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Presidential Documents

Title 3—

The President

Proclamation 10034 of May 15, 2020

Armed Forces Day, 2020

By the President of the United States of America

A Proclamation

In times of war and peace alike, on land, at sea, in the skies, in cyberspace, and beyond the Earth's atmosphere, the men and women of our Nation's Armed Forces serve with honor and distinction and stand ready to selflessly defend our Nation. On Armed Forces Day, we pay tribute to these patriots, whose work enables our country to shine always as a beacon of freedom and hope for the world.

Throughout our Nation's history, our Armed Forces have protected our country, our liberty, and our founding principles. Earlier this month, we marked the 75th anniversary of Victory in Europe Day, when United States and Allied forces liberated Europe and North Africa from tyranny and oppression. The courageous actions of these heroes will stand always as monuments to the very best of our Nation. Today, many of our service members have been called into action on the home front to aid in our fight against a new type of enemy—the coronavirus. Our Guardsmen, engineers, logisticians, and medical service members have provided critical lifesaving treatment, protective equipment, facilities, and other vital services and provisions quickly and efficiently to those in need. In March, I was honored as Commander in Chief to salute those aboard the USNS Comfort as these heroes set sail from the shores of Norfolk, Virginia, to bring aid and comfort to people in need of care in New York, New Jersey, and Connecticut. As they have shown throughout this crisis, working to ease the burdens on healthcare workers and first responders, our Armed Forces can adapt to any challenge and succeed in any mission.

My Administration will always remain committed to ensuring our Nation has the strongest and most advanced military in the world. We owe it to our warriors to ensure that we provide them with the necessary training and equipment to meet current and future challenges. Since I took office, we have invested a historic $2.2 trillion in the United States military, purchasing the finest American-made planes, missiles, rockets, ships, and other pieces of military equipment. Additionally, last year, I was proud to sign into law legislation that provided a 3.1 percent pay raise for our troops—the largest pay raise for our military men and women in a decade—in recognition of their unparalleled duty, honor, courage, and commitment.

This year, we also celebrate the historic creation of the United States Space Force, the first new military branch since the establishment of the United States Air Force more than 70 years ago. We recognize that to combat the evolving threats of a 21st-century world, we must look to the newest warfighting domain and address malign activities in space. America's leadership in space is unparalleled, and with the addition of the United States Space Force, we are now even better positioned to meet the evolving threats in this emerging frontier of technology, exploration, and discovery. Approximately 16,000 military and civilian personnel have already been assigned to the Space Force, embarking on their mission to organize, train, and equip these new fighters responsible for protecting the United States and allied interests in the vast domain of space.

Today, and every day, we reaffirm our unwavering support for the millions of American patriots who fill the ranks of our Armed Forces. We are eternally grateful for every Soldier, Sailor, Airman, Marine, Coast Guardsman, and member of the Space Force, and we deeply appreciate the sacrifices their families and loved ones make on our behalf. As one Nation, we pledge to always honor this service and this devotion given to our great country.

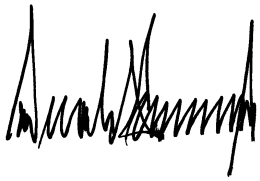
NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, and Commander in Chief of the Armed Forces of the United States, continuing the tradition of my predecessors in office, do hereby proclaim the third Saturday of each May as Armed Forces Day.

I invite the Governors of the States and Territories and other areas subject to the jurisdiction of the United States, to provide for the observance of Armed Forces Day within their jurisdiction each year in an appropriate manner designed to increase public understanding and appreciation of the Armed Forces of the United States. I also invite veterans, civic, and other organizations to join in the observance of Armed Forces Day each year.

Finally, I call upon all Americans to display the flag of the United States at their homes and businesses on Armed Forces Day, and I urge citizens to learn more about military service by attending and participating in the local observances of the day.

Proclamation 9892 of May 17, 2019, is hereby superseded.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of May, in the year of our Lord two thousand twenty, and of the Independence of the United States of America the two hundred and forty-fourth.



[FR Doc. 2020–10992
Filed 5–19–20; 8:45 am]
Billing code 3295–F0–P

Presidential Documents

Executive Order 13923 of May 15, 2020

Establishment of the Forced Labor Enforcement Task Force Under Section 741 of the United States-Mexico-Canada Agreement Implementation Act

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, and section 741 of the United States-Mexico-Canada Agreement Implementation Act (Act) (Public Law 116–113), it is hereby ordered as follows:

Section 1. *Establishment of Forced Labor Enforcement Task Force.* The Forced Labor Enforcement Task Force (Task Force) is hereby established to monitor United States enforcement of the prohibition under section 307 of the Tariff Act of 1930 (19 U.S.C. 1307).

Sec. 2. *Membership.* The Task Force shall be chaired by the Secretary of Homeland Security and shall be composed of representatives from the Department of State, the Department of the Treasury, the Department of Justice, the Department of Labor, and the Office of the United States Trade Representative. The Chair may invite representatives from other executive departments or agencies, as appropriate, to participate as members or observers. Members of the Task Force may designate an officer of the United States within their respective executive department or agency to serve as their representative on the Task Force. Each executive department or agency represented on the Task Force shall ensure that the necessary staff are available to assist their respective representatives in performing the responsibilities of the Task Force.

Sec. 3. *Task Force Decision-making.* The Task Force shall endeavor to make any decision on an action under sections 742 through 744 of the Act by consensus, which shall be deemed to exist where no Task Force member objects to the proposed action. If the Task Force is unable to reach a consensus on a proposed action, and the Chair determines that allotting further time will cause a decision to be unduly delayed, the Task Force shall decide the matter by majority vote of its members. The Chair, in addition to voting, may also break any tie vote.

Sec. 4. *Funding.* Each executive department and agency shall bear its own expenses incurred in connection with the Task Force's functions described in sections 741 through 744 of the Act.

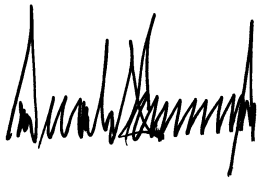
Sec. 5. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

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

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

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

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



THE WHITE HOUSE,
May 15, 2020.

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Rules and Regulations

Federal Register
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Wednesday, May 20, 2020

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0454; Product Identifier 2019–SW–113–AD; Amendment 39–19911; AD 2020–09–15]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus Helicopters Model AS332C, AS332C1, AS332L, and AS332L1 helicopters. This AD was prompted by a report of vibrations around the 12Hz frequency due to the specific helicopter configuration. This AD requires removing the removable parts of the dual hoist installation or removing the de-icing system. This AD also allows, for certain helicopters, revising the Rotorcraft Flight Manual (RFM) for your helicopter and installing a placard as an optional method of compliance. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD becomes effective May 20, 2020.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of May 20, 2020.

The FAA must receive comments on this AD by July 6, 2020.

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

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

For service information identified in this final rule, contact Airbus Helicopters, 2701 N Forum Drive, Grand Prairie, TX 75052; telephone 972–641–0000 or 800–232–0323; fax 972–641–3775; or at *https://www.airbus.com/helicopters/services/technical-support.html*. You may view this 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–2020–0454.

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–2020–0454; 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 (EASA) AD, any service information that is incorporated by reference, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Kathleen Arrigotti, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3218; email *Kathleen.Arrigotti@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2018–0142R1, dated December 9, 2019 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus Helicopters Model AS332C, AS332C1, AS332L, and AS332L1 helicopters. EASA advises that during the first flight of an Airbus Helicopters Model AS332L helicopter after a retrofit that re-installed the de-icing system, vibrations around the 12Hz frequency were observed. Subsequent flight tests and analysis determined that this vibration is due the specific helicopter configuration. Factors that contributed to the vibration included simultaneous installation of riveted main frames X3855 and X5295 (pre-Airbus Helicopter modification 0722907), additional weight created by parts of the rotor de-icing system on the main rotor head (the distributor and de-icing harnesses), and removable parts (hoist arm and hoists) of the dual hoist installation. EASA advises that this condition, if not corrected, could generate divergent aeromechanic coupling between the helicopter structure and the rotor, possibly resulting in mechanical failure of structural parts and loss of control of the helicopter.

EASA issued Emergency AD 2018–0142–E, dated July 6, 2018, for certain Model AS332C, AS332C1, AS332L, and AS332L1 helicopters, which required the removal of removable parts of the dual hoist installation or removal of the de-icing system. Since EASA Emergency AD 2018–0142–E, dated July 6, 2018, was issued, additional flight tests demonstrated that Model AS332L and AS332L1 helicopters do not exhibit the vibration at 12Hz when limiting the operational flight envelope and Vne (never-exceed speed). As a result, EASA advises that revising the RFM for Model AS332L and AS332L1 helicopters to incorporate certain limitations and installing a locally made placard is an optional method of compliance for Model AS332L and AS332L1 helicopters.

You may examine the MCAI in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0454.

Related Service Information Under 1 CFR Part 51

Airbus Helicopters has issued Emergency Alert Service Bulletin AS332 01.00.91, Revision 1, dated December 4, 2019 (AS332 01.00.91 Rev 1). This service information describes procedures for removing parts of the

dual hoist installation or removing the de-icing system.

Airbus Helicopters has also issued Emergency Alert Service Bulletin AS332 01.00.96, Revision 0, dated December 4, 2019. This service information describes procedures for amending the RFM of Model AS332L and AS332L1 helicopters to limit the flight envelope and the Vne and installing a placard. This service information also describes procedures for removing parts of the dual hoist installation or removing the de-icing system.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Other Related Service Information

Airbus Helicopters issued Emergency Alert Service Bulletin AS332 01.00.91, Revision 0, dated July 3, 2018 (AS332 01.00.91 Rev 0). AS332 01.00.91 Rev 0 contains the same procedures as AS332 01.00.91 Rev 1; however, AS332 01.00.91 Rev 1 removes Model AS332L and AS332L1 helicopters from the effectivity.

FAA's Determination

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

Requirements of This AD

This AD requires accomplishing the actions specified in the service information described previously.

FAA's Justification for Immediate Adoption and Determination of the Effective Date

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

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because of vibrations around the 12Hz frequency that are due to the specific helicopter configuration, which could generate divergent aeromechanic coupling between the helicopter structure and the rotor, possibly resulting in mechanical failure of structural parts and loss of control of the helicopter. The FAA determined a compliance time of 7 days is required to correct the unsafe condition. This compliance time is shorter than the time necessary for the public to comment and for publication of the final rule.

Accordingly, notice and opportunity for prior public comment are impracticable 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.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and was not preceded by notice and opportunity for public comment. However, the FAA invites you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2020–0454; Product Identifier 2019–SW–113–AD'' at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this AD. The FAA will consider all comments received by the closing date and may amend this AD based on those comments.

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

Interim Action

The FAA considers this AD interim action. If final action is later identified, the FAA might consider further rulemaking then.

Regulatory Flexibility Act (RFA)

The requirements of the 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

The FAA estimates that this AD affects 12 helicopters 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
Up to 12 work-hours × $85 per hour = Up to $1,020	$0	Up to $1,020	Up to $12,240.

ESTIMATED COSTS FOR OPTIONAL ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
7 work-hours × $85 per hour = $595	Negligible	$595	$7,140

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed 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):

2020–09–15 Airbus Helicopters: Amendment 39–19911; Docket No. FAA–2020–0454; Product Identifier 2019–SW–113–AD.

(a) Effective Date

This AD becomes effective May 20, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Helicopters Model AS332C, AS332C1, AS332L, and AS332L1 helicopters, certificated in any category, equipped with a dual hoist installation and de-icing system, except those that have Airbus Helicopters modification 0722907 installed in production.

(d) Subject

Joint Aircraft Service Component (JASC) Code 2500, Cabin Equipment/Furnishings; 3000, Ice/Rain Protection System; 5300, Fuselage Structure (General).

(e) Reason

This AD was prompted by a report of vibrations around the 12Hz frequency due to the specific helicopter configuration. The FAA is issuing this AD to address this condition, which could generate divergent aeromechanic coupling between the helicopter structure and the rotor, possibly resulting in mechanical failure of structural parts and loss of control of the helicopter.

(f) Compliance

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

(g) Required Actions

Within 7 days after the effective date of this AD: Remove the removable parts of the dual hoist installation or remove the de-icing system in accordance with the instructions of section 3.B of Airbus Helicopters Emergency Alert Service Bulletin AS332 01.00.91, Revision 1, dated December 4, 2019, or Section 3.B.2 of Airbus Helicopters Emergency Alert Service Bulletin AS332 01.00.96, Revision 0, dated December 4, 2019, as applicable to your helicopter, except you are not required to contact Airbus Helicopters.

(h) Optional Method of Compliance

For Airbus Helicopter Model AS332L or AS332L1 helicopters: Revising the Rotorcraft Flight Manual for your helicopter by inserting the information specified in Appendix 4A, 4B, or 4C of Airbus Helicopters Emergency Alert Service Bulletin AS332 01–00.96, Revision 0, dated December 4, 2019, as applicable to your helicopter model and configuration, and installing a locally made placard on the instrument panel, in accordance with the instructions of section 3.B.1 of Airbus Helicopters Emergency Alert Service Bulletin AS332 01–00.96, Revision 0, dated December 4, 2019, is an acceptable method for compliance with the requirements of paragraph (g) of this AD.

(i) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Airbus Helicopters Emergency Alert Service Bulletin AS332 01.00.91, Revision 0, dated July 3, 2018.

(j) Special Flight Permit

Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the helicopter can be modified as specified in paragraph (g) of this AD, provided the Rotorcraft Flight Manual revisions and the locally made placard specified in paragraph (h) of this AD are in place.

(k) 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: Manager, Safety Management 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, 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.

(l) Related Information

(1) The subject of this AD is addressed in the European Union Aviation Safety Agency (EASA) AD 2018–0142R1, dated December 9, 2019. This EASA AD may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0454.

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (m)(3) and (4) of this AD.

(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.

(i) Airbus Helicopters Emergency Alert Service Bulletin AS332 01.00.91, Revision 1, dated December 4, 2019.

(ii) Airbus Helicopters Emergency Alert Service Bulletin AS332 01.00.96, Revision 0, dated December 4, 2019.

(3) For service information identified in this AD, contact Airbus Helicopters, 2701 N Forum Drive, Grand Prairie, TX 75052; telephone 972–641–0000 or 800–232–0323; fax 972–641–3775; or at *https://www.airbus.com/helicopters/services/technical-support.html*.

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

(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 May 13, 2020.

Gaetano A. Sciortino,

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

[FR Doc. 2020–10667 Filed 5–19–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0450; Product Identifier 2020–NM–034–AD; Amendment 39–19907; AD 2020–09–11]

RIN 2120–AA64

Airworthiness Directives; Fokker Services B.V. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is superseding Airworthiness directive (AD) 2017–06–06 and AD 2019–12–10, which applied to all Fokker Services B.V. Model F28 Mark 0070 and 0100 airplanes. Those ADs required revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. This AD requires revising the existing maintenance or inspection program, as applicable, to incorporate additional 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 becomes effective June 4, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 4, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of August 1, 2019 (84 FR 30588, June 27, 2019).

The FAA must receive comments on this AD by July 6, 2020.

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

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

For EASA 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.*

For the Fokker Services B.V. material that was previously incorporated by reference, contact Fokker Services B.V., Technical Services Dept., P.O. Box 1357, 2130 EL Hoofddorp, the Netherlands; telephone +31 (0)88–6280–350; fax +31 (0)88–6280–111; email *technicalservices@fokker.com;* internet *http://www.myfokkerfleet.com.*

You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety 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–2020–0450.

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–2020–0450; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3226; email: *tom.rodriguez@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued AD 2019–12–10, Amendment 39–19665 (84 FR 30588, June 27, 2019) (''AD 2019–12–10''), which applied to all Fokker Services B.V. Model F28 Mark 0070 and 0100 airplanes. AD 2019–12–10 required revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The FAA issued AD 2019–12–10 to address reduced structural integrity of the airplane. AD 2019–12–10 specified that accomplishing the revision required by that AD terminated all requirements of AD 2017–06–06, Amendment 39–18830 (83 FR 8328, February 27, 2018), and the requirements of paragraph (g) of AD 2012–12–07, Amendment 39–17087 (77 FR 37788, June 25, 2012).

Actions Since AD 2019–12–10 Was Issued

Since the FAA issued AD 2019–12–10, the agency has determined that new or more restrictive airworthiness limitations are necessary.

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0024, dated February 13, 2020 (''EASA AD 2020–0024'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Fokker Services B.V. Model F28 Mark 0070 and 0100 airplanes. EASA AD 2020–0024 superseded EASA AD 2018–0159, dated July 25, 2018 (which corresponds to FAA AD 2019–12–10).

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address reduced structural integrity of the airplane. See the MCAI for additional background information.

Related IBR Material Under 1 CFR Part 51

EASA AD 2020–0024 describes new or more restrictive airworthiness limitations for airplane structures and safe life limits.

This AD also requires Fokker Engineering Report SE–623, Fokker 70/100 Airworthiness Limitations Section, Part 2—(Structure ALIs and Safe Life Items), Issue 18, dated June 14, 2018, which the Director of the Federal Register approved for incorporation by reference as of August 1, 2019 (84 FR 30588, June 27, 2019).

This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

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

Requirements of This AD

This AD retains the requirements of AD 2019–12–10. This AD also requires revising the existing maintenance or inspection program, as applicable, to incorporate additional new or more restrictive airworthiness limitations, which are specified in EASA AD 2020–0024 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD.

This AD requires revisions to certain operator maintenance documents to include new actions (*e.g.,* inspections). Compliance with these actions is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (m)(1) of this AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, EASA AD 2020–0024 is incorporated by reference in this AD. This AD, therefore, requires compliance with EASA AD 2020–0024 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in the EASA AD. Service information specified in EASA AD 2020–0024 that is required for compliance with EASA AD 2020–0024 is available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0450.

Airworthiness Limitation ADs Using the New Process

The FAA's process of incorporating by reference MCAI ADs as the primary source of information for compliance with corresponding FAA ADs has been limited to certain MCAI ADs (primarily those with service bulletins as the primary source of information for accomplishing the actions required by the FAA AD). However, the FAA is now expanding the process to include MCAI ADs that require a change to airworthiness limitation documents, such as airworthiness limitation sections.

For these ADs that incorporate by reference an MCAI AD that changes airworthiness limitations, the FAA requirements are unchanged. Operators must revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in the new airworthiness limitation document. The airworthiness limitations must be followed according to 14 CFR 91.403(c) and 91.409(e).

FAA's Justification and Determination of the Effective Date

Since there are currently no domestic operators of these products, notice and opportunity for public comment before issuing this AD are unnecessary. In addition, for the reasons stated above, the FAA finds that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and the FAA did not precede it by notice and opportunity for public comment. The FAA invites you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2020–0450; Product Identifier 2020–NM–034–AD'' at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this AD. The FAA will consider all comments received by the closing date and may amend this AD based on those comments.

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

Costs of Compliance

Currently, there are no affected U.S.-registered airplanes. For any affected airplane that may be imported and placed on the U.S. Register in the future, the FAA provides the following cost estimates 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 FAA recognizes that this number may vary from operator to operator. In the past, the FAA 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 FAA estimates the 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

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

power and responsibilities among the various levels of government.

For the reasons discussed 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:

■ a. Removing Airworthiness Directive (AD) 2019–12–10, Amendment 39–19665 (84 FR 30588, June 27, 2019); and AD 2017–06–06, Amendment 39–18830 (83 FR 8328, February 27, 2018); and

■ b. Adding the following new AD:

2020–09–11 Fokker Services B.V.: Amendment 39–19907; Docket No. FAA–2020–0450; Product Identifier 2020–NM–034–AD.

(a) Effective Date

This AD becomes effective June 4, 2020.

(b) Affected ADs

(1) This AD replaces AD 2017–06–06, Amendment 39–18830 (83 FR 8328, February 27, 2018) (''AD 2017–06–06''); and AD 2019–12–10, Amendment 39–19665 (84 FR 30588, June 27, 2019) (''AD 2019–12–10'').

(2) This AD affects AD 2012–12–07, Amendment 39–17087 (77 FR 37788, June 25, 2012) (''AD 2012–12–07'').

(c) Applicability

This AD applies to all Fokker Services B.V. Model F28 Mark 0070 and 0100 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 reduced structural integrity of the airplane.

(f) Compliance

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

(g) Retained Maintenance or Inspection Program Revision, With No Changes

This paragraph restates the requirements of paragraph (g) of AD 2019–12–10, with no changes. Within 90 days after August 1, 2019 (the effective date of AD 2019–12–10), revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in Fokker Engineering Report SE–623, Fokker 70/100 Airworthiness Limitations Section, Part 2—(Structure ALIs and Safe Life Items), Issue 18, dated June 14, 2018. Accomplishing the maintenance or inspection program revision required by paragraph (i) of this AD terminates the requirements of this paragraph.

(1) The initial compliance time for doing the tasks is at the time specified in Fokker Engineering Report SE–623, Fokker 70/100 Airworthiness Limitations Section, Part 2—(Structure ALIs and Safe Life Items), Issue 18, dated June 14, 2018, or within 90 days after August 1, 2019, whichever occurs later.

(2) If any discrepancy is found, before further flight, repair using a method approved by the Manager, Large Aircraft Section, International Validation Branch, FAA; or the European Union Aviation Safety Agency (EASA); or Fokker B.V. Service's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(h) Retained Restrictions on Alternative Actions and Intervals, With a New Exception

This paragraph restates the requirements of paragraph (h) of AD 2019–12–10, with a new exception. Except as required by paragraph (i) of this AD, after the maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (m)(1) of this AD.

(i) New Maintenance or Inspection Program Revision

Except as specified in paragraph (j) of this AD: Comply with all required actions and compliance times specified in, and in accordance with EASA AD 2020–0024, dated February 13, 2020 (''EASA AD 2020–0024''). Accomplishing the maintenance or inspection program revision required by this paragraph terminates the requirements of paragraph (g) of this AD.

(j) Exceptions to EASA AD 2020–0024

(1) The requirements specified in paragraphs (1) and (2) of EASA AD 2020–0024 do not apply to this AD.

(2) Paragraph (3) of EASA AD 2020–0024 specifies revising ''the AMP'' 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 2020–0024 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 2020–0024 is at the applicable ''associated thresholds'' specified in paragraph (3) of EASA AD 2020–0024, 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 2020–0024 do not apply to this AD.

(5) The ''Remarks'' section of EASA AD 2020–0024 does not apply to this AD.

(k) New Provisions for Alternative Actions or Intervals

After the existing maintenance or inspection program has been revised as required by paragraph (i) of this AD, no alternative actions (*e.g.,* inspections) or intervals are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2020–0024.

(l) Terminating Action for Certain Requirements of AD 2012–12–07

Accomplishing the actions required by paragraph (g) or (i) of this AD terminates the requirements of paragraph (g) of AD 2012–12–07.

(m) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Large Aircraft Section, International Validation 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 (n) 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 2019–12–10 are approved as AMOCs for the corresponding provisions of EASA AD 2020–0024 that are required by paragraph (i) 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, Large Aircraft Section, International Validation Branch, FAA; or EASA; or Fokker's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(n) Related Information

For more information about this AD, contact Tom Rodriguez, Aerospace Engineer, Large Aircraft Section, International

Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3226; email: *tom.rodriguez@faa.gov.*

(o) 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 June 4, 2020.

(i) European Union Aviation Safety Agency (EASA) AD 2020–0024, dated February 13, 2020.

(ii) [Reserved]

(4) The following service information was approved for IBR on August 1, 2019 (84 FR 30588, June 27, 2019).

(i) Fokker Engineering Report SE–623, Fokker 70/100 Airworthiness Limitations Section, Part 2—(Structure ALIs and Safe Life Items), Issue 18, dated June 14, 2018.

(ii) [Reserved]

(5) For information about Fokker Services B.V. material, contact Fokker Services B.V., Technical Services Dept., P.O. Box 1357, 2130 EL Hoofddorp, the Netherlands; telephone +31 (0)88–6280–350; fax +31 (0)88–6280–111; email *technicalservices@fokker.com;* internet *http://www.myfokkerfleet.com.*

(6) For information about EASA AD 2020–0024, 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.*

(7) You may view this material at the FAA, Airworthiness Products Section, Operational Safety 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–2020–0450.

(8) 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 May 4, 2020.

