570] *See* Mark W. Nelson, *Behavioral Evidence on the Effects of Principles- and Rules-Based Standards,* 17 Acct. Horizons 91 (2003); *see also* Katherine Schipper, *Principles-Based Accounting Standards,* 17 Acct. Horizons 61 (2003). These studies note potential advantages of rules-based accounting standards, including: Increased comparability among firms, increased verifiability for auditors, and reduced litigation for firms.

[571] *See, e.g.,* letters from ABA, Cravath, Davis Polk, Dell, SIFMA, Simpson Thacher and Sullivan & Cromwell.

[572] *See, e.g.,* letters from ABA, Ball Corp., Cravath, Davis Polk, Dell, Freeport, SIFMA, Simpson Thacher, Sullivan & Cromwell, and WTW.

[573] *See, e.g.,* letters from BDO, EY, Grant Thornton, KPMG, and Windstream.

[574] *See, e.g.,* letters from ABA, BDO, Cravath, Davis Polk, Dell, and Simpson Thacher. *Cf.* letter from BDO. *See* also note 269.

[575] *See* letters from Deloitte, FedEx, and PWC.

[576] *See* letters from Deloitte and KPMG.

[577] *See* letter from CII.

[578] *See* letter from BDO.

[579] *See* letter from CII.

consolidated financial statements. Such supplemental forward-looking information, if provided, could benefit investors. The location of disclosures may also affect the prominence of the disclosures. Some academic research provides indirect evidence that users may treat information differently depending on the location of the disclosure.[580]

If a parent company provides the Revised Alternative Disclosures in its financial statements, consistent with the existing rule, such disclosures would be subject to XBRL tagging requirements. Because the machine-readable nature of XBRL disclosures facilitates aggregation, comparison, and large-scale analysis of reported information through automated means, investors stand to benefit from enhanced analysis capabilities, particularly in the comparison of disclosures across issuers and time periods. The parent company may incur additional costs to comply with these tagging requirements. In contrast, Revised Alternative Disclosures provided outside the financial statements would not be subject to XBRL tagging requirements. Investors would not benefit from the enhanced analysis capabilities and the parent company would not incur the related costs to comply with the tagging requirements. In general, we believe the incremental cost of tagging the Revised Alternative Disclosures in XBRL, and hence the incremental cost savings of not having to tag the Revised Alternative Disclosures likely would be relatively low, as issuers already would have software or processes in place for tagging financial statement information. One commenter argued that the cost of XBRL formatting should be minimal.[581]

iv. Recently Acquired Subsidiary Issuers and Guarantors

The final rule eliminates the requirement to provide pre-acquisition audited financial statements of a recently acquired subsidiary issuer or guarantor. The existing requirement for pre-acquisition financial statements of recently acquired subsidiary issuers or guarantors calls for far greater detail than what is required for any other subsidiary issuer and guarantor. In addition, the trigger for pre-acquisition financial statements of a recently acquired subsidiary issuer or guarantor under existing Rule 3–10(g) is based on the significance of the acquired subsidiary compared to the size of the offering. This may require issuers to provide audited financial statements of a recently acquired subsidiary that is small relative to its consolidated parent company, which would increase issuers' compliance burdens.

The proposed rule would have required parent companies to provide information about recently acquired subsidiary issuers and guarantors only if material to an investment decision in the guaranteed security. The final rule contains a different test for determining whether disclosures about recently acquired subsidiary issuers and guarantors must be provided. More specifically, the final rule requires, in certain circumstances,[582] pre-acquisition Summarized Financial Information for significant recently acquired subsidiary issuers and guarantors to be provided in a Securities Act registration statement filed in connection with the offer and sale of the subject guaranteed security. Whereas separate financial statements are required for significant recently acquired subsidiary issuers and guarantors under existing Rule 3–10(g), the final rule requires Summarized Financial Information for significant recently acquired subsidiary issuers and guarantors, which is substantially less burdensome and costly for issuers to prepare and consistent with what is required for existing issuers and guarantors under the final amendments. We believe Summarized Financial Information required by the final rule for recently acquired subsidiary issuers and guarantors will provide investors with material information with which to make an informed investment decision while reducing costs for issuers.

Consistent with existing Rule 3–10(g), the final amendments specify a numerical threshold-based significance test for determining whether pre-acquisition financial information for recently acquired subsidiary issuers and guarantors is required, albeit a different significance test than existing Rule 3–10(g), and the information continues to be required only in Securities Act registration statements. The continued use of a numerical threshold for pre-acquisition financial information is in contrast to the amendments to existing Rule 3–10 to determine the form and content of disclosures related to existing issuers and guarantors.[583] Unlike disclosure that relates to existing issuers and guarantors, which will be prepared by the parent company on an ongoing basis, and where materiality will therefore be evaluated regularly, in an acquisition context parent companies must rely on information provided by third parties to make a determination of whether the acquisition is significant and whether the related disclosure is material. In these circumstances, a numerical threshold will provide parent companies with a level of certainty that allows them to efficiently make determinations of what level of disclosure is required in an environment where delay of the debt securities offering can be costly. In addition, absent a specific numerical threshold requirement, if the parent company determines not to provide disclosure, investors would not receive information about the recently acquired subsidiary issuer's or guarantor's financial impact on the Obligor Group until the operating results of that acquired issuer or guarantor have been subsequently reflected in the Summarized Financial Information of the Obligor Group. As a result, the impact of the acquisition may be difficult for investors to discern from other events affecting the Obligor Group, even where the acquisition may be economically significant. Thus, we expect a numerical threshold requirement in the case of these disclosures to be less costly for parent companies and result in more consistent disclosure for investors where transactions are of economic significance.

Overall, we believe replacing the existing pre-acquisition financial statement requirement with pre-acquisition Summarized Financial Information in certain circumstances will reduce the compliance burden for preparers without reducing material information for investors. Furthermore, investors may find the information

[580] For instance, research shows a weaker relation between equity prices and disclosed items in the notes to the financial statements versus recognized items on the face of the financial statements. *See, e.g.,* Maximilian A. Müller, Edward J. Riedl & Thorsten Sellhorn, *Recognition versus Disclosure of Fair Values,* 90 Acct. Rev. 2411 (2015) (showing a lower association between equity prices and disclosed investment property fair values relative to recognized investment property fair values and finding that reduced information processing costs and higher readability mitigates the discount applied to disclosed fair values); Hassan Espahbodi et al., *Stock Price Reaction and Value Relevance of Recognition versus Disclosure: The Case of Stock-Based Compensation,* 33 J. of Acct. & Econ. 343 (2002) (examining the equity price reaction to the announcements related to accounting for stock-based compensation to assess the value relevance of recognition (on the face of the financial statements) versus disclosure (in the notes to the financial statements) and concluding that recognition and disclosure are not substitutes).

[581] *See* letter from XBRL.

[582] *See* description of the circumstances when pre-acquisition summarized financial information is required in Section III.C.2.e.iii, ''Recently Acquired Subsidiary Issuers and Guarantors.''

[583] *See* discussion in Section VII. C.1.b.ii, ''When Disclosure is Required.''

provided under the existing pre-acquisition financial statement requirement redundant, as it overlaps with Rule 3–05 of Regulation S–X. Consequently, eliminating the existing requirement would streamline disclosures. Academic research suggests that individuals invest more in firms with more concise financial disclosures.[584] Thus, to the extent that the final amendments alleviate duplication and do not affect the completeness of financial disclosures, the resulting disclosures could result in improved price discovery, enhance the allocative efficiency of the market, and facilitate capital formation.

v. Continuous Reporting Obligation

As discussed in Section III.C.2.f, ''Continuous Reporting Obligation,'' the final rules permit a parent company to cease providing the Revised Alternative Disclosures in its ongoing reporting if the corresponding subsidiary issuers' and guarantors' reporting obligations under Section 13 and/or Section 15(d) of the Exchange Act with respect to the guaranteed securities are terminated or suspended. This amendment will reduce compliance costs without loss of material information for investors. To the extent that the existing requirements impose unnecessary burdens by requiring a parent company to continue providing the Revised Alternative Disclosures beyond when the subsidiary would otherwise have to report under the Exchange Act with respect to the guaranteed securities, or otherwise deter issuers and guarantors from engaging in public debt offerings to avoid such reporting obligations, this amendment will address such issues.

Many commenters supported eliminating the existing Rule 3–10 requirement to provide continuous reporting for as long as the guaranteed securities are outstanding if they use the Alternative Disclosures.[585] One commenter stated that the existing rule's continuous reporting requirement ''is highly anomalous and frequently results in an expensive ongoing disclosure cost with no discernable benefit to investors following business combination transactions.'' [586] Some commenters suggested that eliminating these requirements would reduce burdens on issuers.[587] In contrast, two commenters opposed eliminating existing Rule 3–10's continuous reporting requirement and stressed that the Commission should retain the requirement.[588] These commenters asserted that the Proposed Alternative Disclosures are important to investors, and recommended the Commission require continuous reporting for as long as the securities are outstanding.[589] These commenters also argued that investors accept less compensation for securities whose issuers provide financial reporting because it reduces the risks of investing in those securities, so issuers should not be able to pay less interest while being permitted to stop financial reporting. We note that any potential adverse effects from eliminating continuous reporting may be mitigated by the fact that, as one commenter indicated, it has become commonplace for issuers to tailor contractual reporting obligations to meet the perceived needs of investors.[590]

2. Amendments to Rule 3–16 and Partial Relocation to Rule 13–02

As discussed in detail in Section V.B, ''Overview of the Amendments,'' although affiliates whose securities are pledged as collateral are not registrants with respect to the collateralized security, Rule 3–16, when triggered, requires financial statements as if such affiliates were registrants. The final rule will replace the existing requirement to provide separate financial statements for each affiliate whose securities are pledged as collateral with financial and non-financial disclosures about the affiliate(s) and the collateral arrangement as a supplement to the consolidated financial statements of the registrant that issues the collateralized security.[591]

Debt agreements are often structured to avoid the requirements of Rule 3–16 by either structuring the debt agreement to release pledges of affiliate securities as collateral if and when such pledge triggers the requirements under Rule 3–16, or by not including pledges of affiliate securities as collateral altogether. In such circumstances, investors may demand a higher interest rate from issuers to compensate for the absence of collateral, potentially increasing the cost of capital to issuers. The final amendments will reduce the burden of having to provide separate financial statements of affiliates in comparison to the requirements under the existing rule and thereby provide issuers with the flexibility to structure their debt agreements with pledges of affiliate securities. If, as a result of the final amendments, debt agreements are no longer structured to avoid disclosure requirements about affiliates whose securities are pledged as collateral, investors would obtain the benefit of the collateral as well as the related disclosures, which would be subject to Section 11 liability. This flexibility may also permit issuers to attract investors that prefer to invest in obligations where collateral is fully available and not subject to the release mechanisms designed to avoid Rule 3–16 requirements. By appealing to a broader range of investors and providing more attractive collateral arrangements, registrants may be able to obtain a lower cost of capital. Commenters generally supported the amendments to Rule 3–16. Several commenters asserted the proposed amendments to Rule 3–16 would benefit investors, who would receive information critical to making informed decisions in a simpler format, as well as registrants by reducing offering costs.[592]

Finally, as with any change to reporting format and presentation of information, the amendments may lead companies and investors to incur costs to adjust to the new disclosures, as further discussed in Sections VIII.C.2.a through c below.

a. Financial Disclosures

i. Level of Detail

As discussed in Section V.C.1, ''Level of Detail,'' affiliates whose securities are pledged as collateral are almost always consolidated subsidiaries of the registrant,[593] and their financial information is thus already reflected in the registrant's consolidated financial statements. The final amendments require Summarized Financial Information for each such affiliate and disclosure of additional financial information about each affiliate if material for investors to evaluate the

[584] *See* Lawrence, note 557 above.

[585] *See, e.g.,* letters from Cravath, Davis Polk, FedEx, Freeport, Nareit, PWC, and Sullivan & Cromwell.

[586] *See* letter from Cravath.

[587] *See, e.g.,* letters from Cravath, Freeport, Nareit, and Sullivan & Cromwell.

[588] *See* letters from CII and Credit Roundtable.

[589] *See* letters from CII and Credit Roundtable.

[590] *See* letter from Cravath.

[591] As a transitional matter, the final amendments do not eliminate existing Rule 3–16, which will continue to be applicable to registered collateralized securities with collateral release provisions issued and outstanding as of the effective date of the final amendments. *See* Section VI.B ''Rule 3–16 Collateral Release Provisions.''