Ross Landes,

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

[FR Doc. 2020–10626 Filed 5–19–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0101; Product Identifier 2019–NM–190–AD; Amendment 39–19908; AD 2020–09–12]

RIN 2120–AA64

Airworthiness Directives; De Havilland Aircraft of Canada Limited (Type Certificate Previously Held by Bombardier, Inc.) 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 De Havilland Aircraft of Canada Limited Model DHC–8–400 series airplanes. This AD was prompted by a report that certain elevator power control unit (PCU) arm fittings have nonconforming fillet radii. This AD requires an inspection for affected elevator PCU assemblies, inspections of affected elevator PCU arm fittings for nonconforming fillet radii and cracks, replacement if necessary, and re-identification of the affected elevator PCU assemblies. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 24, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 24, 2020.

ADDRESSES: For service information identified in this final rule, contact De Havilland Aircraft of Canada Limited, Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; phone: 416–375–4000; fax: 416–375–4539; email: *thd@dehavilland.com;* internet: *https://dehavilland.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety 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–2020–0101.

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–2020–0101; 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: Andrea Jimenez, Aerospace Engineer, Airframe and Propulsion Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7330; fax: 516–794–5531; email: *9-avs-nyaco-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian AD CF–2019–36, dated October 18, 2019 (''AD CF–2019–36'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain De Havilland Aircraft of Canada Limited Model DHC–8–400 series airplanes. You may examine the MCAI in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0101.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain De Havilland Aircraft of Canada Limited Model DHC–8–400 series airplanes. The NPRM published in the **Federal Register** on February 24, 2020 (85 FR 10344). The NPRM was prompted by a report that certain elevator PCU arm fittings have nonconforming fillet radii. The NPRM proposed to require an inspection for affected elevator PCU assemblies, inspections of affected elevator PCU arm fittings for nonconforming fillet radii and cracks, replacement if necessary, and re-identification of the affected elevator PCU assemblies. The FAA is issuing this AD to address elevator PCU assemblies with nonconforming fillet radii, which could lead to premature failure of the fitting and a jam in one elevator; if the fittings on both elevators fail, a complete loss of elevator control could occur. 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 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 Service Information Under 1 CFR Part 51

De Havilland Aircraft of Canada Limited has issued Service Bulletin 84–55–10, Revision A, dated July 25, 2019. This service information describes procedures for an inspection for affected elevator PCU assemblies, inspections of affected elevator PCU arm fittings for nonconforming fillet radii and cracks, replacement if necessary, and re-identification of the affected elevator PCU assemblies. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 38 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
5 work-hours × $85 per hour = $425	$0	$425	$16,150

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
14 work-hours × $85 per hour = $1,190	Up to $9,060 ($1,510 per elevator PCU arm fittings—6 total per airplane)	Up to $10,250.

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):

2020–09–12 De Havilland Aircraft of Canada Limited (Type Certificate Previously Held by Bombardier, Inc.): Amendment 39–19908; Docket No. FAA–2020–0101; Product Identifier 2019–NM–190–AD.

(a) Effective Date

This AD is effective June 24, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to De Havilland Aircraft of Canada Limited Model DHC–8–400, –401, and –402 series airplanes, certificated in any category, serial numbers 4001 and subsequent.

(d) Subject

Air Transport Association (ATA) of America Code 55, Stabilizers.

(e) Reason

This AD was prompted by a report that certain elevator power control unit (PCU) arm fittings have nonconforming fillet radii. The FAA is issuing this AD to address elevator PCU assemblies with nonconforming fillet radii, which could lead to premature failure of the fitting and a jam in one elevator; if the fittings on both elevators fail, a complete loss of elevator control could occur.

(f) Compliance

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

(g) Definition

Affected elevator PCU assemblies are those having part number 85527021–005 or 85527021–006, and having serial number MMC4255 through MMC4276 inclusive.

(h) Inspections

For airplanes having serial numbers 4001 through 4620 inclusive, within 8,000 flight cycles on the elevator PCU assembly after the effective date of this AD, or before the accumulation of 30,000 total flight cycles on the elevator PCU assembly, whichever occurs first: Do the actions specified in paragraphs (h)(1) and (2) of this AD.

(1) Inspect to determine the part number and serial number of each elevator PCU assembly installed on the airplane. A review of airplane maintenance records is acceptable in lieu of this inspection if the part number and serial number of the elevator PCU assembly can be conclusively determined from that review.

(2) If, during any inspection or records review required by paragraph (h)(1) of this AD, any affected elevator PCU assembly is found, do a detailed inspection of the elevator PCU arm fittings for undersized fillet radii and cracks of the fillet radii in accordance with Part A of the Accomplishment Instructions of De Havilland Aircraft of Canada Limited Service Bulletin 84–55–10, Revision A, dated July 25, 2019. If no undersized fillet radii or cracks of the fillet radii are found, before further flight, re-identify the affected elevator PCU assembly in accordance with the Accomplishment Instructions of De Havilland Aircraft of Canada Limited Service Bulletin 84–55–10, Revision A, dated July 25, 2019.

(i) Corrective Actions

If during any inspection of the elevator PCU arm fittings required by paragraph (h)(2) of this AD, any undersized fillet radii or cracks of the fillet radii are found, before further flight, replace the elevator PCU arm fittings and re-identify each affected elevator PCU assembly in accordance with Part B of the Accomplishment Instructions of De Havilland Aircraft of Canada Limited Service Bulletin 84–55–10, Revision A, dated July 25, 2019.

(j) Parts Installation Limitation

As of the effective date of this AD, no person may install an affected elevator PCU assembly on any airplane, unless it has been re-identified in accordance with the Accomplishment Instructions of De Havilland Aircraft of Canada Limited Service Bulletin 84–55–10, Revision A, dated July 25, 2019.

(k) Credit for Previous Actions

This paragraph provides credit for actions required by paragraphs (h) and (i) of this AD, if those actions were performed before the effective date of this AD using De Havilland Aircraft of Canada Limited Service Bulletin 84–55–10, dated May 29, 2019.

(l) No Reporting Requirement

Although De Havilland Aircraft of Canada Limited Service Bulletin 84–55–10, Revision A, dated July 25, 2019, specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(m) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York 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 ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7300; fax: 516–794–5531. 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, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or De Havilland Aircraft of Canada Limited's TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(n) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian AD CF–2019–36, dated October 18, 2019, for related information. This MCAI may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0101.

(2) For more information about this AD, contact Andrea Jimenez, Aerospace Engineer, Airframe and Propulsion Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7330; fax: 516–794–5531; email: *9-avs-nyaco-cos@faa.gov.*

(3) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (o)(3) and (4) of this AD.

(o) 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) De Havilland Aircraft of Canada Limited Service Bulletin 84–55–10, Revision A, dated July 25, 2019.

(ii) [Reserved]

(3) For service information identified in this AD, contact De Havilland Aircraft of Canada Limited, Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; phone: 416–375–4000; fax: 416–375–4539; email: *thd@dehavilland.com;* internet: *https://dehavilland.com.*

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

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

Issued on May 6, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–10741 Filed 5–19–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0977; Product Identifier 2018–CE–041–AD; Amendment 39–21123; AD 2020–10–05]

RIN 2120–AA64

Airworthiness Directives; Rockwell Collins, Inc. Flight Management Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Rockwell Collins, Inc. (Rockwell Collins) flight management systems (FMS) installed on airplanes. This AD was prompted by reports of the flight management computer (FMC) software issuing incorrect turn commands when the altitude climb field is edited or the temperature compensation is activated on the FMS control display unit. This AD requires disabling the automatic temperature compensation feature of the FMS through the configuration strapping units (CSU) and revising the airplane flight manual (AFM) Limitations section. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 24, 2020.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of June 24, 2020.

ADDRESSES: For service information identified in this final rule, contact

Rockwell Collins, Inc., Collins Aviation Services, 400 Collins Road NE, M/S 164–100, Cedar Rapids, IA 52498–0001; telephone: 888–265–5467 (U.S.) or 319–265–5467; fax: 319–295–4941 (outside U.S.); email: *techmanuals@rockwellcollins.com*; internet: *https://portal.rockwellcollins.com/web/publications-and-training*. You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0977.

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–2018–0977; 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 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: Avi Acharya, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Room 100, Wichita, Kansas 67209; phone: 316–946–4192; fax: 316–946–4107; email: *avishek.acharya@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain part-numbered Rockwell Collins Pro Line 4 and Pro Line 21 FMSs. The NPRM published in the **Federal Register** on December 6, 2018 (83 FR 62736).

The NPRM was prompted by a flight inspection on a Bombardier Model CRJ–200 airplane, during which Nav Canada, which is Canada's civil air navigation service provider, observed the FMS map displaying an incorrect turn for the Fort St. John airport instrument landing system runway 29 missed approach while using temperature compensation. Nav Canada assumed this was only an issue with the map display and reported the incident to Rockwell Collins. Rockwell Collins subsequently determined that an error in the design of the Pro Line 4 and Pro Line 21 FMC software causes changes to the procedure-defined turn direction when the procedure has been significantly modified. The FMS removes the planned database turn direction when the flight crew edits the altitude climb field, and the flight crew may not notice the change during climb. The FMS also removes the planned database turn direction if the flight crew uses the temperature compensation to edit the altitude climb field, which may go unnoticed by the flight crew with the increased workload involved with a missed approach procedure. Editing the altitude or using temperature compensation does not change the flight segment. However, due to the design error, the software thinks the flight segment has changed. The change of the planned turn direction can occur for either left or right turns.

The FMS commanding incorrect turn direction may result in a collision or controlled flight into terrain.

The NPRM proposed to require disabling the automatic temperature compensation feature of the FMS through the CSU and revising the AFM Limitations section. The FAA is issuing this AD to address the unsafe condition on these products.

Comments

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

Request To Remove Requirement To Disable Temperature Compensation

Bombardier Commercial Aircraft (Bombardier) and Endeavor Air (Endeavor) requested the FAA remove paragraph (g), which proposed to require disabling the automatic temperature compensation feature on the CSU. These commenters stated that disabling this feature would also disable the temperature compensation calculator, which would increase crew workload and introduce error by necessitating that pilots manually calculate this information.

While the FAA agrees that performing manual temperature compensation calculations or using standard cold temperature altitude correction charts increases flight crew workload, the FAA finds that these are acceptable piloting tasks. The FMS and its built-in temperature compensation feature are not required under the FAA's airworthiness standards; rather, the temperature compensation feature of the FMS is an aid to the flight crew. Additionally, disabling the temperature compensation feature is necessary to address the unsafe condition. The FAA did not change the AD based on this comment.

Request To Revise the Language of the AFM Limitation Requirement

Bombardier, Endeavor, and Collins Aerospace (Collins) requested the FAA revise the AFM Limitations for altitude edits. The NPRM proposed to require the limitation in Rockwell Collins Service Information Letter (SIL) FMC–XX00–18–1, dated June 27, 2018, which prohibits editing altitudes on departure, approach, and missed approach procedures. The commenters requested the FAA change the limitation to only prohibit editing altitudes on departure and missed approach procedures, and eliminate the limitation for approach procedures. Collins stated that following this limitation during approach prior to the missed approach could adversely impact Vertical Navigation (VNAV) safety and crew workload because it results in misleading VNAV alerts and displays prior to the missed approach point.

The FAA agrees. Rockwell Collins has revised the SIL and issued SIL FMC–XX00–18–1, Revision 1, dated February 5, 2019, which contains the limitation language requested by the commenters. This final rule requires revising the AFM to add the information in SIL FMC–XX00–18–1, Revision 1, dated February 5, 2019.

Request To Reduce the Compliance Time for the AFM Revision

Endeavor requested the FAA reduce the time to revise the AFM from 12 months to 30 days.

The FAA does not agree. The FAA considered the variety of aircraft types and operations that would be affected by this AD and determined a 12-month compliance time is appropriate for both the AFM revisions and the requirement to disable the temperature compensation feature. The FAA did not change this AD based on this comment because 12 months after the effective date of this AD is necessary to allow the owner/operator a reasonable amount of time to perform the hardware modification. The AFM limitations cannot be implemented without the hardware change.

Request To Withdraw the NPRM

WR Ryan stated that this matter is not serious enough to warrant an AD. The commenter also stated that this issue is being exaggerated, as Collins will eventually fix the problem. The FAA

infers the commenter wants the FAA to withdraw the NPRM.

The FAA does not agree. The FAA issues an airworthiness directive when it finds an unsafe condition exists in a product and the condition is likely to exist or develop in other products of the same type design. The FAA has determined the FMS design error is an unsafe condition. While an operator may choose to comply with the service information released by Rockwell Collins, not all operators are required to do so. In order for the corrective actions in a service document to become mandatory, and to correct the unsafe condition identified in the NPRM, the FAA must issue an AD. The FAA did not change this AD based on this comment.

Revise the Costs of Compliance

WR Ryan stated the FAA estimated labor costs of $85 per work hour in the NPRM, while the majority of maintenance shops charge labor rates of $120 or more an hour. The FAA infers the commenter wants the FAA to revise the labor rate in its estimated cost of complying with the AD.

The FAA does not agree with this comment. The labor rate of $85 per work-hour is provided by the FAA Office of Aviation Policy and Plans for the FAA to use when estimating the labor costs of complying with AD requirements. The FAA did not change this AD based on this comment.

Authority To Issue the AD/Extension of Comment Period

Bombardier stated the FAA's Wichita ACO Branch lacks the legal authority under 49 U.S.C. 44701 to issue an AD addressing a component and requiring changes to an AFM. Bombardier requested the FAA's Wichita ACO Branch coordinate the proposed AD with the FAA's New York ACO Branch and consider whether the AD should instead address the aircraft. Bombardier disagreed with the FAA's proposed AD because Transport Canada, the responsible authority for the state of design for its airplanes, has already issued an AD covering this same unsafe condition. Alternatively, Bombardier requested an extension to the NPRM commenting period to allow Bombardier and the New York ACO Branch to provide input to the Wichita ACO Branch.

The FAA does not agree. Although Canada is the state of design for Bombardier products, the United States is the state of design for Rockwell Collins products. Under the authority of 49 U.S.C. 44701 and the FAA's regulations regarding ADs (14 CFR part 39), the FAA issues an AD addressing a product (aircraft, engine, propeller, or appliance) that has an unsafe condition if the condition is likely to exist or develop in other products of the same type design. The FMS is an appliance, as that term is defined in 14 CFR 1.1, that may be installed in multiple aircraft types. Contrary to Bombardier's suggestion, 49 U.S.C. 44701 does not require the FAA to adopt the Transport Canada AD. Rather, 49 U.S.C. 44701(e)(5) permits the FAA to either accept a foreign AD (under certain conditions) or issue an FAA AD if determined necessary for safety. The Transport Canada AD for this issue applies only to Bombardier airplanes. The FAA determined corrective action is necessary for U.S. operators of all aircraft with an FMS installed.

The FAA also notes that its Wichita ACO Branch did not issue the NPRM. The NPRM was coordinated with all appropriate FAA offices and subsequently issued by the Deputy Director of the Policy and Innovation Division (AIR–601) of the FAA's Aircraft Certification Service. The FAA has not changed the AD based on this comment.

Request To Revise Preamble Information

Collins requested the FAA replace some of the information in the preamble with text from Rockwell Collins Operational Service Bulletin 0166-l7R5. Collins stated the description in the NPRM does not accurately describe the issue. According to Collins, the design error is that the FMS removes the planned turn direction if the crew manually edits or uses temperature compensation to edit the altitude climb field. In addition, Collins stated the FMS does not always turn in an incorrect direction, but rather only when the shortest turn differs from the planned turn.

The FAA partially agrees. For clarification purposes, the FAA has revised the referenced text in accordance with Collins' comment. However, the FAA disagrees with replacing the referenced text with the description from Rockwell Collins Operational Service Bulletin 0166–17R5. The specific language requested by the commenter is a detailed engineering description of the FMS design error that is appropriate for a service bulletin.

Support of AD Action

The Air Line Pilots Association and an anonymous commenter supported the NPRM.

Conclusion

The FAA reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this final rule with the changes described previously. The FAA determined that these changes will not increase the economic burden on any operator or increase the scope of this final rule.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Rockwell Collins Service Information Letter, CSU–XX00–18–1, dated June 27, 2018. The service letter contains procedures for disabling the automatic temperature compensation option in Pro Line 4 and Pro Line 21 FMC systems. The FAA also reviewed Rockwell Collins Service Information Letter FMC–XX00–18–1, Revision 1, dated February 5, 2019. The service letter provides instructions for revising the Limitations section of the AFM by adding prohibitions on editing altitudes for specific Pro Line 4 and Pro Line 21 Flight Management Systems. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 2,855 products installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
CSU strapping change	2 work-hours × $85 per hour = $170	Not applicable	$170	$485,350
Revision to the AFM Limitations section	.5 work-hour × $85 per hour = $42.50	Not applicable	42.50	121,337.50

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):

2020–10–05 Rockwell Collins, Inc.: Amendment 39–21123; Docket No. FAA–2018–0977; Product Identifier 2018–CE–041–AD.

(a) Effective Date

This AD is effective June 24, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Rockwell Collins, Inc. (Rockwell Collins) Pro Line 4 and Pro Line 21 Flight Management Systems installed on airplanes, certificated in any category, that has a flight management computer (FMC) with a Rockwell Collins part number (RCPN) listed in paragraph (c)(1) of this AD and with a configuration strapping unit (CSU) listed in paragraph (c)(2) of this AD.

(1) FMC–3000 RCPN 822–0883–031, –036, –038, –040, –041, –053, –054, –056, –057, –058, –059, –060, –081, –082, –083, –084; FMC–4200 RCPN 822–0783–022, –025, –028, –032, –036, –039, –040; FMC–5000 RCPN 822–0891–021, –027, –028, –034, –040; or FMC–6000 RCPN 822–0868–074, –075, –082, –083, –084, –085, –087, –089, –090, –109, –110, –111, –112, –113, –114, –116, –117, –122, –123, –127, –130, –132, –133, –134, –139.

(2) CSU–3100 RCPN 822–1363–002, CSU–4000 RCPN 822–0049–002, or CSU–4100 RCPN 822–1364–002.

Note 1 to paragraph (c) of this AD: To determine the CSU and FMC unit RCPN, refer to the aircraft manufacturer or applicable STC holder maintenance instructions for accessing them.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 3460, Flight Management Computing Hardware System.

(e) Unsafe Condition

This AD was prompted by reports of the FMC software issuing incorrect turn commands when the altitude climb field is edited or when the temperature compensation is activated. The FAA is issuing this AD to prevent the FMC from issuing an incorrect turn direction command. The unsafe condition, if not addressed, could result in a collision or controlled flight into terrain.

(f) Compliance

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

(g) Disable Temperature Compensation

Within the next 12 months after June 24, 2020 (the effective date of this AD), disable the automatic temperature compensation feature on the CSU by following steps (2) through (6) of the Instructions in Rockwell Collins Service Information Letter CSU–XX00–18–1, dated June 27, 2018.

(h) Revise the Airplane Flight Manual Limitations

Within the next 12 months after June 24, 2020 (the effective date of this AD), revise the airplane flight manual by adding the information from step 2 of the Aircraft Flight Manual Recommendation in Rockwell Collins Service Information Letter FMC–XX00–18–1, Revision 1, dated February 5, 2019, into the Limitations section of the AFM.

(i) Alternative Methods of Compliance (AMOCs)

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

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

(j) Related Information

For more information about this AD, contact Avi Acharya, Aerospace Engineer, Wichita ACO Branch, FAA, 1801 Airport Road, Room 100, Wichita, Kansas 67209; phone: 316–946–4192; fax: 316–946–4107; email: *avishek.acharya@faa.gov*.

(k) Material Incorporated by Reference

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

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

(i) Rockwell Collins Service Information Letter CSU–XX00–18–1, dated June 27, 2018.

(ii) Rockwell Collins Service Information Letter FMC–XX00–18–1, Revision 1, dated February 5, 2019.

(3) For service information identified in this AD, contact Rockwell Collins, Inc., Collins Aviation Services, 400 Collins Road NE, M/S 164–100, Cedar Rapids, IA 52498–0001; telephone: 888–265–5467 (U.S.) or 319–265–5467; fax: 319–295–4941; email: *techmanuals@rockwellcollins.com*; internet: *https://portal.rockwellcollins.com/web/publications-and-training*.

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. In addition, you can access this service information on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0977.

(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 May 14, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–10744 Filed 5–19–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0452; Product Identifier 2020–NM–062–AD; Amendment 39–19910; AD 2020–09–14]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2020–03–12, which applied to all Airbus SAS Model A350–941 and –1041 airplanes. AD 2020–03–12 required revising the existing airplane flight manual (AFM) to define a liquid-prohibited zone in the flight deck and provide procedures following liquid spillage on the center pedestal. This AD continues to require revising the existing AFM, and also requires installing a removable integrated control panel (ICP) cover in the flight deck and further revising the AFM to include instructions for ICP cover use, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. This AD was prompted by the FAA's determination that a removable integrated control panel (ICP) cover must be installed to prevent damage from spillage and that the existing AFM must be revised. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD becomes effective June 4, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 4, 2020.

The FAA must receive comments on this AD by July 6, 2020.

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

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

For 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, Airworthiness Products Section, Operational Safety 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–2020–0452.

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–2020–0452; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Kathleen Arrigotti, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3218.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued AD 2020–03–12, Amendment 39–19837 (85 FR 7863, February 12, 2020) (''AD 2020–03–12''), which applied to all Airbus SAS Model A350–941 and –1041 airplanes. AD 2020–03–12 required revising the existing AFM to define a liquid-prohibited zone in the flight deck and provide procedures following liquid spillage on the center pedestal. The FAA issued AD 2020–03–12 to address the potential for dual-engine uncommanded engine inflight shutdown (IFSD), possibly resulting in a forced landing with consequent damage to the airplane and injury to occupants.

Actions Since AD 2020–03–12 Was Issued

Since the FAA issued AD 2020–03–12, Airbus developed mod 116010, introducing a removable cover for the ICP, which protects the ICP completely, including engine master levers, thumbwheels, and rotary knob, and provided modification instructions. Airbus also published a new AFM temporary revision (TR) defining a liquid-prohibited zone in the cockpit, procedures for ICP removable cover use, and the procedures to be followed in the case of inadvertent liquid spillage on the center pedestal. The FAA has determined that the removable ICP cover must be installed and the existing AFM must be revised to include these new procedures.

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0090, dated April 20, 2020 (''EASA AD 2020–0090'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus SAS Model A350–941 and –1041 airplanes. EASA AD 2020–0090 supersedes EASA Emergency AD 2020–0020–E, dated February 5, 2020, corrected February 6, 2020 (which corresponds to FAA AD 2020–03–12).

This AD was prompted by two reports of abnormal operation of the components of the ENG START panel or Electronic Centralized Aircraft Monitoring (ECAM) Control Panel (ECP) due to liquid spillage in the system, and the subsequent uncommanded engine IFSD of one engine in each case. This AD was also prompted by the FAA's determination that a removable integrated control panel (ICP) cover must be installed to prevent damage from spillage and that the existing AFM must be revised. The FAA is issuing this AD to address the potential for dual-engine IFSD, possibly resulting in a forced landing with consequent damage to the airplane and injury to occupants. See the MCAI for additional background information.

Explanation of Retained Requirements

Although this AD does not explicitly restate the requirements of AD 2020–03–12, this AD retains all of the requirements of AD 2020–03–12. Those requirements are referenced in EASA AD 2020–0090, which, in turn, is referenced in paragraph (g) of this AD.

Related IBR Material Under 1 CFR Part 51

EASA AD 2020–0090 describes procedures for installation of the ICP removable cover in the cockpit and amendment of the AFM to define a liquid-prohibited zone in the cockpit, provide procedures for ICP removable cover use, and provide procedures following liquid spillage on the center pedestal. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

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

Requirements of This AD

This AD requires accomplishing the actions specified in EASA AD 2020–0090 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, in EASA AD 2020–0090 is incorporated by reference in this AD. This AD, therefore, requires compliance with EASA AD 2020–0090 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in the EASA AD. Service information specified in EASA AD 2020–0090 that is required for compliance with EASA AD 2020–0090 is available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0452.

Interim Action

The FAA considers this AD interim action. If final action is later identified, the FAA might consider further rulemaking then.

FAA's Justification and Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because abnormal operation of the components of the ENG START panel or ECP due to liquid spillage in the system could result in dual-engine IFSD, possibly resulting in a forced landing with consequent damage to the airplane and injury to occupants. Therefore, the FAA finds good cause that notice and opportunity for prior public comment are impracticable. In addition, for the reasons stated above, the FAA finds that good cause exists for making this amendment effective in less than 30 days.

Regulatory Flexibility Act (RFA)

The requirements of the 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.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and the FAA did not precede it by notice and opportunity for public comment. The FAA invites you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2020–0452; Product Identifier 2020–NM–062–AD'' at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this AD. The FAA will consider all comments received by the closing date and may amend this AD based on those comments.

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

Costs of Compliance

The FAA estimates that this AD affects 13 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Actions	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained actions from AD 2020–03–12	1 work-hour × $85 per hour = $85	$0	$85	$1,105
New actions	2 work-hours × $85 per hour = $170	*0	170	2,210

*The FAA has received no definitive data regarding cost estimates for these parts.

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 our cost estimate.

Authority for This Rulemaking

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: ''General requirements.'' Under

that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

The FAA determined that this 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 removing airworthiness directive (AD) 2020–03–12, Amendment 39–19837 (85 FR 7863, February 12, 2020), and adding the following new AD:

2020–09–14 Airbus SAS: Amendment 39–19910; Docket No. FAA–2020–0452; Product Identifier 2020–NM–062–AD.

(a) Effective Date

This AD becomes effective June 4, 2020.

(b) Affected ADs

This AD replaces AD 2020–03–12, Amendment 39–19837 (85 FR 7863, February 12, 2020) (''AD 2020–03–12'').

(c) Applicability

This AD applies to Airbus SAS Model A350–941 and –1041 airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2020–0090, dated April 20, 2020 (''EASA AD 2020–0090'').

(d) Subject

Air Transport Association (ATA) of America Code 31, Instruments.

(e) Reason

This AD was prompted by two reports of abnormal operation of the components of the ENG START panel or Electronic Centralized Aircraft Monitoring (ECAM) Control Panel (ECP) due to liquid spillage in the system, and the subsequent uncommanded engine inflight shutdown (IFSD) of one engine in each case. This AD was also prompted by the FAA's determination that a removable integrated control panel (ICP) cover must be installed to prevent damage from spillage and the existing AFM must be revised. The FAA is issuing this AD to address the potential for dual-engine IFSD, possibly resulting in a forced landing with consequent damage to the airplane and injury to occupants.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2020–0090.

(h) Exceptions to EASA AD 2020–0090

(1) Where EASA AD 2020–0090 refers to ''the effective date of EASA AD 2020–0020–E,'' this AD requires using February 14, 2020 (the effective date of AD 2020–03–12).

(2) Where EASA AD 2020–0090 refers to its effective date, this AD requires using the effective date of this AD.

(3) ''Note 1'' of EASA AD 2020–0090 does not apply to this AD. However, after the actions required by paragraph (g) of this AD have been accomplished on an airplane, that airplane may be operated with a damaged or missing ICP removable cover, provided provisions that address the ICP removable cover are included in the operator's approved minimum equipment list (MEL).

(4) The ''Remarks'' section of EASA AD 2020–0090 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, Large Aircraft Section, International Validation 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 Large Aircraft Section, International Validation Branch, 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 2020–03–12 are approved as AMOCs for the corresponding provisions of EASA AD 2020–0090 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, Large Aircraft Section, International Validation Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* For any service information referenced in EASA AD 2020–0090 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 Kathleen Arrigotti, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3218.

(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 2020–0090, dated April 20, 2020.

(ii) [Reserved]

(3) For information about EASA AD 2020–0090, 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, Airworthiness Products Section, Operational Safety 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–2020–0452.

(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 May 6, 2020.

Gaetano A. Sciortino,

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

[FR Doc. 2020–10629 Filed 5–19–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

14 CFR Part 71

[Docket No. FAA–2019–0972; Airspace Docket No. 19–ANM–30]

RIN 2120–AA66

Correction of Class E Airspace; Mountain Home, ID

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, correction.

SUMMARY: This action removes exclusionary language from the Final Rule published in the **Federal Register** on March 31, 2020 for Mountain Home Municipal Airport's Class E airspace extending upward from 700 feet above the surface. If the exclusionary language remains in the Final Rule, the FAA's Aeronautical Information Service will be required to recalculate the airport's airspace boundaries whenever Mountain Home Air Force Base's Class D and E Surface areas are modified. However, the removal of the language does not affect the charted boundaries or operating requirements of the airspace.

DATES: Effective 0901 UTC, July 16, 2020. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class E airspace at Mountain Home Municipal Airport, Mountain Home, ID, to ensure the safety and management of Instrument Flight Rules (IFR) operations at the airport.

History

The FAA included exclusionary language in the Final Rule that becomes effective on July 16, 2020 (85 FR 17744, March 31, 2020). This action will update the language in the final rule, but will not affect the airspace's charted boundaries.

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

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

The FAA is amending Title 14, Code of Federal Regulations (14 CFR) part 71 by removing the exclusionary language from Mountain Home Municipal Airport's Class E airspace extending upward from 700 feet above the surface. If the exclusionary language is not removed, it will require the FAA's Aeronautical Information Service to recalculate the Municipal Airport's airspace boundaries whenever changes occur to Mountain Home Air Force Base's surface areas but will not affect the airspace's charted boundaries.

Regulatory Notices and Analyses

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

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

ANM ID E5 Mountain Home, ID [New]

Mountain Home Municipal Airport, ID
(Lat. 43°07′54″ N, long. 115°43′50″ W)

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the airport, and within 2 miles each side of the 300° bearing from the airport, extending from the 5.5-mile radius to 8 miles northwest of the airport; and that airspace extending upward from 1,200 feet above the surface within a 20-mile radius of the Mountain Home Municipal Airport.

Issued in Seattle, Washington, on May 14, 2020.

Shawn M. Kozica,

Group Manager, Operations Support Group, Western Service Center.

[FR Doc. 2020–10854 Filed 5–19–20; 8:45 am]

BILLING CODE 4910–13–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1225

[Docket No. CPSC–2012–0068]

Safety Standard for Hand-Held Infant Carriers

AGENCY: Consumer Product Safety Commission.

ACTION: Direct final rule.

SUMMARY: In December 2013, the U.S. Consumer Product Safety Commission (CPSC) issued a consumer product safety standard for hand-held infant carriers. The standard incorporated by reference the applicable ASTM voluntary standard, with one modification in the definition of the product, to clarify that semi-rigid carriers fall within the scope of the standard. We are publishing this direct final rule revising the CPSC's mandatory standard for hand-held infant carriers to incorporate by reference the most recent version of the applicable ASTM standard.

DATES: The rule is effective on August 3, 2020, unless we receive significant adverse comment by June 19, 2020. If we receive timely significant adverse comments, we will publish notification 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 August 3, 2020.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2012–0068, 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) 504–7479; email: *amills@cpsc.gov.*

Instructions: All submissions must include the agency name and docket number for this notification. CPSC may post all comments received 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–2012–0068, into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Keysha L. Walker, Compliance Officer, Office of Compliance and Field Operations, Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814–4408; telephone: 301–504–6820; email: *kwalker@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

1. Statutory Authority

Section 104(b)(1)(B) of the Consumer Product Safety Improvement Act (CPSIA), also known as the Danny Keysar Child Product Safety Notification Act, requires the Commission to promulgate consumer product safety standards for durable infant or toddler products. The law requires these standards to be ''substantially the same as'' applicable voluntary standards or more stringent than the voluntary standards if the Commission concludes that more stringent requirements would further reduce the risk of injury associated with the product.

The CPSIA also sets forth a process for updating CPSC's durable infant or toddler standards when the voluntary standard upon which the CPSC standard was based is changed. Section 104(b)(4)(B) of the CPSIA provides that if an organization revises a standard that has been adopted, in whole or in part, as a consumer product safety standard under this subsection, it shall notify the Commission. In addition, the revised voluntary standard shall be considered to be a consumer product safety standard issued by the Commission under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058), effective 180 days after the date on which the organization notifies the Commission (or such later date specified by the Commission in the **Federal Register**) unless, within 90 days after receiving that notice, the Commission notifies the organization that it has determined that the proposed revision does not improve the safety of the consumer product covered by the standard and that the Commission is retaining the existing consumer product safety standard.

2. The Hand-Held Infant Carriers Standard

On December 6, 2013, the Commission published a final rule issuing a mandatory standard for hand-held infant carriers that incorporated by reference the standard in effect at that time, ASTM F2050–13a, *Standard Consumer Specification for Hand-Held Infant Carriers,* with one modification in the definition of the product, to clarify that semi-rigid carriers fall within the scope of the standard. 78 FR 73415. The ASTM standard for hand-held infant carriers, ASTM F2050–19, *Standard Consumer Safety Specification for Hand-Held Infant Carries,* applies to hand-held infant carriers that are rigid (*e.g.,* infant car seat removed from the car) or semi-rigid (*e.g.,* Moses baskets). A hand-held infant carrier seat often serves as an infant car seat and also can be used with strollers and travel systems. A hand-held bassinet/cradle includes products such as carriage baskets (removed from a stroller base) and Moses baskets (those

with handles). The standard was codified in the Commission's regulations at 16 CFR part 1225. Since publication of ASTM F2050–13a, the current mandatory standard, ASTM has published two revisions to ASTM F2050. ASTM did not notify CPSC of the first revision. The second revision, ASTM F2050–19 was approved on December 15, 2019, and published in January 2020. ASTM officially notified the Commission of this revision on February 5, 2020. The rule is incorporating ASTM F2050–19 as the mandatory standard.

B. Revisions to the ASTM Standard

Under section 104(b)(4)(B) of the CPSIA, unless the Commission determines that ASTM's revision of a voluntary standard that is a CPSC mandatory standard ''does not improve the safety of the consumer product covered by the standard,'' the revised voluntary standard becomes the new mandatory standard. As discussed below, the Commission determines that the changes made in ASTM F2050–16 and –19 are neutral or improve the safety of hand-held infant carriers. Therefore, the Commission will allow the ASTM F2050–19 to become effective as a mandatory consumer product safety standard under the statute, effective August 3, 2020.

1. Differences Between 16 CFR Part 1225 and ASTM F2050–16

On February 1, 2016, ASTM approved a revised version ASTM F2050 and published ASTM F2050–16, but ASTM did not notify CPSC of the revision. The 2016 revision contained several editorial non-substantive changes and one substantive change, as described below.

Non-Substantive Changes

Minor formatting changes were made to bring the standard into accord with ASTM form and style guidelines (*e.g.,* ''5s'' to ''5 s'', punctuation at the end of a sentence, and removing a repeated word). We find that all of the non-substantive changes made in ASTM F2050–16 are editorial in nature, and therefore, are neutral regarding safety for hand-held infant carriers.

Substantive Change

In section 8.3.2.1, hand-held bassinets/cradles were exempt from the requirement to display a ''NEVER leave child unattended'' warning message. Although we generally assesses exemptions as a reduction in safety, in the case of this warning message, the exemption is unlikely to reduce safety because it is targeted at bassinets and cradles that are intended for sleep. In such a case, the caregiver would be rightly expected to leave a sleeping child unattended in a bassinet. Therefore, we conclude this exemption is neutral regarding safety.

2. Differences Between 16 CFR Part 1225 and ASTM F2050–19

In December 2019, ASTM revised ASTM F2050–19. These changes included non-substantive changes and one substantive change. The resulting standard is ASTM F2050–19, which was published in January 2020. The 2019 revision contained several editorial non-substantive changes and two substantive changes as described below.

Non-Substantive Changes

A number of minor and editorial changes were made throughout ASTM F2050–19 that do not affect the safety of hand-held infant carriers. These include:

- In section 1.7, ''safety and health'' was changed to ''safety, health, and environmental.''
- Section 1.8 was added, stating that ASTM developed the standard in accordance with principles recognized by the World Trade Organization.
- Changes to unit expressions bring the standard into accordance with ASTM form and style guidelines. For example, the revision added a unit of measurement for each numerical value—''73 °F ± 9 °F.'' instead of ''73 ± 9 °F'' and ''minute'' changed to ''min.''
- Minor spelling changes (*e.g.,* ''gage'' to ''gauge'' in 7.4.2.1)
- Definition for acronyms added (*e.g.,* ''EPS (expanded polystyrene), EPP (expanded polypropylene)'' in note 3).

All of the non-substantive changes made in ASTM F2050–19 are editorial in nature and are neutral regarding safety for hand-held infant carriers.

Substantive Changes

There are two substantive changes in ASTM F2050–19 that impact the safety of hand-held infant carriers, as described below.

- In section 3.1.3, the definition of ''hand-held infant carrier'' changed to include ''semi-rigid.'' This change harmonizes ASTM F2050 with the definition in16 CFR part 1225, and is, therefore, an improvement in safety over the previous standard.
- In section 9.2.4.1, ASTM added a new warning icon and warning statement regarding the fall hazard with shopping cart use. Specifically, the message ''Fall Hazard: The carrier can fall from the shopping cart. Do not use on shopping cart,'' and a related icon must now appear in the instructional literature for a hand-held infant carrier. We conclude that this change is an improvement in safety because it alerts the caregiver to an additional hazard.

The two substantive changes made to ASTM F2050–19 improve the safety of hand-held infant carriers, and the non-substantive changes are neutral regarding safety.

In December 2013, the Commission incorporated by reference ASTM F2050–13a, with one modification in 16 CFR 1225.2(b)(1) to the definition of ''hand-held infant carrier'' in section 3.1.3 of ASTM F2050–13a to clarify that semi-rigid carriers fall within the scope of the standard. The modification in 16 CFR 1225.2(b)(1) is no longer necessary because ASTM F2050–19 includes semi-rigid products in the definition. Therefore, the rule incorporates by reference ASTM F2050–19 and removes 16 CFR 1225.2(b)(1).

C. Incorporation by Reference

The Office of the Federal Register (OFR) has regulations concerning incorporation by reference. 1 CFR part 51. Under these regulations, agencies must discuss, in the preamble to the final rule, ways that the materials the agency incorporates by reference are reasonably available to interested persons and how interested parties can obtain the materials. In addition, the preamble to the final rule must summarize the material. 1 CFR 51.5(b).

In accordance with the OFR's requirements, section A of this preamble summarizes the major provisions of the ASTM F2050–19 standard that the Commission incorporates by reference into 16 CFR part 1225. The standard is reasonably available to interested parties, and interested parties may purchase a copy of the standard from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959 USA; phone: 610–832–9585; *www.astm.org.* 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/.* 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: 301–504–7479; email: *amills@cpsc.gov.*

D. Certification

Section 14(a) of the CPSA 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 the Commission 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 hand-held infant 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,[1] the phthalates prohibitions in section 108 of the CPSIA and 16 CFR part 1307,[2] the tracking label requirement in section 14(a)(5) of the CPSA,[3] and the consumer registration form requirements in section 104(d) of the CPSIA.[4]

E. Notice of Requirements

In accordance with section 14(a)(3)(B)(iv) of the CPSIA, the Commission has previously published a notice of requirements (NOR) for accreditation of third party conformity assessment bodies for testing portable bed rails (78 FR 73415, December 6, 2013). The NOR provided the criteria and process for our acceptance of accreditation of third party conformity assessment bodies for testing hand-held infant carriers to 16 CFR part 1225. 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,'' codified at 16 CFR part 1112.

None of the test methods have been changed in the revised standard ASTM F2050–19. Therefore, testing laboratories that are currently CPSC-accepted, have demonstrated competence for testing in accordance with ASTM F2050–13a, and will have the competence to source a new sheet and conduct the testing to the new standard under the revised standard ASTM F2050–19. Therefore, the Commission considers the existing CPSC-accepted laboratories for testing to ASTM F2050–13a to be capable of testing to ASTM F2050–19 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' accreditation to reflect the revised standard in the normal course of renewing their accreditation.

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.'' 5 U.S.C. 553(b)(B). The Commission concludes that when the Commission updates a reference to an ASTM standard that the Commission has incorporated by reference under section 104(b) of the CPSIA, notice and comment are not necessary.

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 F2050–19 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 F2050–19 takes effect as the new CPSC standard for hand-held infant 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) endorsed 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 (August 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 August 3, 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 comments 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) generally requires that agencies 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 and 604. The RFA applies to any rule that is subject to notice and comment procedures under section 553 of the APA. *Id.* As explained, the Commission has determined that notice and comment are not necessary for this direct final rule. Thus, the RFA does not apply. We also note 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 standard for hand-held infant carriers contains information-collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The revisions made no changes to that section of the standard. Thus, the revisions will have no effect on the information-collection requirements related to the standard.

[1] 15 U.S.C. 1278a.

[2] 15 U.S.C. 2057c.

[3] 15 U.S.C. 2063(a)(5).

[4] 15 U.S.C. 2056a(d).

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 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, 15 U.S.C. 2075(a), 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. Section 26(c) of the CPSA also provides that states or political subdivisions of states may apply to the 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 rules.'' 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**. The Commission has not set a different effective date. Thus, in accordance with this provision, this rule takes effect 180 days after we received notification from ASTM of revision to this standard. As discussed in the preceding section, this is a direct final rule. Unless we receive a significant adverse comment within 30 days, the rule will become effective on August 3, 2020.

L. The 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 1225

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

For the reasons stated above, the Commission amends 16 CFR chapter II as follows:

PART 1225—SAFETY STANDARD FOR HAND-HELD INFANT CARRIERS

■ 1. Revise the authority citation for part 1225 to read as follows:

Authority: 15 U.S.C. 2056a(b)(4)(B).

■ 2. Revise § 1225.2 to read as follows:

§ 1225.2 Requirements for hand-held infant carriers.

Each hand-held infant carrier must comply with all applicable provisions of ASTM F2050–19, *Standard Consumer Safety Specification for Hand-Held Infant Carriers,* approved on December 15, 2019. The Director of the Federal Register approves the incorporation by reference listed in this section 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, P.O. Box C700, West Conshohocken, PA 19428–2959 USA; phone: 610–832–9585; *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 301–504–7479, 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.*

Alberta E. Mills,

Secretary, U.S. Consumer Product Safety Commission.

[FR Doc. 2020–09166 Filed 5–19–20; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Parts 641, 655, 656, 658, 667, 683, and 702

Office of the Secretary

29 CFR Parts 2, 7, 8, 10, 13, 18, 24, 29, 38, and 96

Office of Labor-Management Standards

29 CFR Part 471

Wage and Hour Division

29 CFR Parts 501 and 580

Occupational Safety and Health Administration

29 CFR Parts 1978 through 1988

Office of Federal Contract Compliance Programs

41 CFR Parts 50–203 and 60–30

RIN 1290–AA39

Rules Concerning Discretionary Review by the Secretary

AGENCY: Office of the Secretary

ACTION: Final rule.

SUMMARY: The Department of Labor is issuing this final rule to establish a system of discretionary secretarial review over cases pending before or decided by the Board of Alien Labor Certification Appeals and to make technical changes to Departmental regulations governing the timing and finality of decisions of the Administrative Review Board and the Board of Alien Labor Certification Appeals to ensure consistency with the new discretionary review processes established in this rule and in Secretary's Order 01–2020.

DATES: This final rule is effective June 19, 2020.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Shepherd, Clerk of the Appellate Boards, at 202–693–6319 or *Shepherd.Thomas@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Two of the four review boards within the Department of Labor were created by voluntary delegations of authority by previous Secretaries of Labor. Specifically, the Administrative Review

Board (ARB)—which has authority to hear appeals from the decisions of the Department's Office of Administrative Law Judges (OALJ) about certain immigration, child labor, employment discrimination, federal construction/service contracts, and other issues—and the Board of Alien Labor Certification Appeals (BALCA)—which has authority over appeals from the decisions of the Employment and Training Administration's adjudication of foreign labor certification applications—were created, respectively, by a Secretary's Order and by regulation. Their existence is neither compelled nor governed by statute. Notably, before the ARB was created in 1996, many of the types of cases now subject to its jurisdiction were decided directly by the Secretary. Each board was also entrusted with the power to issue final agency decisions in the name of the Secretary. Previously, the Secretary's Order and regulations establishing the ARB and BALCA provide no mechanism by which the Secretary can review, where necessary, the decisions of the officers who exercise power on his behalf.

To ensure that the Secretary has the ability to properly supervise and direct the actions of the Department, the Department is establishing systems of discretionary secretarial review over the decisions of the ARB and decisions of and appeals before BALCA, which is being accomplished through this rule and the earlier issuance of a Secretary's Order governing the ARB. The Department's authority to effect these reforms derives from 5 U.S.C. 301, which authorizes the heads of agencies to regulate the internal operations of their departments; 5 U.S.C. 305, which provides for continuing review of agency operations; and the Secretary's authority to administer the statutes and programs at issue in ARB and BALCA proceedings. In combination, these statutes establish many of the powers of the Department within the Office of the Secretary, and give the Secretary wide latitude to delegate those powers to his subordinates on the terms he deems appropriate. Thus, the Secretary has the power to delegate his authority to appropriately supervise the adjudicatory process within the Department, and is now exercising that same authority to assert his decision-making prerogatives duly assigned to him by Congress by modifying the terms on which the members of the ARB and BALCA exercise his delegated authority.

The reforms to BALCA (and conforming edits to various Departmental regulations governing the ARB, BALCA, and the OALJ) preserve the existing structures by which the Department processes adjudications while giving the Secretary the option, in his sole discretion, to initiate review directly in a case where the Secretary's involvement is necessary and appropriate. Again, Congress has assigned the administration of various statutes to the Secretary of Labor, meaning that the Secretary is obligated to ensure that those laws are administered, executed, interpreted, and enforced according to law and Executive Branch priorities and policies. Under these reforms, the Secretary will rely on the ARB and BALCA to assist in identifying cases where secretarial review may be warranted. Consistent with the practice of other agencies, the Department does not anticipate that the power of secretarial review will be used often. The Department similarly anticipates that secretarial review—while completely within the Secretary's discretion as the officer assigned to administer the laws in the first place—will typically be reserved for matters of significant importance. With respect to the provisions revised by this rule under which decisions of the ARB become final, the Department notes that such decisions become final irrespective of whether a petition for secretarial review is filed under Secretary's Order 01–2020. Parties are not required by Secretary's Order 01–2020 to file petitions to exhaust their administrative remedies. *See Darby* v. *Cisneros,* 509 U.S. 137 (1993). Finally, the Department will ensure that the secretarial review process will be accomplished in a manner that complies with any applicable legal requirements.

Because of significant differences between how the ARB and BALCA operate, the systems of review for each board are designed somewhat differently. Most importantly, whereas with respect to the ARB the Secretary will not exercise review over cases until after a decision has been rendered, the regulations modifying BALCA's authority allow the Secretary to assume jurisdiction over most cases even before a decision has been issued. This is because BALCA processes significantly more cases each year than does the ARB, and, due to the nature of the temporary visa programs and DOL's role in administering these programs, does so much more quickly than does the ARB. As a result, under the BALCA regulations, the Secretary will be able to initiate review of a case even before BALCA has issued a decision.

The Department appreciates the expeditious nature of many types of BALCA proceedings, such as those involving temporary labor certification, and does not anticipate that the new system of secretarial review established over such cases will significantly disrupt or otherwise impede the way such cases are currently processed. As noted above, the Department expects that secretarial review over BALCA decisions will, as with agency head review at other departments, likely not be exercised often. Further, the changes to 29 CFR 18.95 provide that a BALCA decision is the Secretary's final administrative decision unless the Secretary assumes jurisdiction over the case. For example, once the BALCA issues a decision that affirms the Certifying Officer's decision or reverses and remands for further processing, the parties in the case will be able to proceed immediately to the next step of the application process, and will only be delayed in doing so if the Secretary later decides to undertake review. Moreover, the revised 29 CFR 18.95 limits any potential uncertainty that may exist because of the possibility of secretarial review by placing strict time limits on when the Secretary will have the option of assuming jurisdiction over a case.

II. Discussion of Changes

This final rule revises several sections of the Code of Federal Regulations including 20 CFR parts 641, 655, 656, 658, 667, 683, and 702; 29 CFR parts 2, 7, 8, 10, 13, 18, 24, 29, 38, and 96; 29 CFR parts 417 and 471; 29 CFR parts 501 and 580; 29 CFR parts 1978–1988; and 41 CFR parts 50–203 and 60–30 to harmonize the manner in which the ARB issues decisions on behalf of the Secretary under the Department's regulations with the scope of the final decision-making authority delegated to the ARB by the Secretary in Secretary's Order 01–2020. Specifically, references to final decisions of the ARB have been modified or removed to ensure that no regulation contradicts the terms on which an ARB decision becomes final under the Secretary's Order. Certain provisions governing the timing of petitions for review to the ARB and when the ARB is required to issue decisions have also been amended to eliminate potential ambiguity or confusion over the distinction between when the ARB is required to issue a decision and when such decision becomes the final action of the Department pursuant to the Secretary's Order.

This rule also revises 29 CFR part 18 by modifying the conditions under which a decision of BALCA becomes the final decision of the Department and by creating a process by which the Secretary of Labor can exercise discretionary review over cases pending

before or decided by the BALCA. Technical amendments are also made to 20 CFR parts 655 and 656 to harmonize the manner in which BALCA issues decisions on behalf of the Secretary with the new system of discretionary review established in 29 CFR part 18.