[592] *See, e.g.,* letters from Davis Polk, EY, and FEI.

[593] In the rare circumstances where the affiliate is not a consolidated subsidiary of the registrant, Rule 13–02(a)(6) requires the registrant to provide ''[a]ny financial and narrative information about each such affiliate if the information would be material for investors to evaluate the pledge of the affiliate's securities as collateral'' and Rule 13–02(a)(7) requires ''[s]ufficient information so as to make the financial and non-financial information presented not misleading.'' In this regard, separate financial statements of the unconsolidated affiliate may be necessary to comply with these requirements. *See* additional discussion in Section V.C.1, ''Level of Detail.''

pledge of the affiliate's securities as collateral and/or necessary to make the financial and non-financial information presented not misleading. For registrants, this will reduce compliance costs by reducing the amount of information they need to prepare and disclose.[594] For investors, we do not anticipate significant costs since material information will still be required to be provided. The simplified disclosures will highlight material information needed to make informed investment decisions and therefore should enable investors to process information more efficiently and make more informed investment decisions.

Several commenters asserted that the proposed amendment would reduce a registrant's costs and burdens [595] while still providing investors with clear and sufficient information.[596]

ii. Presentation on a Combined Basis

The final rules will permit a registrant to provide the Summarized Financial Information of consolidated affiliates that are pledged as collateral on a combined rather than individual basis. However, if non-financial disclosure provided in response to Rule 13–02 were applicable to one or more, but not all, affiliates, separate disclosure of Summarized Financial Information for the affected affiliates would be required, to the extent material. The final rules will permit, in limited circumstances (*i.e.,* where the separate financial information of the affected affiliates can be easily explained and understood), narrative disclosure in lieu of separate disclosure of the financial information of the affiliates affected by those factors. Although this narrative would be allowed in limited circumstances, separate columnar financial information for affected affiliates would generally be expected. As with the effects of the final amendments to Rules 3–10 and 13–01 discussed above,[597] we believe the simplified disclosures in the final amendments to Rules 3–16 and 13–02 will both lower compliance costs for issuers and provide investors with more streamlined and concise disclosures that will promote more efficient decision-making by investors. We do not anticipate significant costs to investors since material information will still be required to be provided.

iii. Periods to Present

Under the existing rule, the periods required in Rule 3–16 Financial Statements are those required by Rules 3–01 and 3–02 of Regulation S–X, or, for smaller reporting companies, the periods required by Rule 8–02 of Regulation S–X. The final amendments will require the disclosure of Summarized Financial Information for the most recently ended fiscal year and year-to-date interim period included in the registrant's consolidated financial statements, consistent with the proposed amendments to Rule 3–10 above. Rule 3–16 financial statements are not currently required in quarterly reports, and as such, registrants will incur costs to provide this additional interim disclosure.[598] While we acknowledge the concerns about the burden to provide interim information in all cases, consistent with our analysis of the economic effect of the corresponding requirement in the final amendments to Rules 3–10 and 13–01 above, we believe the adopted approach will significantly reduce burdens on issuers while providing investors with the relevant information they need to make informed investment decisions.[599]

b. Non-Financial Disclosures

The final rules will require non-financial information about affiliates whose securities are pledged as collateral and the collateral arrangements. We do not believe this amendment will impose undue costs for issuers, as the majority of the information required to be disclosed under the final amendments should be readily available or attainable.[600] We believe the amendments will benefit investors by supplementing the required financial disclosures with additional, material information, thereby rendering the combined financial and non-financial disclosures more informative for investment decisions.

Commenters generally supported the proposed rules' requirement to provide certain non-financial disclosures, to the extent material, about the securities pledged as collateral, each affiliate whose securities are pledged, the terms and conditions of the collateral arrangement, and whether a trading market exists for the pledged securities.[601] Consistent with our analysis of the potential impact on investors, one commenter explicitly stated that such disclosure would be helpful to investors.[602]

c. When Disclosure Is Required

Rather than utilizing existing numerical thresholds, disclosure of the specified financial and non-financial disclosures will be required unless the information is not material. Additionally, the final rule will require disclosure of any financial and narrative information about each affiliate if it would be material for investors to evaluate the pledge of the affiliate's securities as collateral, and disclosure of sufficient information to make the financial and non-financial information presented not misleading. A number of commenters stated explicitly that they supported replacing existing Rule 3–16's numerical threshold requirement with a principles-based materiality standard.[603] One commenter noted that, by focusing on materiality, proposed Rule 13–02 would require registrants to undertake the expense of providing the required disclosures only when doing so would be helpful to investors.[604] Another commenter contended that the existing substantial portion numerical threshold requirement could cause registrants to provide information that is not material or possibly not require financial statements even if such affiliates are material to the registrant's business.[605] To the extent the numerical thresholds under the existing rule result in disclosure of information that is not material, investors may benefit from reduced search costs and the facilitation of more efficient information processing.[606] Further, we believe that, compared to the existing rule, final Rule 13–02 will reduce compliance costs for issuers and increase the likelihood that offerings will be registered because

[594] For purposes of the PRA, we estimate that the final amendments to Rule 3–16 will result in an overall reduction of 30 burden hours for each form (other than Form 10–Q) affected by the final amendments. *See* Section VIII.B.2, ''Rule 3–16,'' below.

[595] *See, e.g.,* letters from Davis Polk EY, FEI, and PWC.

[596] *See* letters from EY and FEI.

[597] *See* discussion in Section VII.C.1.b.i, ''Financial and Non-Financial Disclosures.''

[598] For purposes of the PRA, we estimate that the amendments to Rule 3–16 will result in an increase of 70 burden hours per Form 10–Q filing. *See* Section VIII.B.2, ''Rule 3–16,'' below.

[599] *See* discussion in Section VII.C.1.b.i, ''Financial and Non-Financial Disclosures.''

[600] The content of the amended non-financial disclosures consists of basic information about the collateral arrangement and the entities involved. We do not expect such information, which is generally available from debt agreements, will impose a significant burden on a registrant to prepare.

[601] *See, e.g.,* letters from Davis Polk, FEI, and NYC Bar.

[602] *See* letter from Davis Polk.

[603] *See, e.g.,* letters from CII, Cravath, Davis Polk, Deloitte, EY, and FEI.

[604] *See* letter from Davis Polk.

[605] *See* letter from Dell.

[606] *See* David Hirschleifer & Siew Hong Teoh, *Limited Attention, Information Disclosure, and Financial Reporting,* 36 J. of Acct. and Econ. 337 (2003) (developing a theoretical model where investors have limited attention and processing power). The authors show that with partially attentive investors, means of presenting information may have an impact on stock price reactions, misvaluation, long-run abnormal returns, and corporate decisions.

issuers will only be required to provide disclosure to the extent material. At the same time, compared to numerical thresholds, having a principles-based disclosure approach may create more uncertainty for issuers as it requires more judgement. However, we expect any additional uncertainty would be justified by the ability to provide disclosures more tailored to the specific circumstances and the needs of investors, and we note that registrants are already well-versed in making judgements about whether disclosure is material as part of complying with other disclosure requirements.

Proposed Rule 13–02(a)(4) would have required, if the financial disclosures specified in proposed Rule 13–02(a)(4) were omitted because they were not material, disclosure of a statement to that effect and the reasons therefor. As discussed above, we did not adopt this proposed requirement.[607] Similar to the final amendments to Rules 3–10 and 13–01, in a change from the proposal, the final rule identifies two scenarios which we believe generally capture the situations under which the financial disclosures would not be material. These scenarios were intended to help address concerns[608] about the need for greater certainty as to the circumstances when the omission of financial disclosures may be appropriate while continuing to provide investors with the basic reasons as to why the financial information was omitted. If the scenario is applicable and disclosed, the parent company could then omit the financial disclosures. We believe the greater certainty afforded to a registrant that chooses to rely on one of the identified scenarios, if applicable, will result in lower burdens in preparing the disclosure. If one of the identified scenarios does not apply, however, the registrant has the option to make its own assessment based upon a consideration of other relevant facts and circumstances under the general materiality provision of Rule 13–02(a).

d. Location of Disclosures and Audit Requirement

As discussed above for the final amendments to Rule 3–10, new Rule 13–02 will allow registrants the choice of whether to provide the amended disclosures in its consolidated financial statement footnotes or, alternatively, in MD&A. If not otherwise included in the consolidated financial statements or MD&A, the disclosures must be provided in other specified prominent locations. Under the proposed amendments, this flexibility of where to locate the disclosures would only be available in the registration statement covering the offer and sale of the subject securities and any related prospectus, and in Exchange Act reports on Forms 10–K and 10–Q required to be filed during the fiscal year in which the first bona fide sale of the subject securities is completed. Under the final amendments, registrants will have flexibility to locate the disclosures in a footnote to the consolidated financial statements or in the locations specified in Rule 13–02(b) in all of its filings. Our analysis of this amendment is generally consistent with our analysis of the economic effect of the corresponding requirement in the final amendments to Rule 13–01 above. If a registrant provides the amended disclosures in its consolidated financial statements, the disclosures will be subject to annual audit, interim review, internal control over financial reporting, and XBRL tagging requirements. Investors may perceive this choice of placement to indicate that the disclosures are more reliable. To the extent that investors prefer these disclosures to be located in the registrant's financial statements, this choice may influence their willingness to invest. Registrants could attempt to influence such willingness by including the disclosures in their financial statements.

In contrast, if a registrant provides the disclosures outside its financial statements, lower compliance costs would likely result with respect to these filings, and the registrant may be able to register guaranteed debt offerings more quickly than under the existing rule and thereby more promptly access favorable market conditions. However, registrants may incur other costs, such as due diligence activities. Although these disclosures are supplemental in nature, investors may nevertheless perceive them to be less reliable if a registrant provides these disclosures outside its financial statements as they would not benefit from an audit or interim review conducted by the auditor. To the extent that investors prefer the disclosures to be included in the registrant's financial statements, their willingness to invest may be influenced or they may discount the information provided in the unaudited portion of the disclosure, potentially reducing the amount of information incorporated into security prices and increasing the issuer's cost of capital.

e. Recently Acquired Affiliates Whose Securities Are Pledged as Collateral

The proposed rule would have required registrants to provide information about recently acquired subsidiary affiliates only if material to an investment decision in the collateralized security. The final rule contains a different test for determining whether disclosures about recently acquired affiliates must be provided. More specifically, the final rule requires, in certain circumstances,[609] pre-acquisition Summarized Financial Information for recently acquired affiliates to be provided in a Securities Act registration statement filed in connection with the offer and sale of the subject collateralized security. Existing Rule 3–16 does not contain a specific requirement to provide pre-acquisition financial information of recently acquired affiliates whose securities are pledged as collateral. However, if a recently acquired affiliate meets the substantial portion threshold in the existing rule, financial statements for periods prior to the date of acquisition by the registrant are required to be filed. Generally consistent with the effects of the corresponding final amendments to Rule 3–10 discussed above, we believe requiring pre-acquisition Summarized Financial Information of affiliates whose securities are pledged as collateral in certain circumstances will provide material information for investors without imposing significant burdens on issuers.[610]

D. Anticipated Effects on Efficiency, Competition, and Capital Formation

As discussed above, and as a general matter, we believe the final amendments will improve the content, format, and focus of required registrant disclosures. This should both reduce the compliance cost for issuers and allow more efficient decision-making by investors. This may be true particularly to the extent that the final amendments result in more efficient and effective dissemination of material information to investors and increase the efficiency of investor processing and usage of this information.

To the extent that the final amendments ease registration burdens for issuers, there could be an increase in the number of registered offerings. If such issuers would not have otherwise

[607] *See* discussion in Section V.E.3, ''When Disclosure is Required.''

[608] *See, e.g.,* letter from Shearman.

[609] *See* description of the circumstances when pre-acquisition summarized financial information is required in Section V.G.3, ''Recently Acquired Affiliates Whose Securities are Pledged as Collateral.''

[610] *See* discussion in Section VII.C.1.b.iv, ''Recently Acquired Subsidiary Issuers and Guarantors.''

issued debt securities, this would result in an increase in capital formation. If such issuers would have otherwise issued debt under Rule 144A, it is possible that a switch to a registered offering would lower the issuers' cost of capital while also providing investors with the enhanced protections afforded by registered offerings.