The Department of Labor and the Department of Homeland Security (DHS) have determined that it is appropriate to issue a separate rule regarding the Secretary of Labor's review authority over H–2B cases under 29 CFR 18.95 to address the same issues addressed by this rule in the H–2B context. It is the Departments' intent to promulgate this separate rule after the publication of this rule. This determination follows conflicting court decisions concerning DOL's authority to issue legislative rules on its own to carry out its duties in the H–2B program. Although DOL and DHS each have authority to issue rules implementing their respective duties in the H–2B program, including rules providing for secretarial review, the Departments plan to make the amendments to the applicable regulations jointly to ensure that there can be no question about the authority underlying such technical amendments. This approach is consistent with the joint rulemaking governing the Temporary Non-Agricultural Employment of H–2B Aliens in the United States, 80 FR 24042 (Apr. 29, 2015) (codified at 8 CFR part 214, 20 CFR part 655, and 29 CFR part 503).

In order to ensure that all parties appearing before the ARB and BALCA have fair notice of the new systems of discretionary review established in this rulemaking and in Secretary's Order 01–2020, the Secretary will not exercise his review authority over any decision of either Board issued before the passage of 30 calendar days from the date on which this rule becomes effective.

III. Response to Comments

On March 6, 2020, the Department simultaneously published a direct final rule (DFR) and a notice of proposed rulemaking (NPRM) to effect the reforms described above. The Department treated comments received on the companion NPRM as comments also regarding the DFR, and vice versa. We describe the NPRM and DFR together as the ''NPRM–DFR.'' Some comments raised concerns while others expressed support for the Department's NPRM–DFR. After carefully considering the comments received, the Department determined that none of the comments required refraining to make the revisions set forth in the NPRM–DFR, as explained in more detail below, and has decided to issue this final rule, which, with the exception of one substantive change described below and some technical corrections,[1] is identical to the NPRM–DFR.

By its terms, the DFR became effective on April 20, 2020. However, because the Department received significant adverse comments on the NPRM–DFR, the Department has not exercised, and does not intend to exercise any authority under the provisions contained in the DFR, and the Department has not published in the **Federal Register** a document confirming the effective date of the DFR and withdrawing the NPRM. Rather, the Department is now issuing this final rule to respond to the comments received and to finalize the NPRM.

The Department received multiple adverse comments to the NPRM–DFR. The commenters expressed concerns that the new systems of discretionary review in the NPRM–DFR and established in Secretary's Order 01–2020 would result in significant delays in the resolution of cases. Further, some commenters argued that secretarial review would result in inconsistencies in how the Department decides cases, and also faulted the NPRM–DFR for not specifying the standards under which the Secretary would exercise review, which some commenters suggested would jeopardize the fairness and due process afforded parties in Department adjudications. Other concerns raised by commenters included a purported lack of data or other justifications for the proposed system of discretionary review and objections to the propriety of the direct final rulemaking process. Finally, some commenters suggested that the rule should include more public reporting requirements to increase transparency with respect to how the Secretary exercises his review authority.

The Department believes that many of the objections raised by the commenters are already addressed by the provisions in the NPRM–DFR, and also notes that some of the concerns are about the contents of Secretary's Order 01–2020, which became effective on February 21, 2020, and was not the subject of this rulemaking. To the extent the commenters' concerns relate to Secretary's Order 01–2020, and not the rule, the Department addresses them here insofar as doing so is helpful in more fully explaining how the new systems of discretionary review work.

As explained earlier in this preamble, the Department does not anticipate that discretionary review will be frequently exercised. The vast run of cases decided by the Department will therefore be minimally affected in the rate at which they are processed. Importantly, the timeline set for when BALCA decisions become final under the new rule is unchanged, except with respect to cases over which the Secretary decides to exercise review.

Some commenters argued that, despite BALCA decisions becoming final upon issuance, employers would still be delayed in moving on to the next step of the visa application process because they would have to wait until the time period for secretarial review elapsed, and that the time periods in which the Secretary is permitted to undertake review are unnecessarily long. Commenters were specifically concerned with the timing available for the Secretary to invoke jurisdiction over a case and the lack of a deadline for the Secretary to make a decision, particularly regarding the H–2A program given the time-sensitive nature of the program. One commenter also suggested that the proposal is inconsistent with Section 218(e) of the INA.

The Department does not agree with these assertions. For one thing, the possibility that the Secretary may undertake review of a BALCA decision that has become final no more impedes an employer's ability to proceed to the next step in the visa application process than does the possibility that BALCA may consider, and possibly grant, a motion for reconsideration. Like the possibility of reconsideration, secretarial review will be uncommon and will not significantly delay action on a final BALCA decision. The time periods specified in this rule in which secretarial review is allowed are included to limit further the already minimal uncertainty that the chance of secretarial review might create for employers by placing a strict time constraint on when secretarial review is even possible. Finally, the Secretary's authority to review BALCA decisions does not conflict with the INA. If an employer requests a *de novo* hearing, they are entitled to that hearing in accordance with the Department's regulations. It is only after that hearing that the Secretary can exercise their authority to review the ALJ's decision from that hearing.

In response to one commenter's question of whether the Department will refund a filing fee paid to United States Citizenship and Immigration Services (USCIS) in the event the Secretary undertakes review after the fee has been submitted, the Department notes that

[1] Technical corrections have been made to 29 CFR 2.8; 29 CFR 7.1(d); 29 CFR 8.1(c); 29 CFR 10.57(c); 29 CFR 13.57(c); and 29 CFR parts 1978–1988.

USCIS's refund policy is outside the Department's control. The Department notes, however, that this final rule reduces the limited risk of costs being incurred without a refund by allowing the Secretary to undertake review of cases pending before the BALCA before a decision is issued. That feature of the rule is formulated in recognition of the expeditious nature of many BALCA cases and ensures that, wherever possible, the Secretary may review a case before a party has filed a petition with USCIS.

As to the ARB, the Department notes that the ARB currently takes on average nineteen months to process a case; the up-to approximately two months' more [2] added by Secretary's Order 01–2020 to allow the Secretary time to determine whether to undertake review is not unreasonable. A modest extension of case processing times to give the Secretary the opportunity to ensure a case was properly decided is not, in the Department's judgment, inconsistent with the fair and timely adjudication of administrative appeals. The Department also believes that additional delay in the issuance of a final decision in the uncommon cases where the Secretary has undertaken review is appropriate and consistent with current practices at the Department.

Contrary to some commenters' concerns that secretarial review will lead to inconsistency and inefficiencies in Department adjudications because of the supposed haphazard manner in which they believe the review power will be exercised, the Department expects that it will in fact increase consistency and efficiency. Decisions of the Secretary under this rule and Secretary's Order 01–2020 are binding on all Department employees, and thus will serve as authoritative pronouncements within the Department on the statutes and regulations within the BALCA's and ARB's jurisdictions. That will serve to improve the consistency and efficiency of Department adjudications.

Commenters similarly suggested that the Department establish with more specificity both the standards the Secretary will use when deciding to exercise his authority and the standards that will govern the Secretary's review of a case. The Department does not believe that further specification of the standards that govern discretionary review is necessary to ensure the proper use of this power. When review is undertaken, the Secretary will adhere to all relevant sources of law, including, where applicable, 5 U.S.C. 557(b), which sets a standard of review for administrative appeals in formal adjudications. Further, providing that, generally, cases will be subject to secretarial review only if they present a matter of exceptional importance strikes the right balance between providing some clarity about when review will be undertaken while not unnecessarily precluding review in cases where secretarial involvement may be warranted under circumstances that are difficult to anticipate.

Several commenters raised concerns that the system of discretionary secretarial review does not adequately protect due process rights or risks undermining the fundamental fairness of DOL adjudications, including by failing to provide a mechanism for the parties to the proceeding to be notified when the Secretary exercises his discretion, the relevant issues under consideration, the lack of timeframe for the Secretary to make a decision, and a concern that the process will only be used to reverse decisions unfavorable to the Department. The Department notes that this final rule contains a number of important fairness safeguards, and does not believe that further protections are necessary. Whenever review of cases pending before or decided by BALCA is undertaken by the Secretary, parties are to be promptly notified. The Secretary is also to receive the Appeal File and any briefs filed to ensure parties have an opportunity to be heard. Further, the Secretary must state his decision in writing, and the parties are to be promptly notified of his decision. Finally, this rule provides that no individual involved in the investigation or prosecution of a case will advise the Secretary on the exercise of review with respect to that case or a case involving a common nucleus of operative fact.[3] This ensures the integrity of the review process by preventing the intermingling of functions within the Department. The Department also notes that the APA's separation of functions provision does not apply to the heads of agencies. 5 U.S.C. 554(d)(C). Finally, to the extent commenters have suggested that the Secretary will in all cases rule for the Department or a preferred party, or only consider undertaking review in cases where the Department lost before the BALCA, the Department regards those concerns as unfounded, and reiterates that the Secretary will decide all cases in accordance with law.

Some commenters' objected that the Department's reasons for establishing discretionary secretarial review do not sufficiently justify the rule, including failing to provide evidence or data that the ARB and BALCA issue obviously wrong decisions on a regular-enough basis to justify the establishment of this procedure.

The Department reiterates that ensuring the Secretary's ability to supervise and direct functions of the Department that are entrusted to his care by Congress is a compelling reason for the rule taken on its own terms, and will promote good governance within the Department. The Department does not believe it is unreasonable for the Secretary to execute the duties he has been assigned by Congress. As for evidence, past experience with the unreviewability of BALCA decisions indicates that it is necessary for the Secretary to have the option of reviewing decisions issued on his behalf lest disagreement on law and policy within the Department lead to protracted uncertainty and intractable problems for regulated communities. *See, e.g., Withdrawal of Notice of Intent To Issue a Declaratory Order,* 85 FR 14706, 14708 (March 13, 2020) (recounting historical facts). The overall effect of this process will be to establish binding secretarial precedent on certain issues, which will ensure consistency in the Department's review and adjudication of matters, ultimately saving time and providing greater certainty for the regulated community.

Some commenters objected that this rule is being promulgated through improper procedures, and specifically argued that the DFR process is not permitted under the APA. The Department disagrees. The Department emphasizes that, while it does not believe it was required to issue this procedural rule through notice-and-comment procedures, it nevertheless

[2] Under Secretary's Order 01–2020, the maximum period of time possible between when the ARB issues a decision and when the decision becomes final in cases where the Secretary does not undertake review is 63 calendar days, or nine weeks. In particular, the Order allows parties up to 14 calendar days to file a petition for secretarial review after the ARB's decision has been issued. The ARB then has up to 21 calendar days from the date the petition was filed to determine whether to refer the decision to the Secretary for review. In cases where the ARB has referred the decision to the Secretary, the Secretary has up to 28 calendar days from the date of referral to decide whether to undertake review. Thus, it is *possible* under the Order that a decision of the ARB would not become final until 63 calendar days after the decision was issued. *See Secretary's Order 01–2020—Delegation of Authority and Assignment of Responsibility to the Administrative Review Board,* 85 FR 13186, 13187–88 (March 6, 2020). However, there are a variety of circumstances that can shorten the period between when a decision is issued and when it becomes final. *See id.*

[3] For example, a Department attorney who substantively participates in a hearing before BALCA would not advise the Secretary on that case if it were reviewed.

gave the public the opportunity to comment through the NPRM, received public submissions on the NPRM–DFR, and is now issuing this final rule having considered and responded to those submissions.

As to commenters' suggestions regarding transparency and the public reporting of decisions rendered by the Secretary, the Department notes that Secretary's Order 01–2020 already requires the publication of such decisions issued following the review of an ARB decision. Because the Department agrees with commenters that publishing decisions is an appropriate and effective way for the public to be informed about how the discretionary review power is exercised, the Department is adding an express publication requirement to 29 CFR 18.95(c)(2)(iii) for secretarial decisions issued after the review of cases decided by or pending before the BALCA. Commenters' other suggestions to promote transparency, including requiring BALCA to notify an employer of recommendations to the Secretary or for the Secretary to provide public explanations of his reasons for declining review in cases and providing the public with additional information about how the Secretary has handled specific referrals under Secretary's Order 01–2020, would, in Department's judgment, introduce more inefficiencies into the review processes than are warranted by the marginal benefits such transparency measures would generate.

Finally, the Department declines to grant some commenters' request for an extension of the comment period. The NPRM–DFR was not long or complex relative to other proposed rules issued by the Department. Further, the NPRM–DFR was made public on the Department's website on February 21, meaning interested parties have had notice of and have had the opportunity to examine it and to prepare comments for longer than the 30 days provided for comment. Some commenters argued that the disruption caused by the coronavirus pandemic, including the closure of law libraries or other institutions that commenters may use as a resource to submit comments, justifies an extension. The Department notes that while the pandemic has caused general disruption to the lives of all Americans, comments to proposed rules can be submitted electronically and do not rely on physical means of delivery or preparation that may be hindered by the pandemic, and that the research and work needed to prepare comments can also generally be carried on through electronic means.

To the extent that DOL received comments unrelated to the proposal to establish a system of discretionary secretarial review, such comments are outside the scope of this rulemaking. DOL did not consider any other aspects of its administrative adjudicative processes, either explicitly or implicitly, as part of this rulemaking. As such, DOL declines to address any comments unrelated to this very narrow rulemaking.

IV. Rulemaking Analyses and Notices

Executive Orders 12866, Regulatory Planning and Review, and 13563, Improving Regulation and Regulatory Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This rule has been drafted and reviewed in accordance with Executive Order 12866. The Department of Labor, in coordination with the Office of Management and Budget (OMB), determined that this rule is not a significant regulatory action under section 3(f) of Executive Order 12866 because the rule will not have an annual effect on the economy of $100 million or more; will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; and will not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof. Furthermore, the rule does not raise a novel legal or policy issue arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Accordingly, OMB has waived review.[4]

Regulatory Flexibility Act of 1980

Because no notice of proposed rulemaking was required for this rule under section 553 of the Administrative Procedure Act, the regulatory flexibility analysis requirements of the Regulatory Flexibility Act, 5 U.S.C. 603, 604, do not apply to this rule. See 5 U.S.C. 601(2).

Paperwork Reduction Act

The Department has determined that this rule is not subject to the requirements of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* as this rulemaking does not involve any collections of information. *See* 5 CFR 1320.3(c).

Unfunded Mandates Reform Act of 1995 and Executive Order 13132, Federalism

The Department has reviewed this rule in accordance with the requirements of Executive Order 13132 and the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.,* and has found no potential or 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. As there is no Federal mandate contained herein that could result in increased expenditures by State, local, and tribal governments, or by the private sector, the Department has not prepared a budgetary impact statement.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

The Department has reviewed this rule in accordance with Executive Order 13175 and has determined that it does not have ''tribal implications.'' The rule does not ''have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

List of Subjects

20 CFR Part 641

Administrative practice and procedure, Grievance procedure and appeals process, Senior Community Service Employment Program, Services to participants.

20 CFR Part 655

Administrative practice and procedure, Labor certification processes for temporary employment.

20 CFR Part 656

Administrative practice and procedure, Fraud, Reporting and recordkeeping requirements, Wages.

[4] One commenter objected to the lack of a cost–benefit analysis. This rule reflects revisions to the Department's internal review processes, which do not change any party's substantive rights or obligations. As discussed above, these internal Departmental revisions do not raise applicable novel issues nor are they expected to have an annual effect of $100 million or more.

20 CFR Part 658

Administrative practice and procedure, Complaint system; Discontinuation of services, State workforce agency compliance, Federal application of remedial action to state workforce agencies, Wagner-Peyser Act Employment Service.

20 CFR Part 667

Adjudication and Judicial Review, Administrative practice and procedure; Oversight and monitoring, Grievance procedures, complaints, and state appeal processes, Sanctions, corrective actions, and waiver of liability, Reporting and recordkeeping requirements, Resolution of findings, Workforce Investment Act.

20 CFR Part 683

Adjudication and judicial review, Administrative practice and procedure, Funding and closeout, Grievance procedures, complaints, and State appeal processes; Oversight and resolution of findings, Pay-for-performance contract strategies, Reporting and recordkeeping requirements, Rules, costs, and limitations, Sanctions, corrective actions, and waiver of liability, Workforce Innovation And Opportunity Act.

20 CFR Part 702

Administrative practice and procedure, Claims, Penalties, Reporting and recordkeeping requirements, Whistleblowing, Workers' compensation.

29 CFR Part 2

Administrative practice and procedure, Claims, Courts, Government employees.

29 CFR Part 7

Administrative practice and procedure, Government contracts, Minimum wages.

29 CFR Part 8

Administrative practice and procedure, Government contracts, Minimum wages.

29 CFR Part 10

Administrative practice and procedure, Construction industry, Government procurement, Law enforcement, Reporting and recordkeeping requirements, Wages.

29 CFR Part 13

Administrative practice and procedure, Government contracts, Law enforcement, Reporting and recordkeeping requirements, Wages.

29 CFR Part 18

Administrative practice and procedure.

29 CFR Part 24

Administrative practice and procedure, Review of other proceedings and related matters, Review of wage determinations.

29 CFR Part 29

Administrative practice and procedure, Apprenticeship programs, Labor standards, State apprenticeship agencies.

29 CFR Part 38

Administrative practice and procedure, Compliance procedures, Obligations of recipients and governors, Workforce Innovation and Opportunity Act.

29 CFR Part 96

Administrative practice and procedure, Audit requirements, Grants, contracts, and other agreements.

29 CFR Part 471

Administrative practice and procedure, Complaint procedures, Compliance review, Contractor obligations, Federal labor law.

29 CFR Part 501

Administrative practice and procedure, Contract obligations; Enforcement, Immigration and Nationality Act, Temporary alien agricultural workers.

29 CFR Part 580

Administrative practice and procedure, Assessing and contesting, Civil money penalties.

29 CFR Part 1978

Administrative practice and procedure; Employee protection; Findings, Investigations, Litigation, Retaliation complaints, Surface Transportation Assistance Act of 1982.

29 CFR Part 1979

Administrative practice and procedure, Employee protection, Findings, Litigation, Investigations, Retaliation complaints, Wendell H. Ford Aviation Investment and Reform Act for the 21st Century.

29 CFR Part 1980

Administrative practice and procedure, Employee protection, Findings, Investigations, Litigation, Retaliation complaints, Sarbanes-Oxley Act of 2002.

29 CFR Part 1981

Administrative practice and procedure, Employee protection, Findings, Litigation, Investigations, Pipeline Safety Improvement Act of 2002, Retaliation complaints.

29 CFR Part 1982

Administrative practice and procedure, Employee protection, Federal Railroad Safety Act, Findings, Investigations, Litigation, National Transit Systems Security Act, Retaliation complaints.

29 CFR Part 1983

Administrative practice and procedure, Consumer Product Safety Improvement Act of 2008, Employee protection, Findings, Investigations, Litigation, Retaliation complaints.

29 CFR Part 1984

Administrative practice and procedure, Affordable Care Act, Employee protection, Findings, Investigations, Litigation, Retaliation complaints.

29 CFR Part 1985

Administrative practice and procedure, Consumer Financial Protection Act of 2010, Employee protection, Findings, Investigations, Litigation, Retaliation complaints.

29 CFR Part 1986

Administrative practice and procedure, Employee protection, Findings, Investigations, Litigation, Retaliation complaints, Seaman's Protection Act.

29 CFR Part 1987

Administrative practice and procedure, Employee protection, FDA Food Safety Modernization Act, Findings, Investigations, Litigation, Retaliation complaints.

29 CFR Part 1988

Administrative practice and procedure, Employee protection, Findings, Investigations, Litigation, Moving Ahead for Progress in the 21st Century Act, Retaliation complaints.

41 CFR Part 50–203

Administrative practice and procedure, Government procurement, Minimum wages, Occupational safety and health.

41 CFR Part 60–30

Administrative practice and procedure, Equal opportunity, Executive Order 11246, Property management, Public contracts.

Dated: May 15, 2020.

Eugene Scalia,

Secretary of Labor.

For the reasons set forth in the preamble, the Department of Labor amends 20 CFR chapters V and VI; 29 CFR subtitle A and chapters IV, V, and XVII, and 41 CFR parts 50–203 and 60–30 as follows:

Title 20—Employees' Benefits

Employment and Training Administration

PART 641—PROVISIONS GOVERNING THE SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM

■ 1. The authority citation for part 641 continues to read as follows:

Authority: 42 U.S.C. 3056 *et seq.;* Pub. L. 114–144, 130 Stat. 334 (Apr. 19, 2016).

■ 2. In § 641.900, revise paragraph (e) to read as follows:

§ 641.900 What appeal process is available to an applicant that does not receive a grant?

* * * * *

(e) The decision of the ALJ constitutes final agency action unless, within 21 days of the decision, a party dissatisfied with the ALJ's decision, in whole or in part, has filed a petition for review with the Administrative Review Board (ARB) (established under Secretary's Order No. 01–2020), specifically identifying the procedure, fact, law, or policy to which exception is taken. The mailing address for the ARB is 200 Constitution Ave. NW, Room N5404, Washington, DC 20210. The Department will deem any exception not specifically urged to have been waived. A copy of the petition for review must be sent to the grant officer at that time. If, within 30 days of the filing of the petition for review, the ARB does not notify the parties that the case has been accepted for review, then the decision of the ALJ constitutes final agency action. In any case accepted by the ARB, a decision must be issued by the ARB within 180 days of acceptance. If a decision is not so issued, the decision of the ALJ constitutes final agency action.

* * * * *

■ 3. In § 641.920, revise paragraph (d)(5) to read as follows:

§ 641.920 What actions of the Department may a grantee appeal and what procedures apply to those appeals?

* * * * *

(d) * * *

(5) The decision of the ALJ constitutes final agency action unless, within 21 days of the decision, a party dissatisfied with the ALJ's decision, in whole or in part, has filed a petition for review with the ARB (established under Secretary's Order No. 01–2020), specifically identifying the procedure, fact, law, or policy to which exception is taken. The mailing address for the ARB is 200 Constitution Ave. NW, Room N5404, Washington, DC 20210. The Department will deem any exception not specifically argued to have been waived. A copy of the petition for review must be sent to the grant officer at that time. If, within 30 days of the filing of the petition for review, the ARB does not notify the parties that the case has been accepted for review, then the decision of the ALJ constitutes final agency action. In any case accepted by the ARB, a decision must be issued by the ARB within 180 days of acceptance. If a decision is not so issued, the decision of the ALJ constitutes final agency action.

PART 655—TEMPORARY EMPLOYMENT OF FOREIGN WORKERS IN THE UNITED STATES

■ 4. The authority citation for part 655 continues to read as follows:

Authority: Section 655.0 issued under 8 U.S.C. 1101(a)(15)(E)(iii), 1101(a)(15)(H)(i) and (ii), 8 U.S.C. 1103(a)(6), 1182(m), (n), and (t), 1184(c), (g), and (j), 1188, and 1288(c) and (d); sec. 3(c)(1), Pub. L. 101–238, 103 Stat. 2099, 2102 (8 U.S.C. 1182 note); sec. 221(a), Pub. L. 101–649, 104 Stat. 4978, 5027 (8 U.S.C. 1184 note); sec. 303(a)(8), Pub. L. 102–232, 105 Stat. 1733, 1748 (8 U.S.C. 1101 note); sec. 323(c), Pub. L. 103–206, 107 Stat. 2428; sec. 412(e), Pub. L. 105–277, 112 Stat. 2681 (8 U.S.C. 1182 note); sec. 2(d), Pub. L. 106–95, 113 Stat. 1312, 1316 (8 U.S.C. 1182 note); 29 U.S.C. 49k; Pub. L. 107–296, 116 Stat. 2135, as amended; Pub. L. 109–423, 120 Stat. 2900; 8 CFR 214.2(h)(4)(i); 8 CFR 214.2(h)(6)(iii); and sec. 6, Pub. L. 115–218, 132 Stat. 1547 (48 U.S.C. 1806).

Subpart A issued under 8 CFR 214.2(h).

Subpart B issued under 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184(c), and 1188; and 8 CFR 214.2(h).

Subpart E issued under 48 U.S.C. 1806.

Subparts F and G issued under 8 U.S.C. 1288(c) and (d); sec. 323(c), Pub. L. 103–206, 107 Stat. 2428; and 28 U.S.C. 2461 note, Pub. L. 114–74 at section 701.

Subparts H and I issued under 8 U.S.C. 1101(a)(15)(H)(i)(b) and (b)(1), 1182(n) and (t), and 1184(g) and (j); sec. 303(a)(8), Pub. L. 102–232, 105 Stat. 1733, 1748 (8 U.S.C. 1101 note); sec. 412(e), Pub. L. 105–277, 112 Stat. 2681; 8 CFR 214.2(h); and 28 U.S.C. 2461 note, Pub. L. 114–74 at section 701.

Subparts L and M issued under 8 U.S.C. 1101(a)(15)(H)(i)(c) and 1182(m); sec. 2(d), Pub. L. 106–95, 113 Stat. 1312, 1316 (8 U.S.C. 1182 note); Pub. L. 109–423, 120 Stat. 2900; and 8 CFR 214.2(h).

■ 5. In § 655.171, revise paragraphs (a) and (b)(2) to read as follows:

§ 655.171 Appeals.

* * * * *

(a) *Administrative review.* Where the employer has requested administrative review, within 5 business days after receipt of the ETA administrative file the ALJ will, on the basis of the written record and after due consideration of any written submissions (which may not include new evidence) from the parties involved or amici curiae, either affirm, reverse, or modify the CO's decision, or remand to the CO for further action. The decision of the ALJ must specify the reasons for the action taken and must be immediately provided to the employer, the CO, the OFLC Administrator and DHS by means normally assuring next-day delivery.

(b) * * *

(2) *Decision.* After a de novo hearing, the ALJ must affirm, reverse, or modify the CO's determination, or remand to the CO for further action, except in cases over which the Secretary has assumed jurisdiction pursuant to 29 CFR 18.95. The decision of the ALJ must specify the reasons for the action taken and must be immediately provided to the employer, CO, OFLC Administrator, and DHS by means normally assuring next-day delivery.

■ 6. In § 655.181, revise paragraph (b)(3) to read as follows:

§ 655.181 Revocation.

* * * * *

(b) * * *

(3) *Appeal.* An employer may appeal a Notice of Revocation, or a final determination of the OFLC Administrator after the review of rebuttal evidence, according to the appeal procedures of § 655.171.

* * * * *

■ 7. In § 655.182, revise paragraph (f)(6) to read as follows:

§ 655.182 Debarment.

* * * * *

(f) * * *

(6) *ARB decision.* The ARB's decision must be issued within 90 days from the notice granting the petition and served upon all parties and the ALJ. If the ARB fails to issue a decision within 90 days from the notice granting the petition, the ALJ's decision will be the final agency decision.

* * * * *

■ 8. In § 655.183, revise paragraph (c) to read as follows:

§ 655.183 Less than substantial violations.

* * * * *

(c) *Failure to comply with special procedures.* If the OFLC Administrator determines that the employer has failed

to comply with special procedures required pursuant to paragraph (a) of this section, the OFLC Administrator will send a written notice to the employer, stating that the employer's otherwise affirmative H–2A certification determination will be reduced by 25 percent of the total number of H–2A workers requested (which cannot be more than those requested in the previous year) for a period of 1 year. Notice of such a reduction in the number of workers requested will be conveyed to the employer by the OFLC Administrator in the OFLC Administrator's written certification determination. The notice will offer the employer an opportunity to request administrative review or a de novo hearing before an ALJ. If administrative review or a de novo hearing is requested, the procedures prescribed in § 655.171 will apply, provided that if the ALJ or the Secretary affirms the OFLC Administrator's determination that the employer has failed to comply with special procedures required by paragraph (a) of this section, the reduction in the number of workers requested will be 25 percent of the total number of H–2A workers requested (which cannot be more than those requested in the previous year) for a period of 1 year.

■ 9. In § 655.461, revise paragraph (e) to read as follows:

§ 655.461 Administrative review.

* * * * *

(e) *Scope of review.* BALCA will, except in cases over which the Secretary has assumed jurisdiction pursuant to 29 CFR 18.95, affirm, reverse, or modify the CO's determination, or remand to the CO for further action. BALCA will reach this decision after due consideration of the documents in the Appeal File that were before the CO at the time of the CO's determination, the request for review, and any legal briefs submitted. BALCA may not consider evidence not before the CO at the time of the CO's determination, even if such evidence is in the Appeal File, request for review, or legal briefs.

* * * * *

■ 10. In § 655.472, revise paragraph (b)(3) to read as follows:

§ 655.472 Revocation.

* * * * *

(b) * * *

(3) *Request for review.* An employer may appeal a Notice of Revocation or a final determination of the OFLC Administrator after the review of rebuttal evidence to BALCA, according to the appeal procedures of § 655.461.

* * * * *

■ 11. In § 655.473, revise paragraph (f)(6) to read as follows:

§ 655.473 Debarment.

* * * * *

(f) * * *

(6) *ARB decision.* The ARB's decision must be issued within 90 calendar days from the notice granting the petition and served upon all parties and the ALJ.

■ 12. In § 655.845, revise paragraphs (h) and (i) to read as follows:

§ 655.845 What rules apply to appeal of the decision of the administrative law judge?

* * * * *

(h) The Board's decision shall be issued within 180 calendar days from the date of the notice of intent to review. The Board's decision shall be served upon all parties and the administrative law judge.

(i) After the Board's decision becomes final, the Board shall transmit the entire record to the Chief Administrative Law Judge for custody pursuant to § 655.850.

PART 656—LABOR CERTIFICATION PROCESS FOR PERMANENT EMPLOYMENT OF ALIENS IN THE UNITED STATES

■ 13. The authority citation for part 656 continues to read as follows:

Authority: 8 U.S.C. 1182(a)(5)(A), 1182(p)(1); sec.122, Public Law 101–649, 109 Stat. 4978; and Title IV, Public Law 105–277, 112 Stat. 2681.

■ 14. In § 656.27, revise paragraph (c) to read as follows:

§ 656.27 Consideration by and decisions of the Board of Alien Labor Certification Appeals.

* * * * *

(c) *Review on the record.* The Board of Alien Labor Certification Appeals must review a denial of labor certification under § 656.24, a revocation of a certification under § 656.32, or an affirmation of a prevailing wage determination under § 656.41 on the basis of the record upon which the decision was made, the request for review, and any Statements of Position or legal briefs submitted and, except in cases over which the Secretary has assumed jurisdiction pursuant to 29 CFR 18.95, must:

(1) Affirm the denial of the labor certification, the revocation of certification, or the affirmation of the PWD; or

(2) Direct the Certifying Officer to grant the certification, overrule the revocation of certification, or overrule the affirmation of the PWD; or

(3) Direct that a hearing on the case be held under paragraph (e) of this section.

* * * * *

PART 658—ADMINISTRATIVE PROVISIONS GOVERNING THE WAGNER–PEYSER ACT EMPLOYMENT SERVICE

■ 15. The authority citation for part 658 continues to read as follows:

Authority: Secs. 189, 503, Pub. L. 113–128, 128 Stat. 1425 (Jul. 22, 2014); 29 U.S.C. chapter 4B.

■ 16. In § 658.711, revise paragraph (b) to read as follows:

§ 658.711 Decision of the Administrative Review Board.

* * * * *

(b) The decision of the Administrative Review Board must be in writing, and must set forth the factual and legal basis for the decision. After the Board's decision becomes final, notice of the decision must be published in the **Federal Register**, and copies must be made available for public inspection and copying.

PART 667—ADMINISTRATIVE PROVISIONS UNDER TITLE I OF THE WORKFORCE INVESTMENT ACT

■ 17. The authority citation for part 667 continues to read as follows:

Authority: Subtitle C of Title I, Sec. 506(c), Pub. L. 105–220, 112 Stat. 936 (20 U.S.C. 9276(c)); Executive Order 13198, 66 FR 8497, 3 CFR 2001 Comp., p. 750; Executive Order 13279, 67 FR 77141, 3 CFR 2002 Comp., p. 258.

■ 18. In § 667.830, revise paragraph (b) to read as follows:

§ 667.830 When will the Administrative Law Judge issue a decision?

* * * * *

(b) The decision of the ALJ constitutes final agency action unless, within 20 days of the decision, a party dissatisfied with the ALJ's decision has filed a petition for review with the Administrative Review Board (ARB) (established under Secretary's Order No. 01–2020), specifically identifying the procedure, fact, law, or policy to which exception is taken. Any exception not specifically urged is deemed to have been waived. A copy of the petition for review must be sent to the opposing party at that time. Thereafter, the decision of the ALJ constitutes final agency action unless the ARB, within 30 days of the filing of the petition for review, notifies the parties that the case has been accepted for review. In any case accepted by the ARB, a decision

must be issued by the ARB within 180 days of acceptance. If a decision is not so issued, the decision of the ALJ constitutes final agency action.

PART 683—ADMINISTRATIVE PROVISIONS UNDER TITLE I OF THE WORKFORCE INNOVATION AND OPPORTUNITY ACT

■ 19. The authority citation for part 683 continues to read as follows:

Authority: Secs. 102, 116, 121, 127, 128, 132, 133, 147, 167, 169, 171, 181, 185, 189, 195, 503, Public Law 113–128, 128 Stat. 1425 (Jul. 22, 2014).

■ 20. In § 683.830, revise paragraph (b) to read as follows:

§ 683.830 When will the Administrative Law Judge issue a decision?

* * * * *

(b) The decision of the ALJ constitutes final agency action unless, within 20 days of the decision, a party dissatisfied with the ALJ's decision has filed a petition for review with the Administrative Review Board (ARB) (established under Secretary's Order No. 01–2020), specifically identifying the procedure, fact, law, or policy to which exception is taken. Any exception not specifically raised in the petition is deemed to have been waived. A copy of the petition for review also must be sent to the opposing party and if an applicant or recipient, to the Grant Officer and the Grant Officer's Counsel at the time of filing. Unless the ARB, within 30 days of the filing of the petition for review, notifies the parties that the case has been accepted for review, the decision of the ALJ constitutes final agency action. In any case accepted by the ARB, a decision must be issued by the ARB within 180 days of acceptance. If a decision is not so issued, the decision of the ALJ constitutes final agency action.

Office of Workers' Compensation Programs Longshoremen's and Harbor Workers' Compensation Act and Related Statutes

PART 702—ADMINISTRATION AND PROCEDURE

■ 21. The authority citation for part 702 continues to read as follows:

Authority: 5 U.S.C. 301, and 8171 *et seq.;* 33 U.S.C. 901 *et seq.;* 42 U.S.C. 1651 *et seq.;* 43 U.S.C. 1333; 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990); Pub.L. 114–74 at sec. 701; Reorganization Plan No. 6 of 1950, 15 FR 3174, 64 Stat. 1263; Secretary's Order 10–2009, 74 FR 58834.

■ 22. In § 702.433, revise paragraphs (e) and (f) to read as follows:

§ 702.433 Requests for hearing.

* * * * *

(e) The administrative law judge will issue a recommended decision after the termination of the hearing. The recommended decision must contain appropriate findings, conclusions, and a recommended order and be forwarded, together with the record of the hearing, to the Administrative Review Board for a decision. The recommended decision must be served upon all parties to the proceeding.

(f) Based upon a review of the record and the recommended decision of the administrative law judge, the Administrative Review Board will issue a decision.

■ 23. Revise § 702.434 to read as follows:

§ 702.434 Judicial review.

(a) Any physician, health care provider, or claims representative who participated as a party in the hearing may obtain review of the Department's final decision made by the Administrative Review Board or the Secretary, as appropriate, regardless of the amount of controversy, by commencing a civil action within sixty (60) days after the decision is transmitted to him or her. The pendency of such review will not stay the effect of the decision. Such action must be brought in the Court of Appeals of the United States for the judicial circuit in which the plaintiff resides or has his or her principal place of business, or the Court of Appeals for the District of Columbia pursuant to section 7(j)(4) of the Act, 33 U.S.C. 907(j)(4).

(b) As part of the Department's answer, the Administrative Review Board must file a certified copy of the transcript of the record of the hearing, including all evidence submitted in connection therewith.

(c) The findings of fact contained in the Department's final decision, if based on substantial evidence in the record as a whole, shall be conclusive.

Title 29—Labor

Office of the Secretary of Labor

PART 2—GENERAL REGULATIONS

■ 24. The authority citation for part 2 continues to read as:

Authority: 5 U.S.C. 301; Executive Order 13198, 66 FR 8497, 3 CFR 2001 Comp., p. 750; Executive Order 13279, 67 FR 77141, 3 CFR 2002 Comp., p. 258; Executive Order 13559, 75 FR 71319, 3 CFR 2011 Comp., p. 273.

■ 25. Revise § 2.8 to read as follows:

§ 2.8 Final agency decisions.

Final agency decisions issued under the statutory authority of the U.S. Department of Labor may be issued by the Secretary of Labor, or by his or her designee under a written delegation of authority. The Administrative Review Board, an organizational entity within the Office of the Secretary, has been delegated authority to issue final agency decisions under the statutes, executive orders, and regulations according to, and except as provided in Secretary's Order 01–2020 (or any successor to that order).

PART 7—PRACTICE BEFORE THE ADMINISTRATIVE REVIEW BOARD WITH REGARD TO FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION CONTRACTS

■ 26. The authority citation for part 7 continues to read as:

Authority: Reorg. Plan No. 14 of 1950, 64 Stat. 1267; 5 U.S.C. 301; 3 CFR, 1949–1953 Comp., p. 1007; sec. 2, 48 Stat. 948 as amended; 40 U.S.C. 276c; secs. 104, 105, 76 Stat. 358, 359; 40 U.S.C. 330, 331; 65 Stat. 290; 36 FR 306, 8755.

■ 27. In § 7.1, revise paragraph (d) to read as follows:

§ 7.1 Purpose and scope.

* * * * *

(d) In considering the matters within the scope of its jurisdiction the Board shall act as the authorized representative of the Secretary of Labor. The Board shall act as fully and finally as might the Secretary of Labor concerning such matters, except as provided in Secretary's Order 01–2020 (or any successor to that order).

* * * * *

PART 8—PRACTICE BEFORE THE ADMINISTRATIVE REVIEW BOARD WITH REGARD TO FEDERAL SERVICE CONTRACTS

■ 28. The authority citation for part 8 continues to read as:

Authority: Secs. 4 and 5, 79 Stat. 1034, 1035, as amended by 86 Stat. 789, 790, 41 U.S.C. 353, 354; 5 U.S.C. 301; Reorg. Plan No. 14 of 1950, 64 Stat. 1267, 5 U.S.C. Appendix; 76 Stat. 357–359, 40 U.S.C. 327–332.

■ 29. In § 8.1, revise paragraph (c) to read as follows:

§ 8.1 Purpose and scope.

* * * * *

(c) In considering the matters within the scope of its jurisdiction the Board shall act as the authorized representative of the Secretary of Labor and shall act as fully and finally as might the Secretary of Labor concerning

such matters, except as provided in Secretary's Order 01–2020 (or any successor to that order).

* * * * *

PART 10—ESTABLISHING A MINIMUM WAGE FOR CONTRACTORS

■ 30. The authority citation for part 10 continues to read as follows:

Authority: 5 U.S.C. 301; section 2, E.O. 13838, 83 FR 25341; section 4, E.O. 13658, 79 FR 9851; Secretary's Order 01–2014, 79 FR 77527.

■ 31. Revise § 10.57 to read as follows:

§ 10.57 Administrative Review Board proceedings.

(a) *Authority*—(1) *General.* The Administrative Review Board has jurisdiction to hear and decide in its discretion appeals concerning questions of law and fact from investigative findings letters of the Administrator issued under § 10.51(c)(1) or (2), Administrator's rulings issued under § 10.58, and decisions of Administrative Law Judges issued under § 10.55.

(2) *Limit on scope of review.* (i) The Board shall not have jurisdiction to pass on the validity of any provision of this part. The Board is an appellate body and shall decide cases properly before it on the basis of substantial evidence contained in the entire record before it. The Board shall not receive new evidence into the record.

(ii) The Equal Access to Justice Act, as amended, does not apply to proceedings under this part. Accordingly, the Administrative Review Board shall have no authority to award attorney's fees and/or other litigation expenses pursuant to the provisions of the Equal Access to Justice Act for any proceeding under this part.

(b) *Decisions.* The Board's decision shall be issued within a reasonable period of time following receipt of the petition for review and shall be served upon all parties by mail to the last known address and on the Chief Administrative Law Judge (in cases involving an appeal from an Administrative Law Judge's decision).

(c) *Orders.* If the Board concludes a violation occurred, an order shall be issued mandating action to remedy the violation, including, but not limited to, monetary relief for unpaid wages. Where the Administrator has sought imposition of debarment, the Board shall determine whether an order imposing debarment is appropriate. The ARB's order is subject to discretionary review by the Secretary as provided in Secretary's Order 01–2020 (or any successor to that order).

PART 13—ESTABLISHING PAID SICK LEAVE FOR FEDERAL CONTRACTORS

■ 32. The authority citation for part 13 continues to read as follow:

Authority: 5 U.S.C. 301; E.O. 13706, 80 FR 54697, 3 CFR, 2016 Comp., p. 367; Secretary's Order 01–2014, 79 FR 77527.

■ 33. Revise § 13.57 to read as follows:

§ 13.57 Administrative Review Board proceedings.

(a) *Authority*—(1) *General.* The Administrative Review Board has jurisdiction to hear and decide in its discretion appeals concerning questions of law and fact from investigative findings letters of the Administrator issued under § 13.51(c)(1) or the final sentence of § 13.51(c)(2)(ii), Administrator's rulings issued under § 13.58, and decisions of Administrative Law Judges issued under § 13.55.

(2) *Limit on scope of review.* (i) The Administrative Review Board shall not have jurisdiction to pass on the validity of any provision of this part. The Administrative Review Board is an appellate body and shall decide cases properly before it on the basis of substantial evidence contained in the entire record before it. The Administrative Review Board shall not receive new evidence into the record.

(ii) The Equal Access to Justice Act, as amended, does not apply to proceedings under this part. Accordingly, the Administrative Review Board shall have no authority to award attorney's fees and/or other litigation expenses pursuant to the provisions of the Equal Access to Justice Act for any proceeding under this part.

(b) *Decisions.* The Administrative Review Board's decision shall be issued within a reasonable period of time following receipt of the petition for review and shall be served upon all parties by mail to the last known address and on the Chief Administrative Law Judge (in cases involving an appeal from an Administrative Law Judge's decision).

(c) *Orders.* If the Board concludes a violation occurred, an order shall be issued mandating action to remedy the violation, including, but not limited to, any monetary or equitable relief described in § 13.44. Where the Administrator has sought imposition of debarment, the Administrative Review Board shall determine whether an order imposing debarment is appropriate. The ARB's order is subject to discretionary review by the Secretary as provided in Secretary's Order 01–2020 (or any successor to that order).

PART 18—RULES OF PRACTICE AND PROCEDURE FOR ADMINISTRATIVE HEARINGS BEFORE THE OFFICE OF ADMINISTRATIVE LAW JUDGES

■ 34. The authority citation for part 18 continues to read as follows:

Authority: 5 U.S.C. 301; 5 U.S.C. 551–553; 5 U.S.C. 571 note; E.O. 12778; 57 FR 7292.

■ 35. Revise § 18.95 to read as follows:

§ 18.95 Review of decision and review by the Secretary.

(a) *Review.* The statute or regulation that conferred hearing jurisdiction provides the procedure for review of a judge's decision. If the statute or regulation does not provide a procedure, the judge's decision becomes the Secretary's final administrative decision, except as provided in paragraph (b) of this section.

(b) *Finality.* A decision of the Board of Alien Labor Certification Appeals (BALCA) shall constitute the Secretary's final administrative decision except in those cases over which the Secretary has, in accordance with this paragraph (b) and paragraph (c) of this section, assumed jurisdiction:

(1) In any case for which administrative review is sought or handled in accordance with 20 CFR 655.171(a) or 20 CFR 655.461, at any point from when the BALCA receives a request for review until the passage of 10 business days after the date on which BALCA has issued its decision.

(2) In any case for which a de novo hearing is sought or handled under 20 CFR 655.171(b), at any point within 15 business days after the date on which the BALCA has issued its decision.

(3) In any case for which review is sought or handled in accordance with 20 CFR 656.26 and 20 CFR 656.27, at any point from when the BALCA receives a request for review until the passage of 30 business days after the BALCA has issued its decision.

(c) *Review by the Secretary*—(1) *Transmission of information.* (i) Whenever the BALCA receives a request for review, it shall immediately transmit a copy of such request to the Deputy Secretary.

(ii) Within 3 business days of when the BALCA issues a decision, the Chair of the BALCA, or his or her designee, shall transmit to the Deputy Secretary a copy of the decision and a concise recommendation as to whether the decision involves an issue or issues of such exceptional importance that review by the Secretary is warranted.

(2) *Review.* (i) The Secretary may, at any point within the time periods provided for in paragraph (b) of this

section, and in his or her sole discretion, assume jurisdiction to review the decision or determination of the Certifying Officer, the Office of Foreign Labor Certification Administrator, the National Prevailing Wage Center Director, or the BALCA, as the case may be.

(ii) When the Secretary assumes jurisdiction over a case, the Secretary shall promptly notify the BALCA. The BALCA shall promptly notify the parties to the case of such action and shall submit the Appeal File and any briefs filed to the Secretary.

(iii) In any case the Secretary decides, the Secretary's decision shall be stated in writing and transmitted to the BALCA, which shall promptly publish the decision and transmit it to the parties to the case. Such decision shall constitute final action by the Department and shall serve as binding precedent on all Department employees and in all Department proceedings involving the same issue or issues.

(iv) The Solicitor of Labor, or his or her designee, shall have the responsibility for providing legal advice to the Secretary with respect to the Secretary's exercise of review under this section, except that no individual involved in the investigation or prosecution of a case shall advise the Secretary on the exercise of review with respect to such case or a case involving a common nucleus of operative fact.

PART 24—PROCEDURES FOR THE HANDLING OF RETALIATION COMPLAINTS UNDER THE EMPLOYEE PROTECTION PROVISIONS OF SIX ENVIRONMENTAL STATUTES AND SECTION 211 OF THE ENERGY REORGANIZATION ACT OF 1974, AS AMENDED

■ 36. The authority citation for part 24 is revised to read as follows:

Authority: 15 U.S.C. 2622; 33 U.S.C. 1367; 42 U.S.C. 300j–9(i)BVG, 5851, 6971, 7622, 9610; Secretary's Order No. 5–2007, 72 FR 31160 (June 5, 2007); Secretary's Order No. 01–2020.

■ 37. In § 24.110, revise paragraphs (a), (c), and (d) to read as follows:

§ 24.110 Decisions and orders of the Administrative Review Board.

(a) Any party desiring to seek review, including judicial review, of a decision of the ALJ must file a written petition for review with the ARB, U.S. Department of Labor, 200 Constitution Ave. NW, Washington, DC 20210. The decision of the ALJ will become the final order of the Secretary unless, pursuant to this section, a timely petition for review is filed with the ARB and the ARB accepts the case for review. The parties should identify in their petitions for review the legal conclusions or orders to which they object, or the objections will ordinarily be deemed waived. A petition must be filed within 10 business days of the date of the decision of the ALJ. The date of the postmark, facsimile transmittal, or email communication will be considered to be the date of filing; if the petition is filed in person, by hand delivery or other means, the petition is considered filed upon receipt. The petition must be served on all parties and on the Chief Administrative Law Judge at the time it is filed with the ARB. Copies of the petition for review and all briefs must be served on the Assistant Secretary, Occupational Safety and Health Administration, and on the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor.

* * * * *

(c) The decision of the ARB will be issued within 90 days of the filing of the complaint. The decision will be served upon all parties and the Chief Administrative Law Judge by mail. The decision will also be served on the Assistant Secretary, Occupational Safety and Health Administration, and on the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor, even if the Assistant Secretary is not a party.

(d) If the ARB concludes that the respondent has violated the law, the order will order the respondent to take appropriate affirmative action to abate the violation, including reinstatement of the complainant to that person's former position, together with the compensation (including back pay), terms, conditions, and privileges of employment, and compensatory damages. In cases arising under the Safe Drinking Water Act or the Toxic Substances Control Act, exemplary damages may also be awarded when appropriate. At the request of the complainant, the ARB will assess against the respondent all costs and expenses (including attorney's fees) reasonably incurred.

* * * * *

■ 38. Revise § 24.112 to read as follows:

§ 24.112 Judicial Review.

(a) Except as provided under paragraphs (b) through (d) of this section, within 60 days after the issuance of a final order (including a decision issued by the Secretary upon his or her discretionary review) for which judicial review is available, any person adversely affected or aggrieved by the order may file a petition for review of the order in the United States Court of Appeals for the circuit in which the violation allegedly occurred or the circuit in which the complainant resided on the date of the violation. A final order of the ARB (or a decision issued by the Secretary upon his or her discretionary review) is not subject to judicial review in any criminal or other civil proceeding.

(b) Under the Federal Water Pollution Control Act, within 120 days after the issuance of a final order (including a decision issued by the Secretary upon his or her discretionary review) for which judicial review is available, any person adversely affected or aggrieved by the order may file a petition for review of the order in the United States Court of Appeals for the circuit in which the violation allegedly occurred or the circuit in which the complainant resided on the date of the violation.