Since the final rule amendments may increase the number of registered debt offerings as discussed above, the investment opportunities available for different types of investors may be broadened and may allow for more efficient matching of investors with assets that meet their investment objectives and preferences. To the extent that the final amendments to the eligibility conditions that must be met to omit the separate financial statements of subsidiary issuers and guarantors of guaranteed debt securities encourage additional registered guaranteed debt offerings, more investment opportunities would be made available, and a resulting increase in market participation could improve the overall competitiveness and efficiency of the capital markets. Retail investors could additionally be indirectly affected through their investments managed by institutional investors, who would have greater access to a broader range of investment opportunities in the registered debt market.

To the extent that the final amendments provide investors with streamlined and easier to understand financial information while maintaining the material completeness of the financial disclosures, we expect that the financial disclosures that result from the final amendments would improve price discovery, enhance the allocative efficiency of markets, and facilitate capital formation.

Rather than only 100%-owned subsidiaries of the parent company, the final amendments permit subsidiary issuers or guarantors that are consolidated in the parent company's financial statements to omit separate subsidiary issuer and guarantor financial statements, if the other criteria in amended Rule 3–10 are satisfied. To the extent that the final amendments expand the scope of subsidiary issuers and guarantors that meet Rule 3–10 eligibility requirements, the final amendments may promote greater competition among issuers and guarantors of guaranteed debt securities. This may enable more registrants, especially those on the margins, to compete on better terms.

As describe above,[611] many outstanding registered debt securities have a collateral release provision, which automatically reduces the pledged collateral if it would trigger existing Rule 3–16's requirement for a registrant to file separate financial statements for each affiliate whose securities constitute a substantial portion of the collateral for any class of registered securities as if the affiliate were a separate registrant. The proposed amendments could possibly have affected senior lenders and unsecured lenders indirectly as these collateral release provisions may no longer be operable and the collateral available to lenders may be modified, potentially causing unintended credit consequences. As a transitional matter, the final amendments do not eliminate existing Rule 3–16, which will continue to be applicable to registered collateralized securities with collateral release provisions issued and outstanding as of the effective date of the final amendments.[612] Subsequent to the transition period, new issuances of registered securities collateralized by affiliate securities must comply with new Rule 13–02, and provide certain financial and non-financial disclosures of that affiliate in all cases, to the extent material. If, as a result of the final amendments, issuers no longer include collateral release provisions in their indentures, the pledged collateral would be maintained, which would lead to improved investment options for investors and thus increased market efficiency.

E. Consideration of Reasonable Alternatives

We discuss below potential alternatives to the final amendments to existing Rules 3–10 and 3–16.

1. Alternative to Final Amendments to Existing Rule 3–10

An alternative to the final amendments to Rule 3–10 would have been to permit the Revised Alternative Disclosures to be provided if the subsidiary issuers and/or guarantors were ''wholly owned'' by the parent company, as defined in Rule 1–02(aa) of Regulation S–X.[613] Using ''wholly owned'' as the parent company ownership threshold, rather than the existing 100%-ownership requirement, would likely permit more subsidiary issuers and guarantors to use the Alternative Disclosures as compared to the existing rule, but would be less flexible than the final amendments, as detailed above. As a result, we believe the final amendments better serve to enhance efficiency, competition and capital formation, while still maintaining appropriate investor protections. Many commenters supported the revision to existing Rule 3–10's condition that a subsidiary issuer or guarantor be 100% owned by the parent company to one in which the subsidiary issuer or guarantor be consolidated in the parent company's financial statements.[614]

2. Alternatives Common to Final Amendments to Existing Rule 3–10 and Existing Rule 3–16

One alternative to each set of final amendments would have been to require that the Revised Alternative Disclosures, or the disclosures specified in final Rule 13–02, as applicable, be located in the audited annual and unaudited interim financial statement footnotes of the parent company, or registrant, as applicable, in all filings. Under this alternative, the parent company or registrant would not have a choice of whether to locate the disclosures outside its consolidated financial statements. On the one hand, this could increase investor confidence in the disclosed information and provide the benefits of XBRL tagging. On the other hand, the cost to a parent company or registrant associated with preparing registration statements and certain periodic reports would be higher with this alternative than if the disclosures were permitted to be provided outside of the financial statements. Furthermore, the flexibility of going to market more quickly would not be available under this alternative. This could limit the incentives to pursue registered offerings compared to the final amendments, and those registrants that do pursue registered offerings may be less likely to issue guarantees, or pledge affiliate securities as collateral, given the additional costs associated with including the disclosures in the financial statements. Additionally, a parent company or registrant may be less likely to voluntarily supplement the disclosures with forward-looking information because the safe harbor for forward-looking information under PSLRA is not

[611] *See* Section VI.B ''Rule 3–16 Collateral Release Provisions.''

[612] *See id.*

[613] Rule 1–02(aa) of Regulation S–X (''The term *wholly owned subsidiary* means a subsidiary substantially all of whose outstanding voting shares are owned by its parent and/or the parent's other wholly owned subsidiaries.'' (Emphasis in original.)).

[614] *See, e.g.,* letters from Comcast, Cravath, Davis Polk, EEI/AGA, FedEx, FEI, Nareit, NYC Bar, and Sullivan & Cromwell.

available for disclosures provided in the financial statements. As discussed above,[615] guarantees and pledges of affiliate securities as collateral serve, in part, to reduce investor risk of structural subordination. Overall, we believe the benefits to investors of enhanced access to registered offerings with guarantees and pledges of affiliate securities as collateral, together with the benefits of reduced compliance burdens for issuers, justify forgoing the benefits of requiring these disclosures to be located in the financial statement footnotes of the parent company, or registrant, as applicable.

While providing additional flexibility to the parent company or registrant in the location of the disclosures will likely further reduce the compliance burdens associated with registered offerings with guarantees or collateral, we acknowledge that investors may demand a higher expected return if they perceive reduced reliability of the Revised Alternative Disclosure. The potential for higher borrowing costs may encourage issuers to voluntarily include the Revised Alternative Disclosures in the financial statements of the parent company, or registrant, as applicable.

Finally, another alternative relevant to each set of final amendments would have been to require the Summarized Financial Information specified in final Rules 13–01 and 13–02 to be provided for the same periods as the parent company or registrant, as applicable, instead of the most recent annual and interim period. While this alternative would increase the amount of information available to investors in the specific filing, the additional information may not be material in making informed investment decisions. As discussed above,[616] prior studies have suggested that simpler disclosures may benefit investors by reducing search costs and facilitating more efficient information processing. Moreover, including additional historical periods would result in higher costs to registrants when preparing registration information and ongoing reporting. We do not believe the potential benefit to investors of this additional historical information justifies the potential cost to the registrants.

Related to the above alternative, some commenters recommended not requiring the most recent interim period disclosures or requiring them only in limited circumstances, such as when there had been a material change since the most recent annual period.[617] As discussed in Section VIII.C.1.b.i. with respect to new Rule 13–01, we acknowledge that parent companies will continue to incur compliance costs to include the most recent interim period disclosure under the final amendments. However, we believe that the most recent interim period disclosures provide timely and relevant information for investors to make informed investment decisions. Moreover, in comparison to the existing rules, the final amendments already significantly reduce the burdens on parent companies by eliminating, in filings on Form 10–Q, both the quarter-to-date interim period requirement in filings covering more than one fiscal quarter and the comparable prior year interim period(s), as applicable. These observations related to new Rule 13–01 also extend to new Rule 13–02. Overall, we believe that the benefit of providing the most recent interim period disclosures under the final amendments justifies the compliance costs to registrants.

IX. Paperwork Reduction Act

A. Background

Certain provisions of our rules, schedules, and forms that would be affected by the rule amendments contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act of 1995 (''PRA'').[618] We published a notice requesting comment on revisions to these collections of information requirements in the Proposing Release and have submitted these requirements to the Office of Management and Budget (''OMB'') for review in accordance with the PRA.[619] The hours and costs associated with preparing, filing, and sending the schedules and forms constitute reporting and cost burdens imposed by each collection of information. An agency may not conduct or sponsor, and a person is not required to comply with, a collection of information unless it displays a currently valid OMB control number. Compliance with the information collections is mandatory. Responses to the information collections are not kept confidential and there is no mandatory retention period for the information disclosed. The titles for the collections of information are:

- Regulation S–X (OMB Control No. 3235–0009);
- Regulation S–K (OMB Control No. 3235–0071);[620]
- Form S–1 (OMB Control No. 3235–0065);
- Form S–4 (OMB Control No. 3235–0324);
- Form S–3 (OMB Control No. 3235–0073);
- Form S–11 (OBM Control No. 3235–0067);
- Form F–1 (OMB Control No. 3235–0258);
- Form F–3 (OMB Control No. 3235–0256);
- Form F–4 (OMB Control No. 3235–0325);
- Form 20–F (OMB Control No. 3235–0288);
- Form 10–K (OMB Control No. 3235–0063);
- Form 10–Q (OMB Control No. 3235–0070);
- Form SF–1 (OMB Control No. 3235–0707);
- Form SF–3 (OMB Control No. 3235–0690);
- Form 1–A (OMB Control No. 3235–0286);
- Form 1–K (OMB Control No. 3235–0720); and
- Form 1–SA (OMB Control No. 3235–0721).

The regulations, schedules, and forms listed above were adopted under the Securities Act and/or the Exchange Act. These regulations, schedules, and forms set forth the disclosure requirements for registration statements, periodic and current reports, distribution reports, and proxy and information statements filed by registrants to help investors make informed investment and voting decisions.

As described in more detail above, we are amending the disclosure requirements in Rules 3–10 and 3–16 of Regulation S–X to better align those requirements with the needs of investors and to simplify and streamline the disclosure obligations of registrants. We are amending both rules and relocating parts of the disclosure requirements of Rule 3–10 and Rule 3–16 to new Rules 13–01 and 13–02. We also are making conforming amendments to Items 504, 1100, 1112, 1114, and 1115 of Regulation S–K; Forms F–1, F–3, 1–A, 1–K, 1–SA, and Rule 257(b) under the Securities Act; and Rule 12h–5 and Form 20–F under the Exchange Act. These amendments are intended to provide investors with the information that is material given the specific facts and circumstances,

[615] *See* Section VII.C.1, ''Amendments to Rule 3–10 and Partial Relocation to Rule 13–01.''

[616] *See* note 557 and accompanying text.

[617] *See* note 564 and accompanying text.

[618] 44 U.S.C. 3501 *et seq.*

[619] 44 U.S.C. 3507(d) and 5 CFR 1320.11.

[620] The paperwork burdens for Regulation S–K and Regulation S–X are imposed through the forms, schedules and reports that are subject to the requirements in these regulations and are reflected in the analysis of those documents.

make the disclosures easier to understand, and reduce the costs and burdens to registrants.

B. Summary of Comment Letters

In the Proposing Release, the Commission requested comment on the PRA burden hour and cost estimates and the analysis used to derive such estimates. We did not receive any comments that directly addressed the PRA analysis of the proposed amendments. Several commenters, however, did provide responses to certain requests for comment that have informed some of our PRA estimates. In this regard, several commenters indicated that the costs and burdens of providing the disclosures under the proposed amendments would be lower than the compliance burdens under the current disclosure requirements and could potentially result in an increase in the number of registered debt offerings.[621]

C. Summary of the Impact on Collections of Information

As discussed in more detail in the Proposing Release,[622] we derived the burden hour estimates by estimating change in paperwork burden as a result of the amendments, both in terms of the change to the paperwork burden for current responses as well as the change in the number of responses. For purposes of the PRA, we estimate that the current disclosure burdens under Rules 3–10 and 3–16 require an average of 100 burden hours to prepare and process, and that the amendments would reduce these burdens by 30 hours. Correspondingly, we estimate that the disclosure burdens under the amendments will require 70 hours to prepare and process. We estimated the number of responses by conducting separate database searches of filings containing XBRL tags most commonly associated with Consolidating Information and terms associated with the Alternative Disclosures during the calendar years of 2016 through 2018.

As discussed in Sections III through V, we have made some changes to the proposed amendments as a result of comments received. While certain of these changes could further reduce burdens on registrants, others may incrementally increase those burdens relative to the proposals. Considered together, we do not expect these changes to appreciably impact our assessment of the compliance burdens of the final rule amendments for purposes of the PRA. Accordingly, we have not revised the estimates from the Proposing Release of the impact on the per hour burden for the affected forms.

PRA Table 1 summarizes the estimated impact of the final amendments on the paperwork burdens associated with the affected forms listed above.