(c) Under the Solid Waste Disposal Act, within 90 days after the issuance of a final order (including a decision issued by the Secretary upon his or her discretionary review) for which judicial review is available, any person adversely affected or aggrieved by the order may file a petition for review of the order in the United States Court of Appeals for the circuit in which the violation allegedly occurred or the circuit in which the complainant resided on the date of the violation.

(d) Under the Comprehensive Environmental Response, Compensation and Liability Act, after the issuance of a final order (including a decision issued by the Secretary upon his or her discretionary review) for which judicial review is available, any person adversely affected or aggrieved by the order may file a petition for review of the order in the United States district court in which the violation allegedly occurred. For purposes of judicial economy and consistency, when a final order under the Comprehensive Environmental Response, Compensation and Liability Act also is issued under any other statute listed in § 24.100(a), the adversely affected or aggrieved person may file a petition for review of the entire order in the United States Court of Appeals for the circuit in which the violation allegedly occurred or the circuit in which the complainant resided on the date of the violation. The time for filing a petition for review of an order issued under the Comprehensive Environmental Response, Compensation and Liability Act and any other statute listed in § 24.100(a) is determined by the time period applicable under the other statute(s).

(e) If a timely petition for review is filed, the record of a case, including the record of proceedings before the administrative law judge, will be transmitted by the ARB or the ALJ, as appropriate, to the appropriate court pursuant to the Federal Rules of Appellate Procedure and the local rules of the court.

PART 29—LABOR STANDARDS FOR THE REGISTRATION OF APPRENTICESHIP PROGRAMS

■ 39. The authority citation for part 29 continues to read as follows:

Authority: Section 1, 50 Stat. 664, as amended (29 U.S.C. 50; 40 U.S.C. 276c; 5 U.S.C. 301); Reorganization Plan No. 14 of 1950, 64 Stat. 1267 (5 U.S.C. App. P. 534).

■ 40. In § 29.10, revise paragraph (c) to read as follows:

§ 29.10 Hearings for deregistration.

* * * * *

(c) The Administrative Law Judge should issue a written decision within 90 days of the close of the hearing record. The Administrative Law Judge's decision constitutes final agency action unless, within 15 days from receipt of the decision, a party dissatisfied with the decision files a petition for review with the Administrative Review Board, specifically identifying the procedure, fact, law, or policy to which exception is taken. Any exception not specifically urged is deemed to have been waived. A copy of the petition for review must be sent to the opposing party at the same time. Thereafter, the decision of the Administrative Law Judge remains final agency action unless the Administrative Review Board, within 30 days of the filing of the petition for review, notifies the parties that it has accepted the case for review. The Administrative Review Board may set a briefing schedule or decide the matter on the record. The Administrative Review Board must issue a decision in any case it accepts for review within 180 days of the close of the record. If a decision is not so issued, the Administrative Law Judge's decision constitutes final agency action.

■ 41. In § 29.13, revise paragraph (g)(4) to read as follows:

§ 29.13 Recognition of State Apprenticeship Agencies.

* * * * *

(g) * * *

(4) After the close of the period for filing exceptions and responses, the Administrative Review Board may issue a briefing schedule or may decide the matter on the record before it. The Administrative Review Board must decide any case it accepts for review within 180 days of the close of the record. If a decision is not so issued, the Administrative Law Judge's decision constitutes final agency action.

* * * * *

■ 42. In § 29.14, revise paragraph (c)(3) to read as follows:

§ 29.14 Derecognition of State Apprenticeship Agencies.

* * * * *

(c) * * *

(3) *Requests a hearing.* The Administrator shall refer the matter to the Office of Administrative Law Judges. An Administrative Law Judge will convene a hearing in accordance with § 29.13(g) and submit proposed findings and a recommended decision to the Administrative Review Board. The Administrative Review Board must issue a decision in any case it accepts for review within 180 days of the close of the record. If a decision is not so issued, the Administrative Law Judge's decision constitutes final agency action.

* * * * *

PART 38—IMPLEMENTATION OF THE NONDISCRIMINATION AND EQUAL OPPORTUNITY PROVISIONS OF THE WORKFORCE INNOVATION AND OPPORTUNITY ACT

■ 43. The authority citation for part 38 continues to read as follows:

Authority: 29 U.S.C. 3101 *et seq.;* 42 U.S.C. 2000d *et seq.;* 29 U.S.C. 794; 42 U.S.C. 6101 *et seq.;* and 20 U.S.C. 1681 *et seq.*

■ 44. In § 38.112, revise paragraph (b)(1)(viii) to read as follows:

§ 38.112 Initial and final decision procedures.

* * * * *

(b) * * *

(1) * * *

(viii) *Decision and Order after review by Administrative Review Board.* In any case reviewed by the Administrative Review Board under this paragraph, a decision must be issued within 180 days of the notification of such review. If the Administrative Review Board fails to issue a decision and order within the 180-day period, the initial decision and order of the Administrative Law Judge becomes the Final Decision and Order.

* * * * *

■ 45. In § 38.113, revise paragraph (c) to read as follows:

§ 38.113 Suspension, termination, withholding, denial, or discontinuation of financial assistance.

* * * * *

(c) A decision issued by the Administrative Review Board has become final, the Administrative Law Judge's decision and order has become the Final Agency Decision, or the Final Determination or Notification of Conciliation Agreement has been deemed the Final Agency Decision, under § 38.112(b); and

* * * * *

■ 46. In § 38.115, revise paragraph (c)(5) to read as follows:

§ 38.115 Post-termination proceedings.

* * * * *

(c) * * *

(5) The Administrative Review Board must issue a decision denying or granting the recipient's or grant applicant's request for restoration to eligibility.

PART 96—AUDIT REQUIREMENTS FOR GRANTS, CONTRACTS, AND OTHER AGREEMENTS

■ 47. The authority citation for part 96 continues to read as follows:

Authority: 31 U.S.C. 7501 *et seq.* and OMB Circular No. A–133, as amended.

■ 48. In § 96.63, revise paragraph (b)(5) to read as follows:

§ 96.63 Federal financial assistance.

* * * * *

(b) * * *

(5) *Review by the Administrative Review Board.* In any case accepted for review by the Administrative Review Board, a decision shall be issued within 180 days of such acceptance. If a decision is not so issued, the decision of the Administrative Law Judge shall become the final decision of the Secretary.

Office of Labor-Management Standards

PART 471—OBLIGATIONS OF FEDERAL CONTRACTORS AND SUBCONTRACTORS; NOTIFICATION OF EMPLOYEE RIGHTS UNDER FEDERAL LABOR LAWS

■ 49. The authority citation for part 471 is revised to read as follows:

Authority: 40 U.S.C. 101 *et seq.;* Executive Order 13496, 74 FR 6107, February 4, 2009; Secretary's Order No. 7–2009, 74 FR 58834, November 13, 2009; Secretary's Order No. 01–2020.

■ 50. In § 471.13, revise paragraph (b)(4) to read as follows:

§ 471.13 Under what circumstances, and how, will enforcement proceedings under Executive Order 13496 be conducted?

* * * * *

(b) * * *

(4) After the expiration of time for filing exceptions, the Administrative Review Board may issue an

administrative order, or may otherwise appropriately dispose of the matter. In an expedited proceeding, unless the Administrative Review Board issues an administrative order within 30 days after the expiration of time for filing exceptions, the Administrative Law Judge's recommended decision will become the final administrative order. If the Administrative Review Board determines that the contractor has violated the Executive Order or the regulations in this part, the administrative order will order the contractor to cease and desist from the violations, require the contractor to provide appropriate remedies, or, subject to the procedures in § 471.14, impose appropriate sanctions and penalties, or any combination thereof.

Wage and Hour Division

PART 501—ENFORCEMENT OF CONTRACTUAL OBLIGATIONS FOR TEMPORARY ALIEN AGRICULTURAL WORKERS ADMITTED UNDER SECTION 218 OF THE IMMIGRATION AND NATIONALITY ACT

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

Authority: 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184(c), and 1188; 28 U.S.C. 2461 Note (Federal Civil Penalties Inflation Adjustment Act of 1990); and Public Law 114–74 at § 701.

■ 52. Revise § 501.45 to read as follows:

§ 501.45 Decision of the Administrative Review Board.

The ARB's decision shall be issued within 90 days from the notice granting the petition and served upon all parties and the ALJ.

PART 580—CIVIL MONEY PENALTIES—PROCEDURES FOR ASSESSING AND CONTESTING PENALTIES

■ 53. The authority citation for part 580 continues to read as follows:

Authority: 29 U.S.C. 9a, 203, 209, 211, 212, 213(c), 216; Reorg. Plan No. 6 of 1950, 64 Stat. 1263, 5 U.S.C. App; secs. 25, 29, 88 Stat. 72, 76; Secretary's Order 01–2014 (Dec. 19, 2014), 79 FR 77527 (Dec. 24, 2014); 5 U.S.C. 500, 503, 551, 559; 103 Stat. 938.

■ 54. Revise § 580.16 to read as follows:

§ 580.16 Decision of the Administrative Review Board.

The Board's decision shall be served upon all parties and the Chief Administrative Law Judge, in person or by mail to the last known address.

Occupational Safety and Health Administration

PART 1978—PROCEDURES FOR THE HANDLING OF RETALIATION COMPLAINTS UNDER THE EMPLOYEE PROTECTION PROVISION OF THE SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982 (STAA), AS AMENDED

■ 55. The authority citation for part 1978 is revised to read as follows:

Authority: 49 U.S.C. 31101 and 31105; Secretary's Order 1–2012 (Jan. 18, 2012), 77 FR 3912 (Jan. 25, 2012); Secretary's Order 01–2020.

■ 56. In § 1978.110, revise paragraphs (a), (c), (d), and (e) to read as follows:

§ 1978.110 Decisions and orders of the Administrative Review Board.

(a) The Assistant Secretary or any other party desiring to seek review, including judicial review, of a decision of the ALJ must file a written petition for review with the ARB. The parties should identify in their petitions for review the legal conclusions or orders to which they object, or the objections may be deemed waived. A petition must be filed within 14 days of the date of the decision of the ALJ. The date of the postmark, facsimile transmittal, or electronic communication transmittal will be considered to be the date of filing; if the petition is filed in person, by hand delivery or other means, the petition is considered filed upon receipt. The petition must be served on all parties and on the Chief Administrative Law Judge at the time it is filed with the ARB. Copies of the petition for review and all briefs must be served on the Assistant Secretary and, in cases in which the Assistant Secretary is a party, on the Associate Solicitor, Division of Occupational Safety and Health, U.S. Department of Labor.

* * * * *

(c) The decision of the ARB will be issued within 120 days of the conclusion of the hearing, which will be deemed to be 14 days after the date of the decision of the ALJ, unless a motion for reconsideration has been filed with the ALJ in the interim. In such case, the conclusion of the hearing is the date the motion for reconsideration is ruled upon or 14 days after a new decision is issued. The ARB's decision will be served upon all parties and the Chief Administrative Law Judge by mail. The decision also will be served on the Assistant Secretary, and on the Associate Solicitor, Division of Occupational Safety and Health, U.S, Department of Labor, even if the Assistant Secretary is not a party.

(d) If the ARB concludes that the respondent has violated the law, the ARB will issue an order providing relief to the complainant. The order, which will be subject to discretionary review by the Secretary as provided in Secretary's Order 01–2020 (or any successor to that order), will require, where appropriate, affirmative action to abate the violation; reinstatement of the complainant to his or her former position with the same compensation, terms, conditions, and privileges of the complainant's employment; payment of compensatory damages (back pay with interest and compensation for any special damages sustained as a result of the retaliation, including any litigation costs, expert witness fees, and reasonable attorney fees the complainant may have incurred); and payment of punitive damages up to $250,000. Interest on back pay will be calculated using the interest rate applicable to underpayment of taxes under 26 U.S.C. 6621 and will be compounded daily.

(e) If the ARB concludes that the respondent has not violated the law, the ARB will issue an order denying the complaint. Such order will be subject to discretionary review by the Secretary as provided in Secretary's Order 01–2020 (or any successor to that order).

* * * * *

■ 57. In § 1978.112, revise paragraph (a) to read as follows:

§ 1978.112 Judicial review.

(a) Within 60 days after the issuance of a final order (including a decision issued by the Secretary upon his or her discretionary review) for which judicial review is available, any person adversely affected or aggrieved by the order may file a petition for review of the order in the United States Court of Appeals for the circuit in which the violation allegedly occurred or the circuit in which the person resided on the date of the violation.

* * * * *

PART 1979—PROCEDURES FOR THE HANDLING OF DISCRIMINATION COMPLAINTS UNDER SECTION 519 OF THE WENDELL H. FORD AVIATION INVESTMENT AND REFORM ACT FOR THE 21ST CENTURY

■ 58. The authority citation for part 1979 continues to read as follows:

Authority: 49 U.S.C. 42121; Secretary's Order No. 01–2020.

■ 59. In § 1979.110, revise paragraphs (a), (c), (d), and (e) to read as follows:

§ 1979.110 Decision and orders of the Administrative Review Board.

(a) Any party desiring to seek review, including judicial review, of a decision of the administrative law judge, or a named person alleging that the complaint was frivolous or brought in bad faith who seeks an award of attorney's fees, must file a written petition for review with the Administrative Review Board (''the Board''). The decision of the Administrative Law Judge shall become the final order of the Secretary unless, pursuant to this section, a petition for review is timely filed with the Board. The petition for review must specifically identify the findings, conclusions, or orders to which exception is taken. Any exception not specifically urged ordinarily shall be deemed to have been waived by the parties. To be effective, a petition must be filed within ten business days of the date of the decision of the Administrative Law Judge. The date of the postmark, facsimile transmittal, or email communication will be considered to be the date of filing; if the petition is filed in person, by hand delivery or other means, the petition is considered filed upon receipt. The petition must be served on all parties and on the Chief Administrative Law Judge at the time it is filed with the Board. Copies of the petition for review and all briefs must be served on the Assistant Secretary, Occupational Safety and Health Administration, and on the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor, Washington, DC 20210.

* * * * *

(c) The decision of the Board shall be issued within 120 days of the conclusion of the hearing, which shall be deemed to be the conclusion of all proceedings before the Administrative Law Judge—*i.e.,* 10 business days after the date of the decision of the Administrative Law Judge unless a motion for reconsideration has been filed with the Administrative Law Judge in the interim. The decision will be served upon all parties and the Chief Administrative Law Judge by mail to the last known address. The decision will also be served on the Assistant Secretary, Occupational Safety and Health Administration, and on the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor, Washington, DC 20210, even if the Assistant Secretary is not a party.

(d) If the ARB concludes that the party charged has violated the law, the ARB shall order the party charged to take appropriate affirmative action to abate the violation, including, where appropriate, reinstatement of the complainant to that person's former position, together with the compensation (including back pay), terms, conditions, and privileges of that employment, and compensatory damages. At the request of the complainant, the Board shall assess against the named person all costs and expenses (including attorney and expert witness fees) reasonably incurred. The ARB's order is subject to discretionary review by the Secretary as provided in Secretary's Order 01–2020 (or any successor to that order).

(e) If the ARB concludes that the party charged has not violated the law, the ARB shall issue an order denying the complaint. If, upon the request of the named person, the Board determines that a complaint was frivolous or was brought in bad faith, the Board may award to the named person reasonable attorney fees, not exceeding $1,000. An order under this section is subject to discretionary review by the Secretary as provided in Secretary's Order 01–2020 (or any successor to that order).

■ 60. In § 1979.112, revise paragraph (a) to read as follows:

§ 1979.112 Judicial review.

(a) Within 60 days after the issuance of a final order (including a decision issued by the Secretary upon his or her discretionary review) for which judicial review is available, any person adversely affected or aggrieved by the order may file a petition for review of the order in the United States Court of Appeals for the circuit in which the violation allegedly occurred or the circuit in which the complainant resided on the date of the violation. A final order of the Secretary is not subject to judicial review in any criminal or other civil proceeding.

* * * * *

PART 1980—PROCEDURES FOR THE HANDLING OF RETALIATION COMPLAINTS UNDER SECTION 806 OF THE SARBANES–OXLEY ACT OF 2002, AS AMENDED

■ 61. The authority citation for part 1980 is revised to read as follows:

Authority: 18 U.S.C. 1514A, as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Public Law 111–203 (July 21, 2010); Secretary's Order No. 01–2012 (Jan. 18, 2012), 77 FR 3912 (Jan. 25, 2012); Secretary's Order No. 01–2020.

■ 62. In § 1980.110, revise paragraphs (a), (c), (d), and (e) to read as follows:

§ 1980.110 Decision and orders of the Administrative Review Board.

(a) Any party desiring to seek review, including judicial review, of a decision of the ALJ, or a respondent alleging that the complaint was frivolous or brought in bad faith who seeks an award of attorney fees, must file a written petition for review with the ARB. The parties should identify in their petitions for review the legal conclusions or orders to which they object, or the objections may be deemed waived. A petition must be filed within 14 days of the date of the decision of the ALJ. The date of the postmark, facsimile transmittal, or electronic communication transmittal will be considered to be the date of filing; if the petition is filed in person, by hand delivery or other means, the petition is considered filed upon receipt. The petition must be served on all parties and on the Chief Administrative Law Judge at the time it is filed with the ARB. Copies of the petition for review must be served on the Assistant Secretary and on the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor.

* * * * *

(c) The decision of the ARB shall be issued within 120 days of the conclusion of the hearing, which will be deemed to be 14 days after the date of the decision of the ALJ unless a motion for reconsideration has been filed with the ALJ in the interim. In such case, the conclusion of the hearing is the date the motion for reconsideration is ruled upon or 14 days after a new decision is issued. The ARB's decision will be served upon all parties and the Chief Administrative Law Judge by mail. The decision will also be served on the Assistant Secretary and on the Associate Solicitor, Division of Fair Labor Standards, even if the Assistant Secretary is not a party.

(d) If the ARB concludes that the respondent has violated the law, the ARB will issue an order providing all relief necessary to make the complainant whole, including reinstatement with the same seniority status that the complainant would have had but for the retaliation; back pay with interest; and compensation for any special damages sustained as a result of the retaliation, including litigation costs, expert witness fees, and reasonable attorney fees. Interest on back pay will be calculated using the interest rate applicable to underpayment of taxes under 26 U.S.C. 6621 and will be compounded daily. The order will also require the respondent to submit appropriate documentation to the Social

Security Administration allocating any back pay award to the appropriate calendar quarters. Such order is subject to discretionary review by the Secretary as provided in Secretary's Order 01–2020 (or any successor to that order).

(e) If the ARB concludes that the respondent has not violated the law, the ARB will issue an order denying the complaint. If, upon the request of the respondent, the ARB determines that a complaint was frivolous or was brought in bad faith, the ARB may award to the respondent reasonable attorney fees, not exceeding $1,000. An order under this section is subject to discretionary review by the Secretary as provided in Secretary's Order 01–2020 (or any successor to that order).

■ 63. In § 1980.112, revise paragraph (a) to read as follows:

§ 1980.112 Judicial review.

(a)Within 60 days after the issuance of a final order (including a decision issued by the Secretary upon his or her discretionary review) for which judicial review is available, any person adversely affected or aggrieved by the order may file a petition for review of the order in the United States Court of Appeals for the circuit in which the violation allegedly occurred or the circuit in which the complainant resided on the date of the violation.

* * * * *

PART 1981—PROCEDURES FOR THE HANDLING OF DISCRIMINATION COMPLAINTS UNDER SECTION 6 OF THE PIPELINE SAFETY IMPROVEMENT ACT OF 2002

■ 64. The authority citation for part 1981 continues to read as follows:

Authority: 49 U.S.C. 60129; Secretary's Order No. 01–2020.

■ 65. In § 1981.110, revise paragraphs (a), (c), (d), and (e) as follows:

§ 1981.110 Decision and orders of the Administrative Review Board.

(a) Any party desiring to seek review, including judicial review, of a decision of the Administrative Law Judge, or a named person alleging that the complaint was frivolous or brought in bad faith who seeks an award of attorney's fees, must file a written petition for review with the Administrative Review Board (''the Board''). The decision of the Administrative Law Judge will become the final order of the Secretary unless, pursuant to this section, a petition for review is timely filed with the Board. The petition for review must specifically identify the findings, conclusions, or orders to which exception is taken. Any exception not specifically urged ordinarily will be deemed to have been waived by the parties. To be effective, a petition must be filed within 10 business days of the date of the decision of the Administrative Law Judge. The date of the postmark, facsimile transmittal, or email communication will be considered to be the date of filing; if the petition is filed in person, by hand delivery or other means, the petition is considered filed upon receipt. The petition must be served on all parties and on the Chief Administrative Law Judge at the time it is filed with the Board. Copies of the petition for review and all briefs must be served on the Assistant Secretary, Occupational Safety and Health Administration, and on the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor, Washington, DC 20210.

* * * * *

(c) The decision of the Board shall be issued within 90 days of the conclusion of the hearing, which will be deemed to be the conclusion of all proceedings before the Administrative Law Judge—*i.e.,* 10 business days after the date of the decision of the Administrative Law Judge unless a motion for reconsideration has been filed with the Administrative Law Judge in the interim. The decision will be served upon all parties and the Chief Administrative Law Judge by mail to the last known address. The decision will also be served on the Assistant Secretary, Occupational Safety and Health Administration, and on the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor, Washington, DC 20210, even if the Assistant Secretary is not a party.

(d) If the ARB concludes that the party charged has violated the law, the ARB shall order the party charged to take appropriate affirmative action to abate the violation, including, where appropriate, reinstatement of the complainant to that person's former position, together with the compensation (including back pay), terms, conditions, and privileges of that employment, and compensatory damages. At the request of the complainant, the Board shall assess against the named person all costs and expenses (including attorney and expert witness fees) reasonably incurred. Such order is subject to discretionary review by the Secretary as provided in Secretary's Order 01–2020 (or any successor to that order).

(e) If the ARB concludes that the party charged has not violated the law, the ARB will issue an order denying the complaint. If, upon the request of the named person, the Board determines that a complaint was frivolous or was brought in bad faith, the Board may award to the named person reasonable attorney fees, not exceeding $1,000. An order under this section is subject to discretionary review by the Secretary as provided in Secretary's Order 01–2020 (or any successor to that order).

■ 66. In § 1981.112, revise paragraph (a) to read as follows:

§ 1981.112 Judicial review.

(a) Within 60 days after the issuance of a final order (including a decision issued by the Secretary upon his or her discretionary review) for which judicial review is available, any person adversely affected or aggrieved by the order may file a petition for review of the order in the United States Court of Appeals for the circuit in which the violation allegedly occurred or the circuit in which the complainant resided on the date of the violation. A final order of the Secretary is not subject to judicial review in any criminal or other civil proceeding.

* * * * *

PART 1982—PROCEDURES FOR THE HANDLING OF RETALIATION COMPLAINTS UNDER THE NATIONAL TRANSIT SYSTEMS SECURITY ACT AND THE FEDERAL RAILROAD SAFETY ACT

■ 67. The authority citation for part 1982 is revised to read as follows:

Authority: 6 U.S.C. 1142 and 49 U.S.C. 20109; Secretary's Order 01–2012 (Jan. 18, 2012), 77 FR 3912 (Jan. 25, 2012); Secretary's Order No. 01–2020.

■ 68. In § 1982.110, revise paragraph (a) and add paragraphs (c), (d), and (e) to read as follows:

§ 1982.110 Decision and orders of the Administrative Review Board.

(a) Any party desiring to seek review, including judicial review, of a decision of the ALJ, or a respondent alleging that the complaint under NTSSA was frivolous or brought in bad faith who seeks an award of attorney fees, must file a written petition for review with the ARB. The parties should identify in their petitions for review the legal conclusions or orders to which they object, or the objections may be deemed waived. A petition must be filed within 14 days of the date of the decision of the ALJ. The date of the postmark, facsimile transmittal, or electronic communication transmittal will be considered to be the date of filing; if the petition is filed in person, by hand delivery or other means, the petition is

considered filed upon receipt. The petition must be served on all parties and on the Chief Administrative Law Judge at the time it is filed with the ARB. Copies of the petition for review must be served on the Assistant Secretary, and on the Associate Solicitor, Division of Fair Labor Standards.

* * * * *

(c) The decision of the ARB will be issued within 120 days of the conclusion of the hearing, which will be deemed to be 14 days after the date of the decision of the ALJ, unless a motion for reconsideration has been filed with the ALJ in the interim. In such case, the conclusion of the hearing is the date the motion for reconsideration is denied or 14 days after a new decision is issued. The ARB's decision will be served upon all parties and the Chief Administrative Law Judge by mail. The decision also will be served on the Assistant Secretary, and on the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor, even if the Assistant Secretary is not a party.