PRA TABLE 1—ESTIMATED PAPERWORK BURDEN EFFECTS OF THE FINAL AMENDMENTS

Final amendments and effects	Affected forms	Estimated net effect
Rule 3–10 and New Rule 13–01 of Regulation S–X: • Replaces the Consolidating Information required by current Rule 3–10 with Summarized Financial Information for each issuer and guarantor and in certain circumstances additional summarized disclosure of intercompany and related-party transactions. • Allows supplemental financial and non-financial disclosure about subsidiary issuers and/or guarantors to be disclosed outside of the parent company's financial statements;. • Eliminates current requirement to provide pre-acquisition financial statements of recently acquired subsidiary issuers and guarantors, but requires, in certain instances, pre-acquisition Summarized Financial Information about significant recently acquired subsidiary issuers and guarantors.	• Forms S–1, S–3, S–4, S–11, F–1, F–3, F–4, SF–1, SF–3, 20–F, 10–K, 10–Q, 1–A, 1–K, and 1–SA.	• 30 hour net decrease in compliance burden per each existing filing containing current Rule 3–10 disclosures. • Small increase in the number of Form S–1, Form S–3, Form S–4, Form S–11, Form F–1, Form F–4, and Form 20–F filings.
Rule 3–16 and New Rule 13–02 of Regulation S–X: • Replaces current Rule 3–16's requirement to provide separate financial statements for each affiliate whose securities are pledged as collateral with a requirement that the registrant provide Summarized Financial Information and non-financial disclosures about the affiliate(s) and the collateral arrangement as a supplement to the registrant's consolidated financial statements, including disclosure of intercompany and related-party transactions. • Permits the Summarized Financial Information and non-financial disclosures to be presented outside of the registrant's financial statements;. • Requires, in certain instances, pre-acquisition Summarized Financial Information about significant recently acquired affiliates.	• Forms S–1, S–3, S–4, S–11, F–1, F–3, F–4, SF–1, SF–3, 20–F, 10–K, 10–Q, 1–A, 1–K, and 1–SA.	• 30 hour net decrease in compliance burden per each existing filing containing current Rule 3–16 disclosures. • Small increase in the number of Form S–1, Form S–3, Form S–4, Form S–11, Form F–1, Form F–4, Form 20–F, Form 10–K, Form 10–Q, and Form 1–A filings.

[621] *See* letters from Ball Corp., Davis Polk, EY, and FEI. *Cf.* letter from NYC Bar (indicating that the proposed amendments would reduce the burdens for registering offerings but may not result in a significant increase in such offerings because of the general trend toward private offerings).

[622] *See* Section VIII of the Proposing Release.

D. Burden and Cost Estimates to the Amendments

Below we estimate the incremental change in paperwork burdens as a result of the final amendments. These estimates represent the average burden for all registrants, both large and small. In deriving our estimates, we recognize that the burdens will likely vary among individual registrants based on a number of factors, including the size and nature of their business.

The burden estimates were calculated by multiplying the estimated number of responses by the estimated average amount of time it would take a registrant to prepare and review the disclosures required under the proposed amendments. For purposes of the PRA, the burden is allocated between internal burden hours and outside professional costs. The table below sets forth the percentage estimates the Commission typically uses for the burden allocation for each affected form. We also estimate that the average cost of retaining an outside professional is $400 per hour.[623]

PRA TABLE 2—STANDARD ESTIMATED BURDEN ALLOCATION FOR SPECIFIED FORMS AND SCHEDULES

Form/Schedule type	Internal (%)	Outside professionals (%)
Forms S–1, S–3, S–4, S–11, F–1, F–3, F–4, 20–F, SF–1, and SF–3	25	75
Forms 10–K, 10–Q, 1–A, and 1–K	75	25
Form 1–SA	85	15

PRA Table 3 illustrates the estimated incremental reduction to the annual compliance burdens for the affected forms, in hours and in costs, as a result of the final amendments.

PRA TABLE 3—CALCULATION OF THE REDUCTION IN BURDEN ESTIMATES TO EXISTING AFFECTED RESPONSES THAT INCLUDE DISCLOSURES UNDER CURRENT RULES 3–10 AND 3–16

Form	Estimated number of affected responses (A)*	Estimated incremental burden hours/form (B)	Total incremental burden hours (C) = (A) × (B)	Estimated internal burden hours (D) = (C) × (allocation %)	Estimated outside professional hours (E) = (C) × (allocation %)	Estimated outside professional costs/affected responses (F) = (E) × $400
10–K	481	(30)	(14,430)	(10,822.5)	(3,607.5)	($1,443,000)
10–Q	1,252	(30)	(37,560)	(28,170)	(9,390)	(3,756,000)
S–1	10	(30)	(300)	(75)	(225)	(90,000)
20–F	15	(30)	(450)	(112.5)	(337.5)	(135,000)
S–4	100	(30)	(3,000)	(750)	(2,250)	(900,000)
S–11	5	(30)	(150)	(37.5)	(112.5)	(45,000)
F–1	5	(30)	(150)	(37.5)	(112.5)	(45,000)
F–4	7	(30)	(210)	(52.5)	(157.5)	(63,000)
1–A	0					
1–K	0					
1–SA	0					
SF–1	0					
SF–3	0					
Totals				(40,057.5)		(6,346,845)

*The number of estimated affected responses is an estimate of the average number of filings that included Consolidating Information under Rule 3–10, Alternative Disclosures or Rule 3–16 financial statements over the 2016–2018 calendar years.

PRA Table 4 below illustrates the estimated increase in the number of filings and the related total annual compliance burdens of the affected forms, in hours and in costs, as a result of the final amendments.

[623] We recognize that the costs of retaining outside professionals may vary depending on the nature of the professional services, but for purposes of this PRA analysis, we estimate that such costs would be an average of $400 per hour. This estimate is based on consultations with several registrants, law firms, and other entities that regularly assist registrants in preparing and filing documents with the Commission.

PRA TABLE 4—CALCULATION OF THE INCREMENTAL CHANGE IN BURDEN ESTIMATES FROM THE INCREASE IN THE NUMBER OF AFFECTED RESPONSES FILED AS A RESULT OF THE FINAL AMENDMENTS

Form	Estimated increase in affected responses (A)	Estimated incremental burden hours/form (B)	Total incremental burden hours (C) = (A) × (B)	Estimated internal burden hours (D) = (C) × (allocation %)	Estimated outside professional hours (E) = (C) × (allocation %)	Estimated outside professional costs/affected responses (F) = (E) × $400
10–K	6	70	420	315	105	$42,000
10–Q	18	70	1,260	945	315	126,000
S–1	4	70	280	70	210	84,000
S–3	4	70	280	70	210	84,000
20–F	4	70	280	70	210	84,000
S–4	37	70	2,590	647.5	1,942.5	777,000
S–11	3	70	210	52.5	157.5	63,000
F–1	3	70	210	52.5	157.5	63,000
F–3	1	70	70	17.5	52.5	21,000
F–4	3	70	210	52.5	157.5	63,000
1–A	1	70	70	52.5	17.5	7,000
1–K	0					
1–SA	0					
SF–1	0					
SF–3	0					
Totals				2,345		1,414,000

PRA Table 5 illustrates the estimated net incremental change to the total annual compliance burdens for the affected forms, in hours and in costs, as a result of the final amendments.

PRA TABLE 5—CALCULATION OF THE NET INCREMENTAL CHANGE IN BURDEN ESTIMATES OF AFFECTED RESPONSES RESULTING FROM THE FINAL AMENDMENTS

Form	Estimated number of affected responses (A)	Estimated change in burden hours/affected response (B)	Estimated internal burden hours (C)	Outside professional hours (D)	Estimated outside professional costs/affected response (E)
10–K	487	(14,610)	(10,958)	(3,652)	($1,460,800)
10–Q	1,270	(36,300)	(27,225)	(9,075)	(3,630,000)
S–1	14	(20)	(5)	(15)	(6,000)
20–F	19	(170)	(42.5)	(127.5)	(51,000)
S–4	137	(410)	(102.5)	(307.5)	(123,000)
S–11	8	60	15	45	18,000
F–1	8	60	15	45	18,000
F–4	10	0	0	0	0
1–A	1	70	52.5	17.5	7,000
1–K	0				
1–SA	0				
SF–1	0				
SF–3	0				
Total			(38,235.5)		(5,227,800)

PRA Table 6 summarizes the current OMB collections of information inventory for the affected forms and the requested change in the total reporting burdens and costs as a result of the final amendments.[624]

[624] For convenience, figures in the table have been rounded to the nearest whole number.

PRA TABLE 6—REQUESTED PAPERWORK BURDEN UNDER THE FINAL AMENDMENTS

Form	Current burden			Program change			Requested change in burden		
	Current annual responses	Current burden hours	Current cost burden	Number of affected responses	Increase or reduction in company hours	Increase or reduction in professional costs	Annual responses	Burden hours	Cost burden
S–1	901	148,556	$182,048,700	14	(5)	($6,000)	905	148,551	$182,042,700
S–3	1,657	193,730	236,322,036	4	70	84,000	1,661	193,800	236,406,036
S–4	551	563,216	678,291,204	137	(103)	(123,000)	588	563,113	678,168,204
S–11	64	12,290	15,016,968	8	15	18,000	67	12,305	15,034,968
F–1	63	26,815	32,445,300	8	15	18,000	66	26,830	32,463,300
F–3	112	4,448	5,712,000	1	18	21,000	113	4,466	5,733,000
F–4	39	14,076	17,106,000	10	0	0	42	14,076	17,106,000
SF–1	6	2,076	2,491,200	0			6	2,076	2,491,200
SF–3	71	24,548	29,457,900	0					
10–K	8,137	14,220,652	1,898,891,869	487	(10,958)	(1,460,800)	8,143	14,209,694	1,897,431,069
10–Q	22,907	3,253,411	432,290,354	1,270	(27,225)	(3,630,000)	22,925	3,226,186	428,660,354
1–A	179	98,396	13,111,912	1	53	7,000	180	98,449	13,118,912
20–F	725	479,304	576,875,025	19	(43)	(51,000)	729	479,262	576,824,025
1–K	36	16,200	2,160,000	0			36	16,200	2,160,000
1–SA	55	8,791	618,420	0			55	8,791	618,420

X. Final Regulatory Flexibility Act Analysis

This Final Regulatory Flexibility Analysis (''FRFA'') has been prepared in accordance with the Regulatory Flexibility Act (''RFA'').[625] It relates to amendments to Rules 3–10 and 3–16 of Regulation S–X, and corresponding amendments to certain other rules and forms to improve the disclosures of guarantors and issuers of guaranteed securities and issuers' affiliates whose securities collateralize securities.

A. Need for, and Objectives of, the Amendments

The purpose of the amendments is to modernize and simplify Rules 3–10 and 3–16 of Regulation S–X to better align the requirements of these rules with the needs of investors and reduce disclosure burdens on registrants. Specifically, the amendments modernize and simplify these rules by clarifying, consolidating, relocating and eliminating elements of these rules. These changes are intended to provide investors with information that is material to an investment decision, make the disclosures easier to understand, and reduce costs and burdens of these requirements on registrants. The amendments are discussed in more detail in Sections III through V, above. We discuss the economic impact and potential alternatives to the amendments in Section VIII (Economic Analysis), and the estimated compliance costs and burdens, of the amendments Section IX (Paperwork Reduction Act) above.

B. Significant Issues Raised by Public Comments

In the Proposing Release, the Commission requested comment on any aspect of the Initial Regulatory Flexibility Analysis (''IRFA''), including how the proposed amendments could achieve their objective while lowering the burden on small entities, the number of small entities that would be affected by the proposed rule and form amendments, the existence or nature of the potential effects of the proposed amendments on small entities discussed in the analysis, and how to quantify the effects of the proposed amendments. We did not receive any comments that specifically addressed the IRFA. However, some commenters addressed aspects of the proposed rules that could potentially affect small entities. One commenter indicated that the costs and challenges of preparing condensed consolidating information currently required by Rule 3–10 is likely far greater for smaller reporting companies in comparison to larger companies, and that the proposed summarized financial information would be easier for issuers and guarantors to prepare and disclose.[626] Another commenter agreed that the proposed amendments should apply to smaller reporting companies.[627]

C. Small Entities Subject to the Amendments

The amendments will apply to some registrants that are small entities. The RFA defines ''small entity'' to mean ''small business,'' ''small organization,'' or ''small governmental jurisdiction.''[628] For purposes of the RFA, under our rules, a registrant, other than an investment company or an investment adviser, is a ''small business'' or ''small organization'' if it had total assets of $5 million or less on the last day of its most recent fiscal year and is engaged or proposing to engage in an offering of securities that does not exceed $5 million.[629] An investment company, including a business development company,[630] is considered to be a ''small business'' if it, together with other investment companies in the same group of related investment companies, has net assets of $50 million or less as of the end of its most recent fiscal year.[631]

Commission staff estimates that there are 1,171 registrants that file with the Commission, other than investment companies, that may be considered small entities.[632] In addition, our staff estimates that, as of June 2019, there were 99 investment companies that may be considered small entities.[633]

D. Projected Reporting, Recordkeeping, and Other Compliance Requirements

As described in greater detail above, the amendments will simplify and update disclosure requirements of Rules 3–10 and 3–16 of Regulation S–X. For example, the amendments replace existing requirements that registrants must provide consolidating information

[625] 5 U.S.C. 601 *et seq.*

[626] *See* letter from Freeport. Under Commission rules, most small entities would qualify as smaller reporting companies.

[627] *See* letter from Sullivan & Cromwell.

[628] 5 U.S.C. 601(6).

[629] *See* 17 CFR 230.157 [Securities Act Rule 157] and 17 CFR 240.0–10(a) [Exchange Act Rule 0–10(a)].

[630] Business development companies are a category of closed-end investment company that are not registered under the Investment Company Act [15 U.S.C. 80a–2(a)(48) and 80a–53–64].

[631] *See* 17 CFR 270.0–10(a) [Investment Company Act Rule 0–10(a)].

[632] This estimate is based on staff analysis of EDGAR filings and related XBRL submissions made during the 2018 calendar year, and data from Compustat, and Audit Analytics.

[633] This estimate is derived from an analysis of data obtained from Morningstar Direct as well as data reported to the Commission for the period ending June 2019.

or separate financial statements with Summarized Financial Information, and allows registrants to present supplemental financial and non-financial disclosure outside of the registrant's financial statements. We anticipate that the amendments will reduce reporting, recordkeeping, and other compliance burdens for all registrants, including small entities. As noted above, one commenter indicated that currently required disclosures are disproportionately burdensome for smaller reporting companies to produce.[634] As a result, these companies may particularly benefit from any resulting decrease in compliance burdens. The professional skills necessary to comply with the amendments may include legal, accounting, and information technology skills.

E. Agency Action To Minimize Effect on Small Entities

The RFA directs us to consider alternatives that would accomplish our stated objectives, while minimizing any significant adverse impact on small entities. In connection with the amendments, we considered the following alternatives:

- Establishing different compliance or reporting requirements that take into account the resources available to small entities;
- Clarifying, consolidating, or simplifying compliance and reporting requirements under the rules for small entities;
- Using performance rather than design standards; and
- Exempting small entities from all or part of the requirements.

The amendments clarify, consolidate and simplify compliance and reporting requirements for small entities and other registrants. For example, the amendments streamline the five exceptions in existing Rules 3–10(b) through (f) by consolidating these elements into a single set of eligibility criteria that applies to all issuer and guarantor structures. The amendments also consolidate the requirements for the Revised Alternative Disclosures by including them in a single location in new Rule 13–01, as opposed to the existing requirements under Rule 3–10 which are dispersed among multiple provisions in the rule. Similarly, the amendments simplify the requirements of existing Rule 3–16 by replacing the current requirement to provide separate financial statements for each affiliate whose securities are pledged as collateral with a requirement to provide financial and non-financial disclosures about the affiliate(s) and the collateral arrangement as a supplement to the consolidated financial statements of the registrant that issues the collateralized security. As discussed above, the amendments are expected to reduce compliance burdens for all registrants, including small entities.[635]

We do not believe that the amendments will impose any significant new compliance obligations. Moreover, we do not believe it is necessary to establish different compliance and reporting requirements or timetables or to exempt small entities from all or part of the amendments. Nevertheless, to minimize the initial compliance burden on all registrants we are adopting a transition period for compliance to mitigate any potential compliance burdens that registrants may experience in transitioning to the final rule amendments.[636]

Finally, with respect to using performance rather than design standards, the amendments use a combination of design and performance standards in order to promote uniform filing requirements for all registrants. We believe the final rules will be more beneficial to investors and registrants if there are specific uniform disclosure requirements that apply to all registrants. In addition, the amendments introduce more principles-based disclosure requirements that will provide registrants with increased flexibility to determine what information to disclose.

XI. Statutory Authority

The amendments contained in this release are being adopted under the authority set forth in Sections 3, 6, 7, 8, 10, 19(a), and 28 of the Securities Act, as amended, and Sections 3(b), 12, 13, 15(d), 23(a), and 36 of the Exchange Act.

List of Subjects in 17 CFR Parts 210, 229, 230, 239, 240, and 249

Reporting and recordkeeping requirements, Securities.

Text of the Amendments

For the reasons set out in the preamble, the Commission amends title 17, chapter II of the Code of Federal Regulations as follows:

PART 210—FORM AND CONTENT OF AND REQUIREMENTS FOR FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, INVESTMENT COMPANY ACT OF 1940, INVESTMENT ADVISERS ACT OF 1940, AND ENERGY POLICY AND CONSERVATION ACT OF 1975

■ 1. The authority citation for part 210 continues to reads as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77z–2, 77z–3, 77aa(25), 77aa(26), 77nn(25), 77nn(26), 78c, 78j–1, 78*l,* 78m, 78n, 78*o*(d), 78q, 78u–5, 78w, 78*ll,* 78mm, 80a–8, 80a–20, 80a–29, 80a–30, 80a–31, 80a–37(a), 80b–3, 80b–11, 7202 and 7262, and sec. 102(c), Pub. L. 112–106, 126 Stat. 310 (2012), unless otherwise noted.

■ 2. Revise § 210.3–10 to read as follows:

§ 210.3–10 Financial statements of guarantors and issuers of guaranteed securities registered or being registered.

(a) If an issuer or guarantor of a guaranteed security that is registered or being registered is required to file financial statements required by Regulation S–X with respect to the guarantee or guaranteed security, such financial statements may be omitted if the issuer or guarantor is a consolidated subsidiary of the parent company, the parent company's consolidated financial statements have been filed, and the conditions in paragraphs (a)(1) and (2) of this section have been met:

(1) The guaranteed security is debt or debt-like; and

(i) The parent company issues the security or co-issues the security, jointly and severally, with one or more of its consolidated subsidiaries; or

(ii) A consolidated subsidiary issues the security or co-issues the security with one or more other consolidated subsidiaries of the parent company, and the security is guaranteed fully and unconditionally by the parent company; and

(2) The parent company provides the disclosures specified in § 210.13–01.

(b) For the purposes of this section and § 210.13–01:

(1) The ''parent company'' is the entity that:

(i) Is an issuer or guarantor of the guaranteed security;

(ii) Is, or as a result of the subject Securities Act registration statement will be, an Exchange Act reporting company; and

(iii) Consolidates each subsidiary issuer and/or subsidiary guarantor of the guaranteed security in its consolidated financial statements.

(2) A security is ''debt or debt-like'' if it has the following characteristics:

[634] *See* letter from Freeport.

[635] *See supra* Sections VIII (Economic Analysis) and IX (Paperwork Reduction Act).

[636] *See supra* Section VI (Transition to Final Amendments).

(i) The issuer has a contractual obligation to pay a fixed sum at a fixed time; and

(ii) Where the obligation to make such payments is cumulative, a set amount of interest must be paid.

Note 1 to paragraph (b)(2). Neither the form of the security nor its title will determine whether a security is debt or debt-like. Instead, the substance of the obligation created by the security will be determinative.

Note 2 to paragraph (b)(2). The phrase ''set amount of interest'' is not intended to mean ''fixed amount of interest.'' Floating and adjustable rate securities, as well as indexed securities, may meet the criteria specified in paragraph (b)(2)(ii) of this section as long as the payment obligation is set in the debt instrument and can be determined from objective indices or other factors that are outside the discretion of the obligor.

(3) A guarantee is ''full and unconditional,'' if, when an issuer of a guaranteed security has failed to make a scheduled payment, the guarantor is obligated to make the scheduled payment immediately and, if it does not, any holder of the guaranteed security may immediately bring suit directly against the guarantor for payment of all amounts due and payable.

■ 3. Amend § 210.3–16 by adding introductory text to read as follows:

§ 210.3–16 Financial statements of affiliates whose securities collateralize an issue registered or being registered.

The requirements of this section shall apply to each registered security issued and outstanding before January 4, 2021, unless the requirements of § 210.13–02 apply.

* * * * *

■ 4. Amend § 210.8–01 by revising Note 3 and Note 4 to read as follows:

§ 210.8–01 Preliminary Notes to Article 8.

* * * * *

Note 3 to § 210.8: The requirements of § 210.3–10 are applicable to financial statements for a subsidiary of a smaller reporting company that issues securities guaranteed by the smaller reporting company or guarantees securities issued by the smaller reporting company. Disclosures about guarantors and issuers of guaranteed securities registered or being registered must be presented as required by § 210.13–01.

Note 4 to § 210.8: The requirements of § 210.3–16 or § 210.13–02 are applicable if a smaller reporting company's securities registered or being registered are collateralized by the securities of the smaller reporting company's affiliates. Section 210.13–02 must be followed unless § 210.3–16 applies. The periods presented for purposes of compliance with § 210.3–16 are those required by § 210.8–02.

* * * * *

■ 5. Amend § 210.8–03 by adding paragraphs (b)(6) and (7) before Instruction 1 to read as follows:

§ 210.8–03 Interim financial statements.

* * * * *

(b) * * *

(6) *Financial statements of and disclosures about guarantors and issuers of guaranteed securities.* The requirements of § 210.3–10 are applicable to financial statements for a subsidiary of a smaller reporting company that issues securities guaranteed by the smaller reporting company or guarantees securities issued by the smaller reporting company. Disclosures about guarantors and issuers of guaranteed securities registered or being registered must be presented as required by § 210.13–01.

(7) *Disclosures about affiliates whose securities collateralize an issuance.* Disclosures about a smaller reporting company's affiliates whose securities collateralize any class of securities registered or being registered and the related collateral arrangement must be presented as required by § 210.13–02.

* * * * *

■ 6. Amend § 210.10–01 by adding paragraphs (b)(9) and (10) to read as follows:

§ 210.10–01 Interim financial statements.

* * * * *

(b) * * *

(9) The requirements of § 210.3–10 are applicable to financial statements for a subsidiary of the registrant that issues securities guaranteed by the registrant or guarantees securities issued by the registrant. Disclosures about guarantors and issuers of guaranteed securities registered or being registered must be presented as required by § 210.13–01.

(10) Disclosures about a registrant's affiliates whose securities collateralize any class of securities registered or being registered and the related collateral arrangement must be presented as required by § 210.13–02.

* * * * *

■ 7. Add an undesignated center heading and §§ 210.13–01 and 210.13–02 to read as follows:

Financial and Non-Financial Disclosures for Certain Securities Registered or Being Registered

§ 210.13–01 Guarantors and issuers of guaranteed securities registered or being registered.