(d) If the ARB concludes that the respondent has violated the law, the ARB will issue an order providing relief to the complainant. The order will include, where appropriate, affirmative action to abate the violation; reinstatement with the same seniority status that the employee would have had but for the retaliation; any back pay with interest; and payment of compensatory damages, including compensation for any special damages sustained as a result of the retaliation, including litigation costs, expert witness fees, and reasonable attorney fees. Interest on back pay will be calculated using the interest rate applicable to underpayment of taxes under 26 U.S.C. 6621 and will be compounded daily. The order will also require the respondent to submit documentation to the Social Security Administration or the Railroad Retirement Board, as appropriate, allocating any back pay award to the appropriate months or calendar quarters. The order may also require the respondent to pay punitive damages up to $250,000. Such order is subject to discretionary review by the Secretary as provided in Secretary's Order 01–2020 (or any successor to that order).

(e) If the ARB concludes that the respondent has not violated the law, the ARB will issue an order denying the complaint. If, upon the request of the respondent, the ARB determines that a complaint under NTSSA was frivolous or was brought in bad faith, the ARB may award to the respondent reasonable attorney fees, not exceeding $1,000. An order under this section is subject to discretionary review by the Secretary as provided in Secretary's Order 01–2020 (or any successor to that order).

■ 69. In § 1982.112, revise paragraph (a) to read as follows:

§ 1982.112 Judicial review.

(a) Within 60 days after the issuance of a final order (including a decision issued by the Secretary upon his or her discretionary review) for which judicial review is available, any person adversely affected or aggrieved by the order may file a petition for review of the order in the United States Court of Appeals for the circuit in which the violation allegedly occurred or the circuit in which the complainant resided on the date of the violation.

* * * * *

PART 1983—PROCEDURES FOR THE HANDLING OF RETALIATION COMPLAINTS UNDER SECTION 219 OF THE CONSUMER PRODUCT SAFETY IMPROVEMENT ACT OF 2008

■ 70. The authority citation for part 1983 is revised to read as follows:

Authority: 15 U.S.C. 2087; Secretary's Order 1–2012 (Jan. 18, 2012), 77 FR 3912 (Jan. 25, 2012); Secretary's Order 01–2020.

■ 71. In § 1983.110, revise paragraphs (a), (c), (d), and (e) as follows:

§ 1983.110 Decision and orders of the Administrative Review Board.

(a) Any party desiring to seek review, including judicial review, of a decision of the ALJ, or a respondent alleging that the complaint was frivolous or brought in bad faith who seeks an award of attorney's fees, must file a written petition for review with the ARB. The parties should identify in their petitions for review the legal conclusions or orders to which they object, or the objections may be deemed waived. A petition must be filed within 14 days of the date of the decision of the ALJ. The date of the postmark, facsimile transmittal, or electronic communication transmittal will be considered to be the date of filing; if the petition is filed in person, by hand delivery or other means, the petition is considered filed upon receipt. The petition must be served on all parties and on the Chief Administrative Law Judge at the time it is filed with the ARB. Copies of the petition for review must be served on the Assistant Secretary and on the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor.

* * * * *

(c) The decision of the ARB will be issued within 120 days of the conclusion of the hearing, which will be deemed to be 14 days after the date of the decision of the ALJ, unless a motion for reconsideration has been filed with the ALJ in the interim. In such case, the conclusion of the hearing is the date the motion for reconsideration is ruled upon or 14 days after a new decision is issued. The ARB's decision will be served upon all parties and the Chief Administrative Law Judge by mail. The decision will also be served on the Assistant Secretary and on the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor, even if the Assistant Secretary is not a party.

(d) If the ARB concludes that the respondent has violated the law, the ARB will issue an order providing relief to the complainant. The order will require, where appropriate, affirmative action to abate the violation; reinstatement of the complainant to his or her former position, together with the compensation (including back pay and interest), terms, conditions, and privileges of the complainant's employment; and payment of compensatory damages, including, at the request of the complainant, the aggregate amount of all costs and expenses (including attorney and expert witness fees) reasonably incurred. Interest on back pay will be calculated using the interest rate applicable to underpayment of taxes under 26 U.S.C. 6621 and will be compounded daily. Such order is subject to discretionary review by the Secretary as provided in Secretary's Order 01–2020 (or any successor to that order).

(e) If the ARB concludes that the respondent has not violated the law, the ARB will issue an order denying the complaint. If, upon the request of the respondent, the ARB determines that a complaint was frivolous or was brought in bad faith, the ARB may award to the respondent a reasonable attorney's fee, not exceeding $1,000. An order under this section is subject to discretionary review by the Secretary as provided in Secretary's Order 01–2020 (or any successor to that order).

■ 72. In § 1983.112, revise paragraph (a) to read as follows:

§ 1983.112 Judicial review.

(a) Within 60 days after the issuance of a final order (including a decision issued by the Secretary upon his or her discretionary review) for which judicial review is available, any person adversely affected or aggrieved by the order may file a petition for review of the order in the United States Court of

Appeals for the circuit in which the violation allegedly occurred or the circuit in which the complainant resided on the date of the violation.

* * * * *

PART 1984—PROCEDURES FOR THE HANDLING OF RETALIATION COMPLAINTS UNDER SECTION 1558 OF THE AFFORDABLE CARE ACT

■ 73. The authority citation for part 1984 is revised to read as follows:

Authority: 29 U.S.C. 218C; Secretary's Order 1–2012 (Jan. 18, 2012), 77 FR 3912 (Jan. 25, 2012); Secretary's Order No. 01–2020.

■ 74. In § 1984.110, revise paragraphs (a), (c), (d), and (e) as follows:

§ 1984.110 Decision and orders of the Administrative Review Board.

(a) Any party desiring to seek review, including judicial review, of a decision of the ALJ, or a respondent alleging that the complaint was frivolous or brought in bad faith who seeks an award of attorney fees, must file a written petition for review with the Administrative Review Board (ARB). The parties should identify in their petitions for review the legal conclusions or orders to which they object, or the objections may be deemed waived. A petition must be filed within 14 days of the date of the decision of the ALJ. The date of the postmark, facsimile transmittal, or electronic communication transmittal will be considered to be the date of filing; if the petition is filed in person, by hand delivery or other means, the petition is considered filed upon receipt. The petition must be served on all parties and on the Chief Administrative Law Judge at the time it is filed with the ARB. Copies of the petition for review must be served on the Assistant Secretary, and on the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor.

* * * * *

(c) The decision of the ARB will be issued within 120 days of the conclusion of the hearing, which will be deemed to be 14 days after the date of the decision of the ALJ, unless a motion for reconsideration has been filed with the ALJ in the interim. In such case, the conclusion of the hearing is the date the motion for reconsideration is ruled upon or 14 days after a new decision is issued. The ARB's decision will be served upon all parties and the Chief Administrative Law Judge by mail. The decision will also be served on the Assistant Secretary, and on the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor, even if the Assistant Secretary is not a party.

(d) If the ARB concludes that the respondent has violated the law, the ARB will issue an order providing relief to the complainant. The order will require, where appropriate, affirmative action to abate the violation; reinstatement of the complainant to the complainant's former position, together with the compensation (including back pay and interest), terms, conditions, and privileges of the complainant's employment; and payment of compensatory damages, including, at the request of the complainant, the aggregate amount of all costs and expenses (including attorney and expert witness fees) reasonably incurred. Interest on back pay will be calculated using the interest rate applicable to underpayment of taxes under 26 U.S.C. 6621 and will be compounded daily. The order will also require the respondent to submit appropriate documentation to the Social Security Administration allocating any back pay award to the appropriate period. Such order is subject to discretionary review by the Secretary as provided in Secretary's Order 01–2020 (or any successor to that order).

(e) If the ARB concludes that the respondent has not violated the law, the ARB will issue an order denying the complaint. If, upon the request of the respondent, the ARB determines that a complaint was frivolous or was brought in bad faith, the ARB may award to the respondent reasonable attorney fees, not exceeding $1,000. An order under this section is subject to discretionary review by the Secretary as provided in Secretary's Order 01–2020 (or any successor to that order).

■ 75. In § 1984.112, revise paragraph (a) to read as follows:

§ 1984.112 Judicial review.

(a) Within 60 days after the issuance of a final order (including a decision issued by the Secretary upon his or her discretionary review) for which judicial review is available, any person adversely affected or aggrieved by the order may file a petition for review of the order in the United States Court of Appeals for the circuit in which the violation allegedly occurred or the circuit in which the complainant resided on the date of the violation.

* * * * *

PART 1985—PROCEDURES FOR HANDLING RETALIATION COMPLAINTS UNDER THE EMPLOYEE PROTECTION PROVISION OF THE CONSUMER FINANCIAL PROTECTION ACT OF 2010

■ 76. The authority citation for part 1985 is revised to read as follows:

Authority: 12 U.S.C. 5567; Secretary's Order No. 1–2012 (Jan. 18, 2012), 77 FR 3912 (Jan. 25, 2012); Secretary's Order No. 01–2020.

■ 77. In § 1985.110, revise paragraphs (a), (c), (d), and (e) to read as follows:

§ 1985.110 Decision and orders of the Administrative Review Board.

(a) Any party desiring to seek review, including judicial review, of a decision of the ALJ, or a respondent alleging that the complaint was frivolous or brought in bad faith who seeks an award of attorney fees, must file a written petition for review with the ARB. The parties should identify in their petitions for review the legal conclusions or orders to which they object, or the objections may be deemed waived. A petition must be filed within 14 days of the date of the decision of the ALJ. The date of the postmark, facsimile transmittal, or electronic communication transmittal will be considered to be the date of filing; if the petition is filed in person, by hand delivery or other means, the petition is considered filed upon receipt. The petition must be served on all parties and on the Chief Administrative Law Judge at the time it is filed with the ARB. Copies of the petition for review must be served on the Assistant Secretary and on the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor.

* * * * *

(c) The decision of the ARB will be issued within 120 days of the conclusion of the hearing, which will be deemed to be 14 days after the decision of the ALJ, unless a motion for reconsideration has been filed with the ALJ in the interim. In such case, the conclusion of the hearing is the date the motion for reconsideration is ruled upon or 14 days after a new decision is issued. The ARB's decision will be served upon all parties and the Chief Administrative Law Judge by mail. The decision will also be served on the Assistant Secretary and on the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor, even if the Assistant Secretary is not a party.

(d) If the ARB concludes that the respondent has violated the law, the

ARB will issue an order providing relief to the complainant. The order will require, where appropriate, affirmative action to abate the violation; reinstatement of the complainant to his or her former position, together with the compensation (including back pay and interest), terms, conditions, and privileges of the complainant's employment; and payment of compensatory damages, including, at the request of the complainant, the aggregate amount of all costs and expenses (including attorney and expert witness fees) reasonably incurred. Interest on back pay will be calculated using the interest rate applicable to underpayment of taxes under 26 U.S.C. 6621 and will be compounded daily. The order will also require the respondent to submit appropriate documentation to the Social Security Administration allocating any back pay award to the appropriate calendar quarters. Such order is subject to discretionary review by the Secretary as provided in Secretary's Order 01–2020 (or any successor to that order).

(e) If the ARB concludes that the respondent has not violated the law, the ARB will issue an order denying the complaint. If, upon the request of the respondent, the ARB determines that a complaint was frivolous or was brought in bad faith, the ARB may award to the respondent reasonable attorney fees, not exceeding $1,000. An order under this section is subject to discretionary review by the Secretary as provided in Secretary's Order 01–2020 (or any successor to that order).

■ 78. In § 1985.112, revise paragraph (a) to read as follows:

§ 1985.112 Judicial review.

(a) Within 60 days after the issuance of a final order (including a decision issued by the Secretary upon his or her discretionary review) for which judicial review is available, any person adversely affected or aggrieved by the order may file a petition for review of the order in the United States Court of Appeals for the circuit in which the violation allegedly occurred or the circuit in which the complainant resided on the date of the violation.

* * * * *

PART 1986—PROCEDURES FOR THE HANDLING OF RETALIATION COMPLAINTS UNDER THE EMPLOYEE PROTECTION PROVISION OF THE SEAMAN'S PROTECTION ACT (SPA), AS AMENDED

■ 79. The authority citation for part 1986 is revised to read as follows:

Authority: 46 U.S.C. 2114; 49 U.S.C. 31105; Secretary's Order 1–2012 (Jan. 18, 2012), 77 FR 3912 (Jan. 25, 2012); Secretary's Order No. 01–2020.

■ 80. In § 1986.110, revise paragraphs (a), (c), (d), and (e) to read as follows:

§ 1986.110 Decisions and orders of the Administrative Review Board.

(a) The Assistant Secretary or any other party desiring to seek review, including judicial review, of a decision of the ALJ must file a written petition for review with the ARB. The parties should identify in their petitions for review the legal conclusions or orders to which they object, or the objections may be deemed waived. A petition must be filed within 14 days of the date of the decision of the ALJ. The date of the postmark, facsimile transmittal, or electronic communication transmittal will be considered to be the date of filing; if the petition is filed in person, by hand delivery or other means, the petition is considered filed upon receipt. The petition must be served on all parties and on the Chief Administrative Law Judge at the time it is filed with the ARB. Copies of the petition for review and all briefs must be served on the Assistant Secretary and, in cases in which the Assistant Secretary is a party, on the Associate Solicitor, Division of Occupational Safety and Health, U.S. Department of Labor.

* * * * *

(c) The decision of the ARB will be issued within 120 days of the conclusion of the hearing, which will be deemed to be 14 days after the date of the decision of the ALJ, unless a motion for reconsideration has been filed with the ALJ in the interim. In such case, the conclusion of the hearing is the date the motion for reconsideration is ruled upon or 14 days after a new decision is issued. The ARB's decision will be served upon all parties and the Chief Administrative Law Judge by mail. The decision also will be served on the Assistant Secretary and on the Associate Solicitor, Division of Occupational Safety and Health, U.S. Department of Labor, even if the Assistant Secretary is not a party.

(d) If the ARB concludes that the respondent has violated the law, the ARB will issue an order providing relief to the complainant. The order will require, where appropriate, affirmative action to abate the violation; reinstatement of the complainant to his or her former position, with the same compensation, terms, conditions, and privileges of the complainant's employment; payment of compensatory damages (back pay with interest and compensation for any special damages sustained as a result of the retaliation, including any litigation costs, expert witness fees, and reasonable attorney fees the complainant may have incurred); and payment of punitive damages up to $250,000. Interest on back pay will be calculated using the interest rate applicable to underpayment of taxes under 26 U.S.C. 6621 and will be compounded daily. Such order is subject to discretionary review by the Secretary as provided in Secretary's Order 01–2020 (or any successor to that order).

(e) If the ARB concludes that the respondent has not violated the law, the ARB will issue an order denying the complaint. Such order is subject to discretionary review by the Secretary as provided in Secretary's Order 01–2020 (or any successor to that order).

■ 81. In § 1986.112, revise paragraph (a) to read as follows:

§ 1986.112 Judicial review.

(a) Within 60 days after the issuance of a final order (including a decision issued by the Secretary upon his or her discretionary review) for which judicial review is available, any person adversely affected or aggrieved by the order may file a petition for review of the order in the court of appeals of the United States for the circuit in which the violation allegedly occurred or the circuit in which the complainant resided on the date of the violation.

* * * * *

PART 1987—PROCEDURES FOR HANDLING RETALIATION COMPLAINTS UNDER SECTION 402 OF THE FDA FOOD SAFETY MODERNIZATION ACT

■ 82. The authority citation for part 1987 is revised to read as follows:

Authority: 21 U.S.C. 399d; Secretary's Order No. 1–2012 (Jan. 18, 2012), 77 FR 3912 (Jan. 25, 2012); Secretary's Order No. 01–2020.

■ 83. In § 1987.110, revise paragraphs (a), (c), (d), and (e) to read as follows:

§ 1987.110 Decision and orders of the Administrative Review Board.

(a) Any party desiring to seek review, including judicial review, of a decision of the ALJ, or a respondent alleging that the complaint was frivolous or brought in bad faith who seeks an award of attorney fees, must file a written petition for review with the ARB. The parties should identify in their petitions for review the legal conclusions or orders to which they object, or the objections may be deemed waived. A petition must be filed within 14 days of

the date of the decision of the ALJ. The date of the postmark, facsimile transmittal, or electronic communication transmittal will be considered to be the date of filing; if the petition is filed in person, by hand delivery or other means, the petition is considered filed upon receipt. The petition must be served on all parties and on the Chief Administrative Law Judge at the time it is filed with the ARB. Copies of the petition for review must be served on the Assistant Secretary and on the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor.

* * * * *

(c) The decision of the ARB will be issued within 120 days of the conclusion of the hearing, which will be deemed to be 14 days after the date of the decision of the ALJ, unless a motion for reconsideration has been filed with the ALJ in the interim. In such case the conclusion of the hearing is the date the motion for reconsideration is denied or 14 days after a new decision is issued. The ARB's decision will be served upon all parties and the Chief Administrative Law Judge by mail. The decision will also be served on the Assistant Secretary and on the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor, even if the Assistant Secretary is not a party.

(d) If the ARB concludes that the respondent has violated the law, the ARB will issue an order providing relief to the complainant. The order will require, where appropriate, affirmative action to abate the violation; reinstatement of the complainant to his or her former position, together with the compensation (including back pay and interest), terms, conditions, and privileges of the complainant's employment; and payment of compensatory damages, including, at the request of the complainant, the aggregate amount of all costs and expenses (including attorney and expert witness fees) reasonably incurred. Interest on back pay will be calculated using the interest rate applicable to underpayment of taxes under 26 U.S.C. 6621 and will be compounded daily. The order will also require the respondent to submit appropriate documentation to the Social Security Administration allocating any back pay award to the appropriate calendar quarters. Such order is subject to discretionary review by the Secretary as provided in Secretary's Order 01–2020 (or any successor to that order).

(e) If the ARB concludes that the respondent has not violated the law, the ARB will issue an order denying the complaint. If, upon the request of the respondent, the ARB determines that a complaint was frivolous or was brought in bad faith, the ARB may award to the respondent reasonable attorney fees, not exceeding $1,000. An order under this section is subject to discretionary review by the Secretary as provided in Secretary's Order 01–2020 (or any successor to that order).

■ 84. In § 1987.112, revise paragraph (a) to read as follows:

§ 1987.112 Judicial review.

(a) Within 60 days after the issuance of a final order (including a decision issued by the Secretary upon his or her discretionary review) for which judicial review is available, any person adversely affected or aggrieved by the order may file a petition for review of the order in the United States Court of Appeals for the circuit in which the violation allegedly occurred or the circuit in which the complainant resided on the date of the violation.

* * * * *

PART 1988—PROCEDURES FOR HANDLING RETALIATION COMPLAINTS UNDER SECTION 31307 OF THE MOVING AHEAD FOR PROGRESS IN THE 21ST CENTURY ACT (MAP–21)

■ 85. The authority citation for part 1988 is revised to read as follows:

Authority: 49 U.S.C. 30171; Secretary's Order No. 1–2012 (Jan. 18, 2012), 77 FR 3912 (Jan. 25, 2012); Secretary's Order No. 01–2020.

■ 86. In § 1988.110, revise paragraphs (a), (c), (d), and (e) to read as follows:

§ 1988.110 Decision and orders of the Administrative Review Board.

(a) Any party desiring to seek review, including judicial review, of a decision of the ALJ, or a respondent alleging that the complaint was frivolous or brought in bad faith who seeks an award of attorney fees, must file a written petition for review with the ARB. The parties should identify in their petitions for review the legal conclusions or orders to which they object, or the objections may be deemed waived. A petition must be filed within 14 days of the date of the decision of the ALJ. The date of the postmark, facsimile transmittal, or electronic communication transmittal will be considered to be the date of filing; if the petition is filed in person, by hand delivery or other means, the petition is considered filed upon receipt. The petition must be served on all parties and on the Chief Administrative Law Judge at the time it is filed with the ARB. Copies of the petition for review must be served on the Assistant Secretary and on the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor.

* * * * *

(c) The decision of the ARB will be issued within 120 days of the conclusion of the hearing, which will be deemed to be 14 days after the decision of the ALJ, unless a motion for reconsideration has been filed with the ALJ in the interim. In such case, the conclusion of the hearing is the date the motion for reconsideration is ruled upon or 14 days after a new decision is issued. The ARB's decision will be served upon all parties and the Chief Administrative Law Judge by mail. The decision will also be served on the Assistant Secretary and on the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor, even if the Assistant Secretary is not a party.

(d) If the ARB concludes that the respondent has violated the law, the ARB will issue an order providing relief to the complainant. The order will require, where appropriate, affirmative action to abate the violation; reinstatement of the complainant to his or her former position, together with the compensation (including back pay and interest), terms, conditions, and privileges of the complainant's employment; and payment of compensatory damages, including, at the request of the complainant, the aggregate amount of all costs and expenses (including attorney and expert witness fees) reasonably incurred. Interest on back pay will be calculated using the interest rate applicable to underpayment of taxes under 26 U.S.C. 6621 and will be compounded daily. The order will also require the respondent to submit appropriate documentation to the Social Security Administration allocating any back pay award to the appropriate calendar quarters. Such order is subject to discretionary review by the Secretary as provided in Secretary's Order 01–2020 (or any successor to that order).

(e) If the ARB concludes that the respondent has not violated the law, the ARB will issue an order denying the complaint. If, upon the request of the respondent, the ARB determines that a complaint was frivolous or was brought in bad faith, the ARB may award to the respondent reasonable attorney fees, not exceeding $1,000. An order under this section is subject to discretionary review by the Secretary as provided in Secretary's Order 01–2020 (or any successor to that order).

■ 87. In § 1988.112, revise paragraph (a) to read as follows:

§ 1988.112 Judicial review.

(a) Within 60 days after the issuance of a final order (including a decision issued by the Secretary upon his or her discretionary review) for which judicial review is available, any person adversely affected or aggrieved by the order may file a petition for review of the order in the United States Court of Appeals for the circuit in which the violation allegedly occurred or the circuit in which the complainant resided on the date of the violation.

* * * * *

Title 41—Public Contracts and Property Management

Office of Federal Contract Compliance Programs

PART 50–203 RULES OF PRACTICE

■ 88. The authority citation for part 50–203 continues to read as follows:

Authority: Sec. 4, 49 Stat. 2038; 41 U.S.C. 38, unless otherwise noted.

■ 89. In § 50–203.21, revise paragraph (d) to read as follows:

§ 50–203.21 Decisions.

* * * * *

(d) Thereafter, the Administrative Review Board may issue a decision ruling upon each exception filed and including any appropriate wage determination. Any such decision shall be published in the **Federal Register** after it becomes the final action of the Department.

PART 60—30 RULES OF PRACTICE FOR ADMINISTRATIVE PROCEEDINGS TO ENFORCE EQUAL OPPORTUNITY UNDER EXECUTIVE ORDER 11246

■ 90. The authority citation for part 60–30 continues to read as follows:

Authority: Executive Order 11246, as amended, 30 FR 12319, 32 FR 14303, as amended by E.O. 12086; 29 U.S.C. 793, as amended, and 38 U.S.C. 4212, as amended.

■ 91. Revise § 60–30.29 to read as follows:

§ 60–30.29 Record.

After expiration of the time for filing briefs and exceptions, the Administrative Review Board, United States Department of Labor, shall make a decision, which shall be the Administrative order, on the basis of the record. The record shall consist of the record for recommended decision, the rulings and recommended decision of the Administrative Law Judge and the exceptions and briefs filed subsequent to the Administrative Law Judge's decision.

■ 92. Revise § 60–30.30 to read as follows:

§ 60–30.30 Administrative Order.

After expiration of the time for filing, the Administrative Review Board, United States Department of Labor, shall make a decision which shall be served on all parties. If the Administrative Review Board, United States Department of Labor, concludes that the defendant has violated the Executive Order, the equal opportunity clause, or the regulations, an Administrative Order shall be issued enjoining the violations, and requiring the contractor to provide whatever remedies are appropriate, and imposing whatever sanctions are appropriate, or any of the above. In any event, failure to comply with the Administrative Order shall result in the immediate cancellation, termination, and suspension of the respondent's contracts and/or debarment of the respondent from further contracts.

■ 93. Revise § 60–30.37 to read as follows:

§ 60–30.37 Final Administrative Order.