(a) For each guaranteed security subject to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, and for each guaranteed security the offer and sale of which is being registered under the Securities Act of 1933, for which the registrant is the parent company (as that term is defined in § 210.3–10(b)(1)) of one or more subsidiaries that issue or guarantee the guaranteed security, provide the following disclosures to the extent material:

(1) A description of the issuers and guarantors of the guaranteed security;

(2) A description of the terms and conditions of the guarantees, and how payments to holders of the guaranteed security may be affected by the composition of and relationships among the issuers, guarantors, and subsidiaries of the parent company that are not issuers or guarantors of the guaranteed security;

(3) A description of other factors that may affect payments to holders of the guaranteed security, such as contractual or statutory restrictions on dividends, guarantee enforceability, or the rights of a noncontrolling interest holder;

(4) Summarized financial information as specified in § 210.1–02(bb)(1) of each issuer and guarantor of the guaranteed security as follows, with an accompanying note that briefly describes the basis of presentation:

(i) The summarized financial information of each such issuer and guarantor consolidated in the parent company's consolidated financial statements may be presented on a combined basis with the summarized financial information of the parent company;

(ii) Intercompany balances and transactions between issuers and guarantors whose summarized financial information is presented on a combined basis shall be eliminated;

(iii) The summarized financial information shall exclude subsidiaries that are not issuers or guarantors. An issuer's or guarantor's investment in a subsidiary that is not an issuer or guarantor shall not be presented. An issuer's or guarantor's amounts due from, amounts due to, and transactions with any of the following shall be presented in separate line items:

(A) Subsidiaries that are not issuers or guarantors; and

(B) Related parties;

(iv) If the information provided in response to the requirements of this

section (*e.g.,* factors that may affect payments to holders of the guaranteed security) is applicable to one or more, but not all, issuers and/or guarantors, separately disclose the summarized financial information applicable to those issuers and/or guarantors. In limited circumstances (*i.e.,* where the separate financial information applicable to those issuers and/or guarantors can be easily explained and understood), narrative disclosure may be provided in lieu of the separate summarized financial information otherwise required by this paragraph (a)(4)(iv);

(v) Disclose this summarized financial information as of and for the most recently ended fiscal year and year-to-date interim period included in the parent company's consolidated financial statements; and

(vi) Notwithstanding that a parent company may omit this summarized financial information if not material, it may also be omitted if one of the following in paragraphs (a)(4)(vi)(A) through (D) of this section is true and disclosed. However, paragraph (a)(4)(vi)(A) does not apply if separate disclosure of summarized financial information applicable to one or more, but not all, issuers and/or guarantors is required by paragraph (a)(4)(iv) of this section. For the purposes of this section, a finance subsidiary is a subsidiary that has no assets or operations other than those related to the issuance, administration and repayment of the security being registered and any other securities guaranteed by its parent company:

(A) The assets, liabilities and results of operations of the combined issuers and guarantors of the guaranteed security are not materially different than corresponding amounts presented in the consolidated financial statements of the parent company;

(B) The combined issuers and guarantors, excluding investments in subsidiaries that are not issuers or guarantors, have no material assets, liabilities or results of operations;

(C) The issuer is a finance subsidiary of the parent company, the parent company has fully and unconditionally guaranteed the security, and no other subsidiary of the parent company guarantees the security; or

(D) The issuer is a finance subsidiary that co-issued the security, jointly and severally, with the parent company, and no other subsidiary of the parent company guarantees the security;

(5) In a Securities Act registration statement filed in connection with the offer and sale of the guaranteed security, if the parent company acquired a significant business after the date of the parent company's most recent balance sheet included in its consolidated financial statements and the acquired business, one or more of the acquired business's subsidiaries, or the acquired business and one or more of its subsidiaries are issuers or guarantors of the guaranteed securities, disclose pre-acquisition summarized financial information as specified in paragraph (a)(4) of this section for each such issuer or guarantor. The acquired business is significant if it meets any of the conditions specified in the definition of significant subsidiary in § 210.1–02(w), substituting 20 percent for 10 percent each place it appears therein, based on a comparison of the most recent annual financial statements of the acquired business and the parent company's most recent annual consolidated financial statements filed at or prior to the date of acquisition. The determination of whether a business has been acquired shall be made in accordance with the guidance set forth in § 210.11–01(d). Acquisitions of a group of related businesses shall be treated as if they are a single business acquisition for purposes of this comparison. The determination of whether a group of businesses are related shall be made in a manner consistent with § 210.3–05(a)(3);

(6) Any financial and narrative information about each guarantor if the information would be material for investors to evaluate the sufficiency of the guarantee; and

(7) Sufficient information so as to make the financial and non-financial information presented not misleading.

(b) The parent company may elect to provide the disclosures required by this section in a footnote to its consolidated financial statements or alternatively, in management's discussion and analysis of financial condition and results of operations described in § 229.303 (Item 303 of Regulation S–K) of this chapter. If not otherwise included in the consolidated financial statements or in management's discussion and analysis of financial condition and results of operations, the parent company must include the disclosures in its prospectus immediately following ''Risk Factors,'' if any, or otherwise, immediately following pricing information described in § 229.105 (Item 105 of Regulation S–K) of this chapter.

§ 210.13–02 Affiliates whose securities collateralize securities registered or being registered.

The requirements of this section shall apply to each security registered or being registered that is issued on or after January 4, 2021, and to each registered security issued and outstanding before January 4, 2021, for which the registrant had prior to that date provided the financial statements specified in § 210.3–16.

(a) For each security subject to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, and for each security the offer and sale of which is being registered under the Securities Act of 1933, that is collateralized by a security of the registrant's affiliate or affiliates, provide the following disclosures to the extent material:

(1) A description of the securities pledged as collateral and the affiliates whose securities are pledged as collateral;

(2) A description of the terms and conditions of the collateral arrangement, including the events or circumstances that would require delivery of the collateral;

(3) A description of the trading market for the affiliate's security pledged as collateral or a statement that there is no market;

(4) Summarized financial information as specified in § 210.1–02(bb)(1) of each affiliate whose securities are pledged as collateral as follows, with an accompanying note that briefly describes the basis of presentation:

(i) The summarized financial information of each such affiliate consolidated in the registrant's financial statements may be presented on a combined basis;

(ii) Intercompany balances and transactions between affiliates whose summarized financial information is presented on a combined basis shall be eliminated;

(iii) An affiliate's amounts due from, amounts due to, and transactions with any of the following shall be presented in separate line items:

(A) The registrant;

(B) Any of the registrant's subsidiaries not included in the summarized financial information of the affiliate(s); and

(C) Related parties;

(iv) If the information provided in response to the requirements of this section (*e.g.,* the trading market for the affiliate's security pledged as collateral or a statement that there is no market) is applicable to one or more, but not all, affiliates, separately disclose the summarized financial information applicable to those affiliates. In limited circumstances (*i.e.,* where the separate financial information applicable to those affiliates can be easily explained and understood), narrative disclosure may be provided in lieu of the separate summarized financial information

otherwise required by this paragraph (a)(4)(iv);

(v) Disclose this summarized financial information as of and for the most recently ended fiscal year and year-to-date interim period included in the registrant's consolidated financial statements; and

(vi) Notwithstanding that a registrant may omit this summarized financial information if not material, it may also be omitted if one of the following in paragraph (a)(4)(vi)(A) or (B) of this section is true and disclosed. However, paragraph (a)(4)(vi)(A) does not apply if separate disclosure of summarized financial information applicable to one or more, but not all, affiliates is required by paragraph (a)(4)(iv) of this section:

(A) The assets, liabilities and results of operations of the combined affiliates whose securities are pledged as collateral are not materially different than the corresponding amounts presented in the consolidated financial statements of the registrant; or

(B) The combined affiliates whose securities are pledged as collateral have no material assets, liabilities or results of operations;

(5) In a Securities Act registration statement filed in connection with the offer and sale of the collateralized security, if the registrant acquired a significant business after the date of the registrant's most recent balance sheet included in its consolidated financial statements and the acquired business, one or more of the acquired business's subsidiaries, or the acquired business and one or more of its subsidiaries are affiliates whose securities collateralize the registrant's collateralized security, disclose pre-acquisition summarized financial information as specified in paragraph (a)(4) of this section for each such affiliate. The acquired business is significant if it meets any of the conditions specified in the definition of significant subsidiary in § 210.1–02(w), substituting 20 percent for 10 percent each place it appears therein, based on a comparison of the most recent annual financial statements of the acquired business and the registrant's most recent annual consolidated financial statements filed at or prior to the date of acquisition. The determination of whether a business has been acquired shall be made in accordance with the guidance set forth in § 210.11–01(d). Acquisitions of a group of related businesses shall be treated as if they are a single business acquisition for purposes of this comparison. The determination of whether a group of businesses are related shall be made in a manner consistent with § 210.3–05(a)(3);

(6) Any financial and narrative information about each such affiliate if the information would be material for investors to evaluate the pledge of the affiliate's securities as collateral; and

(7) Sufficient information so as to make the financial and non-financial information presented not misleading.

(b) The registrant may elect to provide the disclosures required by this section in a footnote to its consolidated financial statements or alternatively, in management's discussion and analysis of financial condition and results of operations described in § 229.303 (Item 303 of Regulation S–K) of this chapter. If not otherwise included in the consolidated financial statements or in management's discussion and analysis of financial condition and results of operations, the registrant must include the disclosures in its prospectus immediately following ''Risk Factors,'' if any, or otherwise, immediately following pricing information described in § 229.105 (Item 105 of Regulation S–K) of this chapter.

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934 AND ENERGY POLICY AND CONSERVATION ACT OF 1975—REGULATION S–K

■ 8. The authority citation for part 229 reads as follows:

Authority: 15 U.S.C. 77e, 77f, 77g, 77h, 77j, 77k, 77s, 77z–2, 77z–3, 77aa(25), 77aa(26), 77ddd, 77eee, 77ggg, 77hhh, 77iii, 77jjj, 77nnn, 77sss, 78c, 78i, 78j, 78j–3, 78*l,* 78m, 78n, 78n–1, 78*o,* 78u–5, 78w, 78*ll,* 78mm, 80a–8, 80a–9, 80a–20, 80a–29, 80a–30, 80a–31(c), 80a–37, 80a–38(a), 80a–39, 80b–11 and 7201 *et seq.;* 18 U.S.C. 1350; sec. 953(b), Pub. L. 111–203, 124 Stat. 1904 (2010); and sec. 102(c), Pub. L. 112–106, 126 Stat. 310 (2012).

■ 9. Amend § 229.504 by revising Instruction 6 to read as follows:

§ 229.504 (Item 504) Use of proceeds.

* * * * *

Instructions to Item 504: * * *

6. Where the registrant indicates that the proceeds may, or will, be used to finance acquisitions of other businesses, the identity of such businesses, if known, or, if not known, the nature of the businesses to be sought, the status of any negotiations with respect to the acquisition, and a brief description of such business shall be included. Where, however, pro forma financial statements reflecting such acquisition are not required by §§ 210.1–01 through 210.13–02 (Regulation S–X) of this chapter, including § 210.8–05 (Rule 8–05 of Regulation S–X) of this chapter for smaller reporting companies, to be included in the registration statement, the possible terms of any transaction, the identification of the parties thereto or the nature of the business sought need not be disclosed, to the extent that the registrant reasonably determines that public disclosure of such information would jeopardize the acquisition. Where Regulation S–X, including § 210.8–04 (Rule 8–04 of Regulation S–X) of this chapter for smaller reporting companies, as applicable, would require financial statements of the business to be acquired to be included, the description of the business to be acquired shall be more detailed.

* * * * *

■ 10. Amend § 229.601 by:

■ a. In the exhibit table in paragraph (a), adding entry 22; and

■ b. Adding paragraph (b)(22).

The revisions read as follows:

§ 229.601 (Item 601) Exhibits.

(a) * * *

EXHIBIT TABLE

	Securities Act forms										Exchange Act forms					
	S–1	S–3	SF–1	SF–3	S–4 [1]	S–8	S–11	F–1	F–3	F–4 [1]	10	8–K [2]	10–D	10–Q	10–K	ABS–EE
* *			*		*			*		*		*				
(22) Subsidiary guarantors and issuers of guaranteed securities and affiliates whose securities collateralize securities of the registrant	X	X	X	X	X	.....	X	X	X	X	X	.....	.....	X	X	.....
* *			*		*			*		*		*				

[1] An exhibit need not be provided about a company if: (1) With respect to such company an election has been made under Form S–4 or F–4 to provide information about such company at a level prescribed by Form S–3 or F–3; and (2) the form, the level of which has been elected under Form S–4 or F–4, would not require such company to provide such exhibit if it were registering a primary offering.

[2] A Form 8–K exhibit is required only if relevant to the subject matter reported on the Form 8–K report. For example, if the Form 8–K pertains to the departure of a director, only the exhibit described in paragraph (b)(17) of this section need be filed. A required exhibit may be incorporated by reference from a previous filing.

* * * * *

(b) * * *

(22) *Subsidiary guarantors and issuers of guaranteed securities and affiliates whose securities collateralize securities of the registrant.* List each of the entities in paragraphs (b)(22)(i) and (ii) of this section under an appropriately captioned heading that identifies the associated securities. An entity need not be listed more than once so long as its role as issuer, co-issuer, or guarantor of a guaranteed security and/or as affiliate whose security is pledged as collateral for a registrant's security is clearly indicated with respect to each applicable security:

(i) For a registrant that is the parent company (as that term is defined in § 210.3–10(b)(1) of this chapter) and subject to § 210.13–01 of this chapter, each of the registrant's subsidiaries that is a guarantor, issuer, or co-issuer of the guaranteed security subject to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, or the offer and sale of which is being registered under the Securities Act of 1933; and

(ii) For a registrant that is subject to § 210.13–02 of this chapter, each of the registrant's affiliates whose security is pledged as collateral for the registrant's security subject to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934, or the offer and sale of which is being registered under the Securities Act of 1933. For each affiliate, also identify the security or securities pledged as collateral.

* * * * *

■ 11. Amend § 229.1100 by revising paragraphs (c)(2)(ii)(C), (D), and (F) to read as follows:

§ 229.1100 (Item 1100) General.

* * * * *

(c) * * *

(2) * * *

(ii) * * *

(C) If the third party does not meet the conditions of paragraph (c)(2)(ii)(A) or (B) of this section and the pool assets relating to the third party are fully and unconditionally guaranteed by a direct or indirect parent of the third party, General Instruction I.C.3 of the form described in § 239.13 (Form S–3) of this chapter or General Instruction I.A.5(iii) of the form described in § 239.33 (Form F–3) of this chapter is met with respect to the pool assets relating to such third party and the disclosures specified in § 210.13–01 (Rule 13–01 of Regulation S–X) of this chapter have been provided in the reports to be referenced. Financial statements of the third party may be omitted if the requirements of § 210.3–10 (Rule 3–10 of Regulation S–X) of this chapter are satisfied.

(D) If the pool assets relating to the third party are guaranteed by a wholly owned subsidiary of the third party and the subsidiary does not meet the conditions of paragraph (c)(2)(ii)(A) or (B) of this section, the criteria in either paragraph (c)(2)(ii)(A) or (B) of this section are met with respect to the third party and the disclosures specified in Rule 13–01 of Regulation S–X have been provided in the reports to be referenced. Financial statements of the subsidiary guarantor may be omitted if the requirements of Rule 3–10 of Regulation S–X are satisfied.

* * * * *

(F) The third party is a U.S. Government-sponsored enterprise, has outstanding securities held by non-affiliates with an aggregate market value of $75 million or more, and makes information publicly available on an annual and quarterly basis, including audited financial statements prepared in accordance with generally accepted accounting principles covering the same periods that would be required for audited financial statements under §§ 210.1–01 through 210.13–02 (Regulation S–X) of this chapter and non-financial information consistent with that required by this part (Regulation S–K).

* * * * *

■ 12. Amend § 229.1112 by revising paragraph (b)(2) to read as follows:

§ 229.1112 (Item 1112) Significant obligors of pool assets.

* * * * *

(b) * * *

(2) If pool assets relating to a significant obligor represent 20% or more of the asset pool, provide financial statements meeting the requirements of §§ 210.1–01 through 210.13–02 (Regulation S–X) of this chapter, except §§ 210.3–05 (Rule 3–05) and 210.11–01 through 210.11–03 (Article 11 of Regulation S–X) of this chapter, of the significant obligor. Financial statements of such obligor and its subsidiaries consolidated (as required by § 240.14a–3(b) of this chapter) shall be filed under this item.

* * * * *

■ 13. Amend § 229.1114 by revising paragraph (b)(2)(ii) to read as follows:

§ 229.1114 (Item 1114) Credit enhancement and other support, except for certain derivatives instruments.

* * * * *

(b) * * *

(2) * * *

(ii) If any entity or group of affiliated entities providing enhancement or other support described in paragraph (a) of this section is liable or contingently liable to provide payments representing 20% or more of the cash flow supporting any offered class of the asset-backed securities, provide financial statements meeting the requirements of §§ 210.1–01 through 210.13–02 (Regulation S–X) of this chapter, except §§ 210.3–05 (Rule 3–05) and 210.11–01 through 210.11–03 (Article 11 of Regulation S–X) of this chapter, of such entity or group of affiliated entities. Financial statements of such enhancement provider and its subsidiaries consolidated (as required by § 240.14a–3(b) of this chapter) shall be filed under this item.

* * * * *

■ 14. Amend § 229.1115 by revising paragraph (b)(2) to read as follows:

§ 229.1115 (Item 1115) Certain derivatives instruments.

* * * * *

(b) * * *

(2) If the aggregate significance percentage related to any entity or group of affiliated entities providing derivative instruments contemplated by this section is 20% or more, provide financial statements meeting the requirements of §§ 210.1–01 through 210.13–02 (Regulation S–X) of this chapter, except §§ 210.3–05 (Rule 3–05) and 210.11–01 through 210.11–03 (Article 11 of Regulation S–X) of this chapter, of such entity or group of affiliated entities. Financial statements of such entity and its subsidiaries consolidated (as required by § 240.14a–3(b) of this chapter) shall be filed under this section.

* * * * *

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

■ 15. The general authority citation for part 230 continues to read as follows:

Authority: 15 U.S.C. 77b, 77b note, 77c, 77d, 77f, 77g, 77h, 77j, 77r, 77s, 77z–3, 77sss, 78c, 78d, 78j, 78*l*, 78m, 78n, 78*o*, 78*o*–7 note, 78t, 78w, 78*ll*(d), 78mm, 80a–8, 80a–24, 80a–28, 80a–29, 80a–30, and 80a–37, and Pub. L.

112–106, sec. 201(a), sec. 401, 126 Stat. 313 (2012), unless otherwise noted.

* * * * *

■ 16. Amend § 230.257 by adding paragraph (b)(7) to read as follows:

§ 230.257 Periodic and current reporting; exit report.

* * * * *

(b) * * *

(7) *Exemption for subsidiary issuers of guaranteed securities and subsidiary guarantors.* Any issuer of a guaranteed security, or guarantor of a security, that is permitted to omit financial statements by Item (b)(7)(i) of Part F/S of Form 1–A (referenced in § 239.90), Item 7(g)(1) of Part II of Form 1–K (referenced in § 239.91), and Item 3(e) of Form 1–SA (referenced in § 239.92), is exempt from the requirements of this paragraph (b).

* * * * *

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

■ 17. The general authority citation for part 239 continues to read as follows:

Authority: 15 U.S.C. 77c, 77f, 77g, 77h, 77j, 77s, 77z–2, 77z–3, 77sss, 78c, 78*l,* 78m,78n, 78o(d), 78o–7 note, 78u–5, 78w(a), 78ll, 78mm, 80a–2(a), 80a–3, 80a–8, 80a–9, 80a–10, 80a–13, 80a–24, 80a–26, 80a–29, 80a–30, and 80a–37; and sec. 107, Pub. L. 112–106, 126 Stat. 312, unless otherwise noted.

* * * * *

■ 18. Amend § 239.31 by revising paragraph (b) to read as follows:

§ 239.31 Form F–1, registration statement under the Securities Act of 1933 for securities of certain foreign private issuers.

* * * * *

(b) If a registrant is a majority-owned subsidiary, which does not itself meet the conditions of these eligibility requirements, it shall nevertheless be deemed to have met such conditions if its parent meets the conditions and if the parent fully guarantees the securities being registered as to principal and interest. In such an instance the parent-guarantor is the issuer of a separate security consisting of the guarantee which must be concurrently registered but may be registered on the same registration statement as are the guaranteed securities. Both the parent-guarantor and the subsidiary shall each disclose the information required by this Form as if each were the only registrant except that if the subsidiary will not be eligible to file annual reports on the form described in § 249.229f (Form 20–F) of this chapter after the effective date of the registration statement, then it shall disclose the information specified in the form described in § 239.11 (Form S–1) of this chapter. The requirements of § 210.3–10 (Rule 3–10 of Regulation S–X) of this chapter are applicable to financial statements for a subsidiary of a parent company that issues securities guaranteed by the parent company.

■ 19. Amend Form F–1 (referenced in § 239.31) by revising Instruction I.B. under ''General Instructions'' to read as follows:

Note: The text of Form F–1 does not, and this amendment will not, appear in the Code of Federal Regulations.

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, DC 20549

FORM F–1

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

* * * * *

GENERAL INSTRUCTIONS

I. Eligibility Requirements for Use of Form F–1

* * * * *

B. If a registrant is a majority-owned subsidiary, which does not itself meet the conditions of these eligibility requirements, it shall nevertheless be deemed to have met such conditions if its parent meets the conditions and if the parent fully guarantees the securities being registered as to principal and interest. Note: In such an instance the parent-guarantor is the issuer of a separate security consisting of the guarantee which must be concurrently registered but may be registered on the same registration statement as are the guaranteed securities. Both the parent-guarantor and the subsidiary shall each disclose the information required by this Form as if each were the only registrant except that if the subsidiary will not be eligible to file annual reports on Form 20–F after the effective date of the registration statement, then it shall disclose the information specified in Forms S–1 (§ 239.11 of this chapter). The requirements of Rule 3–10 of Regulation S–X (§ 210.3–10 of this chapter) are applicable to financial statements for a subsidiary of a parent company that issues securities guaranteed by the parent company.

* * * * *

■ 20. Amend § 239.33 by designating the Note to paragraph (a)(5) as Note 1 to paragraph (a)(5) and revising newly designated Note 1 to paragraph (a)(5) to read as follows:

§ 239.33 Form F–3, for registration under the Securities Act of 1933 of securities of certain foreign private issuers offered pursuant to certain types of transactions.

* * * * *

Note 1 to paragraph (a)(5): In the situations described in paragraphs (a)(5)(iii) through (v) of this section, the parent or majority-owned subsidiary guarantor is the issuer of a separate security consisting of the guarantee, which must be concurrently registered, but may be registered on the same registration statement as are the guaranteed non-convertible securities. Both the parent and majority-owned subsidiary shall each disclose the information required by this Form as if each were the only registrant except that if the majority-owned subsidiary will not be eligible to file annual reports on the forms described in § 249.220f (Form 20–F) or § 249.240f (Form 40–F) of this chapter after the effective date of the registration statement, then it shall disclose the information specified in the form described in § 239.13 (Form S–3) of this chapter. The requirements of § 210.3–10 (Rule 3–10 of Regulation S–X) of this chapter are applicable to financial statements of a subsidiary of a parent company that issues securities guaranteed by the parent company or guarantees securities issued by the parent company.

* * * * *

■ 21. Amend Form F–3 (referenced in § 239.33) by designating the Note to Instruction I.A.5. under ''General Instructions'' as Note 1 and revising newly designated Note 1 to read as follows:

Note: The text of Form F–3 does not, and this amendment will not, appear in the Code of Federal Regulations.

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, DC 20549

FORM F–3

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

* * * * *

GENERAL INSTRUCTIONS

* * * * *

I. Eligibility Requirements for Use of Form F–3

* * * * *

A. Registration Requirements

* * * * *

5. Majority-owned Subsidiaries. If a registrant is a majority-owned

subsidiary, security offerings may be registered on this Form if:

* * * * *

Note 1: In the situation described in paragraphs I.A.5(iii) through (v) above, the parent or majority-owned subsidiary guarantor is the issuer of a separate security consisting of the guarantee, which must be concurrently registered, but may be registered on the same registration statement as are the guaranteed non-convertible securities. Both the parent or majority-owned subsidiary shall each disclose the information required by this Form as if each were the only registrant except that if the majority-owned subsidiary will not be eligible to file annual reports on Form 20–F or Form 40–F after the effective date of the registration statement, then it shall disclose the information specified in Form S–3. The requirements of Rule 3–10 of Regulation S–X are applicable to financial statements for a subsidiary of a parent company that issues securities guaranteed by the parent company or guarantees securities issued by the parent company.

* * * * *

■ 22. Amend Form 1–A (referenced in § 239.90) by:

■ a. Revising paragraph (b)(7) of Part F/S; and

■ b. Revising Item 17 of Part III.

The revisions to read as follows:

Note: The text of Form 1–A does not, and this amendment will not, appear in the Code of Federal Regulations.

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, DC 20549

FORM 1–A

REGULATION A OFFERING STATEMENT UNDER THE SECURITIES ACT OF 1933

* * * * *

Part F/S

* * * * *

(b) Financial Statements for Tier 1 Offerings

* * * * *

(7) *Financial Statements of and Disclosures About Other Entities.* The circumstances described below may require you to file financial statements of, or provide disclosures about, other entities in the offering statement. The financial statements of other entities must be presented for the same periods as if the other entity was the issuer as described above in paragraphs (b)(3) and (b)(4) unless a shorter period is specified by the rules below. The financial statements of other entities shall follow the same audit requirement as paragraph (b)(2) of this Part F/S:

(i) *Financial Statements of and Disclosures About Guarantors and Issuers of Guaranteed Securities.* The requirements of Rule 3–10 of Regulation S–X are applicable to financial statements of a subsidiary that issues securities guaranteed by the parent company or guarantees securities issued by the parent company. However, the reference in Rule 3–10(a) of Regulation S–X to ''an issuer or guarantor of a guaranteed security that is registered or being registered is required to file financial statements required by Regulation S–X with respect to the guarantee or guaranteed security'' instead refers to ''an issuer or guarantor of a guaranteed security that is qualified or being qualified pursuant to Regulation A is required to file financial statements required by Part F/S of Form 1–A with respect to the guarantee or guaranteed security.'' The definition of ''parent company'' is the same as in Rule 3–10(b)(1) of Regulation S–X, except that Rule 3–10(b)(1)(ii) instead reads as follows: ''Is, or as a result of the subject offering statement will be, required to file reports with the Commission pursuant to Rule 257(b) of Regulation A (§§ 230.251–230.263), or is an Exchange Act reporting company.'' The parent company must also provide the disclosures required by Rule 13–01 of Regulation S–X. The parent company may elect to provide these disclosures in a footnote to its consolidated financial statements or alternatively, in management's discussion and analysis of financial condition and results of operations described in Item 9 of Form 1–A in its offering statement on Form 1–A filed in connection with the offer and sale of the subject securities.

(ii) *Financial Statements of and Disclosures About Affiliates Whose Securities Collateralize an Issuance.* The requirements of Rules 3–16 or 13–02 of Regulation S–X are applicable if an issuer's securities that are qualified or being qualified pursuant to Regulation A are collateralized by the securities of the issuer's affiliates. Rule 13–02 of Regulation S–X must be followed unless Rule 3–16 of Regulation S–X applies. The issuer may elect to provide the disclosures specified in Rule 13–02 of Regulation S–X in a footnote to its consolidated financial statements or alternatively, in management's discussion and analysis of financial condition and results of operations described in Item 9 of Form 1–A in its offering statement on Form 1–A filed in connection with the offer and sale of the subject securities.

* * * * *

Item 17. Description of Exhibits

As appropriate, the following documents must be filed as exhibits to the offering statement.

* * * * *

17. *Subsidiary guarantors and issuers of guaranteed securities and affiliates whose securities collateralize securities of the issuer.* List each of the entities in paragraphs (a) and (b) below under an appropriately captioned heading that identifies the associated securities. An entity need not be listed more than once so long as its role as issuer, co-issuer, or guarantor of a guaranteed security and/or as affiliate whose security is pledged as collateral for an issuer's security is clearly indicated with respect to each applicable security:

(a) For an issuer that is the parent company (as that term is defined in paragraph (b)(7(i) of Part F/S) and subject to § 210.13–01 as described in paragraph (b)(7)(i) of Part F/S, each of the issuer's subsidiaries that is a guarantor, issuer, or co-issuer of the guaranteed security for which the issuer is required to file reports with the Commission pursuant to Rule 257(b) of Regulation A, or is an Exchange Act reporting company subject to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934, or the offer and sale of which is qualified or being qualified pursuant to Regulation A; and

(b) For an issuer that is subject to § 210.13–02 as described in paragraph (b)(7)(i) of Part F/S, each of the issuer's affiliates whose security is pledged as collateral for the issuer's security for which the issuer is required to file reports with the Commission pursuant to Rule 257(b) of Regulation A, or is an Exchange Act reporting company subject to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934, or the offer and sale of which is qualified or being qualified pursuant to Regulation A. For each affiliate, also identify the security or securities pledged as collateral.

* * * * *

■ 23. Amend Form 1–K (referenced in § 239.91) by revising paragraph Item 7(g) of Part II to read as follows:

Note: The text of Form 1–K does not, and this amendment will not, appear in the Code of Federal Regulations.

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, DC 20549

FORM 1–K

* * * * *

PART II

* * * * *

Item 7. Financial Statements

* * * * *

(g) *Financial Statements of and Disclosures About Other Entities.* The circumstances described below may require you to file financial statements of, or provide disclosures about, other entities. The financial statements of other entities must be presented for the same periods as the issuer's financial statements described above in paragraphs (d) and (e) unless a shorter period is specified by the rules below.

(1) *Financial Statements of and Disclosures About Guarantors and Issuers of Guaranteed Securities.* The requirements of Rule 3–10 of Regulation S–X are applicable to financial statements of a subsidiary that issues securities guaranteed by the parent company or guarantees securities issued by the parent company. However, the reference in Rule 3–10(a) of Regulation S–X to ''an issuer or guarantor of a guaranteed security that is registered or being registered is required to file financial statements required by Regulation S–X with respect to the guarantee or guaranteed security'' instead refers to ''an issuer or guarantor of a guaranteed security that is qualified or being qualified pursuant to Regulation A is required to file financial statements required by Item 7 of Part II of Form 1–K with respect to the guarantee or guaranteed security.'' The definition of ''parent company'' is the same as in Rule 3–10(b)(1) of Regulation S–X, except that Rule 3–10(b)(1)(ii) instead reads as follows: ''Is, or as a result of the subject offering statement will be, required to file reports with the Commission pursuant to Rule 257(b) of Regulation A (§§ 230.251–230.263), or is an Exchange Act reporting company.'' The parent company must also provide the disclosures required by Rule 13–01 of Regulation S–X. The parent company may elect to provide these disclosures in a footnote to its consolidated financial statements or alternatively, in management's discussion and analysis of financial condition and results of operations described in Item 2 of Part II of Form 1–K.

(2) *Financial Statements of and Disclosures About Affiliates Whose Securities Collateralize an Issuance.* The requirements of Rules 3–16 or 13–02 of Regulation S–X are applicable if an issuer's securities that are qualified or being qualified pursuant to Regulation A are collateralized by the securities of the issuer's affiliates. Rule 13–02 of Regulation S–X must be followed unless Rule 3–16 of Regulation S–X applies. The issuer may elect to provide the disclosures specified in Rule 13–02 of Regulation S–X in a footnote to its consolidated financial statements or alternatively, in management's discussion and analysis of financial condition and results of operations described in Item 2 of Part II of Form 1–K.

* * * * *

■ 24. Amend Form 1–SA (referenced in § 239.92) by revising Item 3(e) to read as follows:

Note: The text of Form 1–SA does not, and this amendment will not, appear in the Code of Federal Regulations.

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, DC 20549

FORM 1–SA

* * * * *

INFORMATION TO BE INCLUDED IN REPORT

* * * * *

Item 3. Financial Statements

* * * * *

(e) Financial Statements of and Disclosures About Other Entities. The circumstances described below may require you to file financial statements of, or provide disclosures about, other entities. These financial statements and disclosures may be unaudited.

(1) Financial Statements of and Disclosures About Guarantors and Issuers of Guaranteed Securities. The requirements of Rule 3–10 of Regulation S–X are applicable to financial statements of a subsidiary that issues securities guaranteed by the parent company or guarantees securities issued by the parent company. However, the reference in Rule 3–10(a) of Regulation S–X to ''an issuer or guarantor of a guaranteed security that is registered or being registered is required to file financial statements required by Regulation S–X with respect to the guarantee or guaranteed security'' instead refers to ''an issuer or guarantor of a guaranteed security that is qualified or being qualified pursuant to Regulation A is required to file financial statements required by Item 3 of Form 1–SA with respect to the guarantee or guaranteed security.'' The definition of ''parent company'' is the same as in Rule 3–10(b)(1) of Regulation S–X, except that Rule 3–10(b)(1)(ii) instead reads as follows: ''Is, or as a result of the subject offering statement will be, required to file reports with the Commission pursuant to Rule 257(b) of Regulation A (§§ 230.251–230.263), or is an Exchange Act reporting company.'' The parent company must also provide the disclosures required by Rule 13–01 of Regulation S–X. The parent company may elect to provide these disclosures in a footnote to its consolidated financial statements or alternatively, in management's discussion and analysis of financial condition and results of operations described in Item 1 of Form 1–SA.

(2) Disclosures About Affiliates Whose Securities Collateralize an Issuance. Disclosures about an issuer's affiliates whose securities collateralize any class of securities being offered must be provided as required by Rule 13–02 of Regulation S–X. The issuer may elect to provide these disclosures in a footnote to its consolidated financial statements or alternatively, in management's discussion and analysis of financial condition and results of operations described in Item 1 of Form 1–SA.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

■ 25. The general authority citation for part 240 continues to read as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78c–3, 78c–5, 78d, 78e, 78f, 78g, 78i, 78j, 78j–1, 78k, 78k–1, 78*l,* 78m, 78n, 78n–1, 78*o,* 78*o*–4, 78*o*–10, 78p, 78q, 78q–1, 78s, 78u–5, 78w, 78x, 78dd, 78*ll,* 78mm, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4, 80b–11, and 7201 *et seq.;* and 8302; 7 U.S.C. 2(c)(2)(E); 12 U.S.C. 5221(e)(3); 18 U.S.C. 1350; Pub. L. 111–203, 939A, 124 Stat. 1376 (2010); and Pub. L. 112–106, secs. 503 and 602, 126 Stat. 326 (2012), unless otherwise noted.

* * * * *

■ 26. Revise § 240.12h–5 to read as follows:

§ 240.12h–5 Exemption for subsidiary issuers of guaranteed securities and subsidiary guarantors.

Any issuer of a guaranteed security, or guarantor of a security, that is permitted to omit financial statements by § 210.3–10 (Rule 3–10 of Regulation S–X) of this chapter is exempt from the requirements of 15 U.S.C. 78m(a) (Section 13(a) of the Act) or 78o(d) (Section 15(d) of the Act).

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

■ 27. The authority citation for part 249 continues to read, in part, as follows:

Authority: 15 U.S.C. 78a *et seq.* and 7201 *et seq.;* 12 U.S.C. 5461 *et seq.;* 18 U.S.C. 1350; Sec. 953(b), Pub. L. 111–203, 124 Stat. 1904; Sec. 102(a)(3), Pub. L. 112–106, 126 Stat. 309 (2012); Sec. 107, Pub. L. 112–106, 126 Stat. 313 (2012), and Sec. 72001, Pub. L. 114–94,

129 Stat. 1312 (2015), unless otherwise noted.

* * * * *

■ 28. Amend Form 20–F (referenced in § 249.220f) by:

■ a. Revising Instruction 1 to Item 8;

■ b. Revising Instruction 17 to the ''Instructions as to Exhibits''; and

■ c. Reserving Instructions 18 through 100 under ''Instructions as to Exhibits''.

The revisions read as follows:

Note: The text of Form 20–F does not, and this amendment will not, appear in the Code of Federal Regulations.

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, DC 20549

FORM 20–F

* * * * *

Item 8. Financial Information

* * * * *

Instructions to Item 8:

1. This item refers to the company, but note that under Rules 3–05, 3–09, 3–10, 3–14, 3–16, 13–01, and 13–02 of Regulation S–X, you also may have to provide financial statements or financial information for entities other than the issuer. In some cases, you may have to provide financial statements for a predecessor. See the definition of ''predecessor'' in Exchange Act Rule 12b–2 and Securities Act Rule 405.

* * * * *

Item 19. Exhibits.

* * * * *

INSTRUCTIONS AS TO EXHIBITS

* * * * *

17. Subsidiary guarantors and issuers of guaranteed securities and affiliates whose securities collateralize securities of the registrant. List each of the entities in paragraphs (a) and (b) below under an appropriately captioned heading that identifies the associated securities. An entity need not be listed more than once so long as its role as issuer, co-issuer, or guarantor of a guaranteed security and/or as affiliate whose security is pledged as collateral for a registrant's security is clearly indicated with respect to each applicable security:

(a) For a registrant that is the parent company (as that term is defined in § 210.3–10(b)(1)) and subject to § 210.13–01, each of the registrant's subsidiaries that is a guarantor, issuer, or co-issuer of the guaranteed security subject to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, or the offer and sale of which is being registered under the Securities Act of 1933; and

(b) For a registrant that is subject to § 210.13–02, each of the registrant's affiliates whose security is pledged as collateral for the registrant's security subject to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934, or the offer and sale of which is being registered under the Securities Act of 1933. For each affiliate, also identify the security or securities pledged as collateral.

18 through 100 [Reserved]

* * * * *

By the Commission.

Dated: March 2, 2020.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2020–04776 Filed 4–17–20; 8:45 am]

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