After expiration of the time for filing exceptions, the Administrative Review Board, United States Department of Labor, shall issue an Administrative Order which shall be served on all parties. Unless the Administrative Review Board, United States Department of Labor, issues an Administrative Order within 30 days after the expiration of the time for filing exceptions, the Administrative Law Judge's recommended decision shall become a final Administrative Order which shall become effective on the 31st day after expiration of the time for filing exceptions. Except as to specific time periods required in this subsection, 41 CFR 60–30.30 shall be applicable to this section.

[FR Doc. 2020–10909 Filed 5–19–20; 8:45 am]

BILLING CODE 4510–HL–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 56 and 57

[Docket No. MSHA–2019–0007]

RIN 1219–AB88

Electronic Detonators; Correction

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Direct final rule; correction.

SUMMARY: The Mine Safety and Health Administration (MSHA) is correcting a footnote in the preamble of a direct final rule that appeared in the **Federal Register** on January 14, 2020 and that became effective on March 16, 2020. The direct final rule revised certain safety standards for explosives at metal and nonmetal mines.

DATES: Effective May 20, 2020.

ADDRESSES:

Federal Register Publications: Access rulemaking documents electronically at *https://www.msha.gov/regulations/rulemaking* or *http://www.regulations.gov* [Docket Number: MSHA–2019–0007].

Email Notification: To subscribe to receive email notification when MSHA publishes rulemaking documents in the **Federal Register**, go to *https://www.msha.gov/subscriptions.*

FOR FURTHER INFORMATION CONTACT: Roslyn B. Fontaine, Acting Director, Office of Standards, Regulations, and Variances, MSHA, at *fontaine.roslyn@dol.gov* (email), 202–693–9440 (voice), or 202–693–9441 (fax). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: In FR Doc. 2019–28446 appearing on page 2022 in the **Federal Register** of Tuesday, January 14, 2020, the following correction is made: On page 2023, in the third column, under II. Background, A. General Discussion, footnote 1 is corrected to read:

''MSHA considers detonators fired by a shock tube and incorporating a pre-programmed microchip delay rather than a pyrotechnic one to be non-electric detonators, not electronic detonators.''

David G. Zatezalo,

Assistant Secretary of Labor for Mine Safety and Health Administration.

[FR Doc. 2020–08859 Filed 5–19–20; 8:45 am]

BILLING CODE 4520–43–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 11

[EB Docket No. 04–296; PS Docket No. 15–94; FRS 16653]

Review of the Emergency Alert System

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (FCC or Commission) partially grants a petition for partial reconsideration of the

Emergency Alert System (EAS) testing requirements that apply to Satellite Digital Audio Radio Service (SDARS) providers filed by XM Radio Inc. (XM), as subsequently modified by XM's successor in interest, Sirius Satellite Radio Inc. (Sirius XM), and amends the EAS testing requirements that apply to SDARS providers.

DATES: This rule is effective June 19, 2020.

FOR FURTHER INFORMATION CONTACT: David Munson, Policy and Licensing Division, Public Safety and Homeland Security Bureau, at (202) 418–2921, or by email at *David.Munson@fcc.gov.* For additional information concerning the information collection requirements contained in this document, send an email to *PRA@fcc.gov* or contact Nicole Ongele, Office of Managing Director, Performance Evaluation and Records Management, 202–418–2991, or by email to *PRA@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order on Reconsideration (*Order*) in EB Docket No. 04–296, PS Docket No. 15–94, FCC 19–57, adopted on June 25, 2019, and released on June 27, 2019. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street SW, Washington, DC 20554. The full text may also be downloaded at: *www.fcc.gov.*

Synopsis

1. In the *Order,* the Commission partially grants a petition for partial reconsideration of the EAS First Report and Order (*First Report and Order*) in EB Docket No. 04–296, 70 FR 71023, 71072 (Nov. 25, 2005), filed by XM (the ''XM Petition''), which was subsequently modified by supplemental filings made by Sirius XM, and adopts changes to its Part 11 EAS rules governing test requirements to harmonize the EAS testing requirements that apply to SDARS providers with the testing requirements applied to Direct Broadcast Satellite (DBS) providers.

I. Background

A. The EAS

2. The EAS is a national public warning system through which alerts concerning impending emergencies are distributed to the public by EAS Participants. The primary purpose of the EAS is to provide the President with ''the capability to provide immediate communications and information to the general public at the national, state and local levels during periods of national emergency.'' The EAS also is used by state and local governments, as well as the National Weather Service (NWS), to distribute alerts.

3. The EAS uses a broadcast-based, hierarchical alert message distribution architecture to deliver alerts to the public. Using this system, the originator of an alert message at the local, state or national level encodes (or arranges to have encoded) a message in the EAS Protocol, a series of numeric codes that provides basic information about the alert. When the transmission of an alert encoded in the EAS Protocol is received by the EAS equipment of EAS Participants assigned to monitor the transmission of the originating broadcaster, the encoded EAS header code tones activate the EAS equipment, which then decodes the numeric codes in the original alert message, re-encodes that information, and broadcasts anew the EAS header code tones, attention signal and audio message to the public. This process is repeated as the alert is rebroadcast to other downstream monitoring EAS Participants until all affected EAS Participants have received the alert and delivered it to the public. This process of EAS alert distribution among EAS Participants is often referred as the ''daisy chain'' distribution architecture.

4. To ensure that the EAS system and EAS Participants' EAS equipment will function properly, and that alerts will be accurately and consistently distributed, delivered to the public, the EAS rules contain national, monthly and weekly testing requirements that apply to different services, including broadcast, cable, DBS and SDARS. The EAS weekly test generally involves EAS Participant transmission of EAS header and End of Message (EOM) codes generated internally within their EAS equipment. For the EAS monthly test, a test alert message, composed of EAS header codes, an attention signal, test audio script and the EOM code, is transmitted from key sources identified in the State EAS Plan, which in turn are monitored by EAS Participants, who retransmit the test alert as they would an actual EAS alert. EAS Participants are required to determine the cause of any failure to receive the monthly test or weekly activation, and make appropriate entries in their station logs or facility records.

B. The EAS First Report and Order

5. In the *EAS First Report and Order,* the Commission extended EAS obligations to various digital services, including SDARS. SDARS, commonly known as ''satellite radio,'' is ''[a] radiocommunication service in which audio programming is digitally transmitted by one or more space stations directly to fixed, mobile, and/or portable stations, and which may involve complementary repeating terrestrial transmitters, telemetry, tracking and control facilities.'' More colloquially, SDARS is primarily a satellite-delivered service in which digital radio programming is sent directly from satellites to subscriber receivers either at a fixed location or in motion.

6. With respect to testing requirements, although the Commission acknowledged that SDARS did not (and could not) supply local programming and EAS alerts, it nonetheless imposed the same testing regime as that applied to broadcasters, requiring ''SDARS licensees to test their ability to receive and distribute EAS messages in the same manner required of other EAS participants in section 11.61 of our rules and to keep records of all tests.'' Accordingly, SDARS licensees were required to adhere to the general monthly test requirements that apply to most other EAS Participant services. With respect to weekly test requirements, the Commission required that ''SDARS providers must conduct tests of the EAS Header and EOM codes at least once a week at random days and times on all channels.'' By contrast, the Commission adopted less burdensome testing requirements for DBS providers on grounds that performing such tests on all channels simultaneously on an inherently nationwide platform could pose technical challenges. More specifically, whereas SDARS was required to conduct weekly and monthly tests on all channels, the Commission required that DBS providers need only log receipt of other EAS Participants' weekly tests, and that monthly tests ''be performed on 10% of all channels monthly (excluding local-into-local channels for which the monthly transmission tests are passed through by the DBS provider), with channels tested varying from month to month, so that over the course of a given year, 100% of all channels are tested.''

C. The Petition

7. As originally filed, the XM Petition requested that the Commission modify the SDARS EAS test requirements to more accurately reflect the national nature of the service. The Petition first requested that the EAS testing rules for SDARS be revised to require (i) a yearly test that would be transmitted on every channel simultaneously, and (ii) weekly and monthly tests that would be distributed on XM's Instant Traffic, Weather and Alert channels. XM argued that requiring weekly and monthly tests

on all of its channels ''will mislead subscribers to believe that satellite radio operators transmit state and local EAS alerts on all channels, when in fact state and local EAS alerts will only be transmitted on those XM Instant Traffic, Weather & Alert channels on which XM has informed subscribers that it will offer state and local EAS messages.''

8. On July 31, 2014, Sirius XM submitted an *ex parte* letter in which it indicated that ''[t]he passage of time and changed circumstances since [XM] initially filed the [XM Petition] has also simplified the relief that is needed.'' Specifically, Sirius XM requested that the Commission modify the testing rules for SDARS to make them comparable to those applied to DBS providers. In justifying this request, Sirius XM contended that the requirement to carry weekly and monthly EAS tests on all Sirius XM channels ''has imposed an excessive, disproportionate, and unnecessary burden on SiriusXM and its subscribers.'' To that end, Sirius XM observed that ''[u]nlike other multichannel services such as cable television, the satellite radio service rarely has natural breaks in programming for inserting a test, and never has uniform breaks that apply to all of our approximately 150 channels.'' Sirius XM also contended that weekly testing of its system is ''unnecessary and duplicative,'' arguing, among other things, that it is ''largely superseded by FEMA's own testing of [Sirius XM's EAS encoder/decoder] which is central to our EAS capabilities,'' and achievable through logging requirements, ''as [with] DBS.''

9. On June 5, 2017, Sirius XM submitted a Motion of Sirius XM Radio Inc. for Leave to Supplement Petition for Reconsideration and Request for Limited Waiver (the ''Sirius XM Motion'') in which it requested leave to supplement the XM Petition with the modified testing relief requested in its July 2014 *ex parte* letter. Sirius XM subsequently submitted a Further Supplement of Sirius XM Radio Inc. to Petition for Reconsideration and Request for Limited Waiver (the ''Further Supplement'') to refine the relief requested in the Sirius XM Motion.

10. On November 7, 2018, the Public Safety and Homeland Security Bureau (Bureau) released a Public Notice seeking comment on Sirius XM's July 2014 *ex parte* letter, Sirius XM Motion, Further Supplement and a November 2018 Letter submitted by Sirius XM as a transmittal letter to incorporate into the record of this proceeding FEMA correspondence identifying its official position regarding which Sirius XM channels it will permit to be monitored for federal EAS alerts. One comment was filed, and one reply comment was filed (by Sirius XM).

II. Discussion

11. As a threshold matter, the Commission grants Sirius XM's motion for leave to modify the XM Petition as described in the Sirius XM Motion, Further Supplement and November 2018 Letter. The Commission observes that comment was sought on these filings and that no party raised objections to the relief requested. The Commission further observes that changed circumstances arose during the pendency of the XM Petition's review that fundamentally altered the nature of the initial relief requested in the XM Petition. In light of these developments, the Commission concludes that it is in the public interest to grant the Sirius XM Motion and consider the XM Petition as modified by the above-identified filings to the extent noted herein.

12. As described below, the Commission agrees with Sirius XM that modifying the EAS testing requirements for SDARS to make them comparable to those applied to DBS providers is consistent with the purpose of the EAS testing rules and in the public interest, and amends section 11.61 of the part 11 rules accordingly. Specifically, the Commission will require SDARS providers to log receipt of the weekly test, and to transmit the monthly test on 10% of all of its channels, with channels tested varying from month to month, so that over the course of a given year, 100% of all of its channels are tested.

13. The Commission finds that harmonizing SDARS testing requirements with DBS testing requirements is appropriate because these services are technologically similar. SDARS is similar to DBS in that they are both satellite-delivered services in which digital programming is sent directly from satellites to subscriber receivers. By virtue of similar network architectures, both services are inherently nationwide services. Further, SDARS and DBS are regulated in a similar manner. For example, both SDARS and DBS providers are subject to similar public interest and other obligations under Part 25 of the Commission's rules.

14. Notwithstanding this similarity, in the *EAS First Report and Order,* the Commission applied dissimilar testing requirements: It imposed on SDARS providers the same general monthly and weekly testing requirements that it applied to terrestrial EAS Participant services, while applying modified testing requirements to DBS. The Commission concluded that requiring DBS providers to conduct weekly and monthly tests on all channels simultaneously on an inherently nationwide platform could pose technical challenges. Accordingly, it required that DBS providers need only log receipt of other EAS Participants' weekly tests, and perform monthly tests on 10% of all channels such that over the course of a year, all channels are tested.

15. Meanwhile, the Commission required SDARS to conduct weekly and monthly tests on all channels. The Commission agrees with Sirius XM that these testing obligations are more onerous than those imposed on DBS (and other services subject to EAS requirements). Both services provide programming via satellites over multiple channels, which requires interrupting whatever programming is on these multiple channels to transmit the test. However, whereas DBS is not required to transmit weekly tests at all, and can transmit the monthly test over 10% of its channels per month, SDARS is required to transmit weekly tests on all of its channels every week, and monthly tests on all of its channels once per month. In SDARS's case, there are no uniform breaks across all channels, such as a commercial break, that might unobtrusively accommodate a test. Moreover, because SDARS is an audio service, the EAS header code tones, scripted audio and attention signal (in the case of a monthly test) are the only audio SDARS listeners will hear during the test. The Commission concluded in the *EAS First Report and Order* that the testing requirements adopted for DBS were ''no more onerous to DBS providers than those required of any other EAS participant.'' On their face, the disparity in the testing requirements imposed upon DBS as compared to SDARS—two similarly situated services—confirm that the same cannot be said with respect to SDARS.

16. Nor is the purpose of EAS testing undermined by harmonizing the SDARS testing requirements with the DBS testing requirements. In the *EAS First Report and Order,* the Commission stated that the ''EAS testing regime is designed to test not only the EAS participant's ability to receive the message from the source it monitors, but also the ability of the participant to disseminate an alert to its entire audience.'' This purpose will continue to be fully realized by applying the weekly and monthly DBS testing requirements to SDARS providers, because the weekly logging requirement

should identify alerts not received, and the monthly requirements will ensure that, on a rolling basis, over a one year period, all Sirius XM's channels are able to disseminate the alert to its listeners. Moreover, as Sirius XM points out, because Sirius XM serves as a PEP source for national EAS alerts, FEMA already tests Sirius XM's EAS equipment ''on a regular basis through remote polling . . . without even notifying SiriusXM of the testing—unless a problem is discovered—and without any disruption to [Sirius XM's] customers.''

III. Procedural Matters

A. Accessible Formats

17. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer Sirius XM Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

B. Paperwork Reduction Act Analysis

18. This document contains modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. These modified requirements were submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies were invited to comment on the new or modified information collection requirements contained in this proceeding. OMB approved the modified information collection requirements on December 26, 2019, and the Commission published a notice in the **Federal Register** announcing such OMB approval on February 6, 2020, published at 85 FR 6951, February 6, 2020. In addition, the Commission notes that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Notice of Proposed Rulemaking (NPRM), adopted in August 2004, which sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

19. In this present document, the Commission has assessed the effects of the information collection associated with the modified reporting requirement set forth in the *Order,* and finds that because this information collection involves a decrease in testing burdens that should more than offset the increase in logging burdens, the net burden of information collection should be reduced and therefore should not pose a substantial burden for businesses with fewer than 25 employees.

C. Congressional Review Act

20. 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 this Order on Reconsideration to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

D. Supplemental Final Regulatory Flexibility Analysis

21. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Notice of Proposed Rulemaking (NPRM), in EB Docket No. 04–296, 69 FR 52843 (Aug. 30, 2004). The Commission sought written public comment on the proposals in the NPRM, including comments on the IRFA. No comments were filed addressing the IRFA. The Commission included a Final Regulatory Flexibility Analysis (FRFA) in Appendix D of the *EAS First Report and Order* in this proceeding. This Supplemental Final Regulatory Flexibility Analysis (Supplemental FRFA) supplements the FRFA to reflect the actions taken in this *Order* and conforms to the RFA.

1. Need for, and Objective of, the Order on Reconsideration

22. In the *EAS First Report and Order,* the Commission extended EAS obligations to digital television and radio, digital cable, and satellite television and radio services. Among other things, the Commission extended EAS obligations to SDARS providers. A petition for partial reconsideration of the *EAS First Report and Order* was filed and subsequently modified by Sirius XM, the sole provider of SDARS in the United States.

23. The Commission grants on reconsideration, to the extent described herein, Sirius XM's petition for partial reconsideration of the *EAS First Report and Order* by revising the EAS testing requirements for SDARS providers to make them symmetrical to applied to DBS providers.

2. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

24. There were no comments filed that specifically addressed the proposed rules and policies presented in the IRFA.

3. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration

25. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments.

26. The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

4. Description and Estimate of the Number of Small Entities to Which Rules Will Apply

27. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the rules adopted herein. 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 SBA.

28. As noted above, a FRFA was incorporated into the *EAS First Report and Order.* In that analysis, the Commission described in detail the small entities that might be significantly affected by the rules adopted in the *EAS First Report and Order.* This Supplemental FRFA reflects updated information, where applicable, for the descriptions and estimates of the number of small entities in the previous FRFA in this proceeding.

29. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* The Commission's actions, over time, may affect small entities that are not easily categorized at present. The Commission therefore describes here, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA's Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all

businesses in the United States which translates to 28.8 million businesses.

30. Next, the type of small entity described as a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of August 2016, there were approximately 356,494 small organizations based on registration and tax data filed by nonprofits with the Internal Revenue Service (IRS).

31. Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' U.S. Census Bureau data from the 2012 Census of Governments indicate that there were 90,056 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number there were 37, 132 General purpose governments (county, municipal and town or township) with populations of less than 50,000 and 12,184 Special purpose governments (independent school districts and special districts) with populations of less than 50,000. The 2012 U.S. Census Bureau data for most types of governments in the local government category show that the majority of these governments have populations of less than 50,000. Based on this data the Commission estimates that at least 49,316 local government jurisdictions fall in the category of ''small governmental jurisdictions.''

32. *Television Broadcasting.* This Economic Census category ''comprises establishments primarily engaged in broadcasting images together with sound.'' These establishments operate television broadcast studios and facilities for the programming and transmission of programs to the public. These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA has created the following small business size standard for such businesses: Those having $38.5 million or less in annual receipts. The 2012 Economic Census reports that 751 firms in this category operated in that year. Of that number, 656 had annual receipts of $25,000,000 or less, 25 had annual receipts between $25,000,000 and $49,999,999 and 70 had annual receipts of $50,000,000 or more. Based on this data the Commission therefore estimates that the majority of commercial television broadcasters are small entities under the applicable SBA size standard.

33. The Commission has estimated the number of licensed commercial television stations to be 1,377. Of this total, 1,258 stations (or about 91%) had revenues of $38.5 million or less, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) on November 16, 2017, and therefore these licensees qualify as small entities under the SBA definition. In addition, the Commission has estimated the number of licensed noncommercial educational television stations to be 384. Notwithstanding, the Commission does not compile and otherwise does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities. There are also 2,300 low power television stations, including Class A stations (LPTV) and 3,681 TV translator stations. Given the nature of these services, the Commission will presume that all of these entities qualify as small entities under the above SBA small business size standard.

34. The Commission notes, however, that in assessing whether a business concern qualifies as ''small'' under the above definition, business (control) affiliations must be included. The Commission's estimate, therefore likely overstates the number of small entities that might be affected by the Commission's action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, another element of the definition of ''small business'' requires that an entity not be dominant in its field of operation. The Commission is unable at this time to define or quantify the criteria that would establish whether a specific television broadcast station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply does not exclude any television station from the definition of a small business on this basis and is therefore possibly over-inclusive. Also, as noted above, an additional element of the definition of ''small business'' is that the entity must be independently owned and operated. The Commission notes that it is difficult at times to assess these criteria in the context of media entities and its estimates of small businesses to which they apply may be over-inclusive to this extent.

35. *Radio Stations.* This Economic Census category ''comprises establishments primarily engaged in broadcasting aural programs by radio to the public. Programming may originate in their own studio, from an affiliated network, or from external sources.'' The SBA has established a small business size standard for this category as firms having $38.5 million or less in annual receipts. Economic Census data for 2012 show that 2,849 radio station firms operated during that year. Of that number, 2,806 firms operated with annual receipts of less than $25 million per year, 17 with annual receipts between $25 million and $49,999,999 million and 26 with annual receipts of $50 million or more. Therefore, based on the SBA's size standard the majority of such entities are small entities.

36. According to Commission staff review of the BIA/Kelsey, LLC's Media Access Pro Radio Database as of January 2018, about 11,261 (or about 99.9%) of 11,383 commercial radio stations had revenues of $38.5 million or less and thus qualify as small entities under the SBA definition. The Commission has estimated the number of licensed commercial AM radio stations to be 4,633 stations and the number of commercial FM radio stations to be 6,738, for a total number of 11,371. The Commission notes that it has also estimated the number of licensed noncommercial (NCE) FM radio stations to be 4,128. Nevertheless, the Commission does not compile and otherwise does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities.

37. The Commission also notes that in assessing whether a business entity qualifies as small under the above definition, business control affiliations must be included. The Commission's estimate therefore likely overstates the number of small entities that might be affected by its action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, to be determined a ''small business,'' an entity may not be dominant in its field of operation. The Commission further notes, that it is difficult at times to assess these criteria in the context of media entities, and the estimate of small businesses to which these rules may apply does not exclude any radio station from the definition of a small business on these basis, thus the Commission's estimate of small businesses may therefore be over-inclusive. Also, as noted above, an additional element of the definition of ''small business'' is that the entity must be independently owned and operated. The Commission notes

that it is difficult at times to assess these criteria in the context of media entities and the estimates of small businesses to which they apply may be over-inclusive to this extent.

38. *Cable Companies and Systems (Rate Regulation).* The Commission has developed its own small business size standards for the purpose of cable rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers nationwide. Industry data indicate that there are currently 4,600 active cable systems in the United States. Of this total, all but nine cable operators nationwide are small under the 400,000-subscriber size standard. In addition, under the Commission's rate regulation rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers. Current Commission records show 4,600 cable systems nationwide. Of this total, 3,900 cable systems have fewer than 15,000 subscribers, and 700 systems have 15,000 or more subscribers, based on the same records. Thus, under this standard as well, the Commission estimates that most cable systems are small entities.

39. *Cable System Operators (Telecom Act Standard).* The Communications Act of 1934, as amended also contains a size standard for small cable system operators, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than one percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' There are approximately 52,403,705 cable video subscribers in the United States today. Accordingly, an operator serving fewer than 524,037 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate. Based on available data, the Commission finds that all but nine incumbent cable operators are small entities under this size standard. The Commission notes that it neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250 million, the Commission is unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

40. *Broadband Radio Service and Educational Broadband Service.* Broadband Radio Service systems, previously referred to as Multipoint Distribution Service (MDS) and Multichannel Multipoint Distribution Service (MMDS) systems, and ''wireless cable,'' transmit video programming to subscribers and provide two-way high-speed data operations using the microwave frequencies of the Broadband Radio Service (BRS) and Educational Broadband Service (EBS) (previously referred to as the Instructional Television Fixed Service (ITFS)).

41. *BRS*—In connection with the 1996 BRS auction, the Commission established a small business size standard as an entity that had annual average gross revenues of no more than $40 million in the previous three calendar years. The BRS auctions resulted in 67 successful bidders obtaining licensing opportunities for 493 Basic Trading Areas (BTAs). Of the 67 auction winners, 61 met the definition of a small business. BRS also includes licensees of stations authorized prior to the auction. At this time, the Commission estimates that of the 61 small business BRS auction winners, 48 remain small business licensees. In addition to the 48 small businesses that hold BTA authorizations, there are approximately 86 incumbent BRS licensees that are considered small entities (18 incumbent BRS licensees do not meet the small business size standard). After adding the number of small business auction licensees to the number of incumbent licensees not already counted, there are currently approximately 133 BRS licensees that are defined as small businesses under either the SBA or the Commission's rules.

42. In 2009, the Commission conducted Auction 86, the sale of 78 licenses in the BRS areas. The Commission offered three levels of bidding credits: (i) A bidder with attributed average annual gross revenues that exceed $15 million and do not exceed $40 million for the preceding three years (small business) received a 15% discount on its winning bid; (ii) a bidder with attributed average annual gross revenues that exceed $3 million and do not exceed $15 million for the preceding three years (very small business) received a 25% discount on its winning bid; and (iii) a bidder with attributed average annual gross revenues that do not exceed $3 million for the preceding three years (entrepreneur) received a 35% discount on its winning bid. Auction 86 concluded in 2009 with the sale of 61 licenses. Of the ten winning bidders, two bidders that claimed small business status won 4 licenses; one bidder that claimed very small business status won three licenses; and two bidders that claimed entrepreneur status won six licenses.

43. *EBS*—Educational Broadband Service has been included within the broad economic census category and SBA size standard for Wired Telecommunications Carriers since 2007. Wired Telecommunications Carriers are comprised of establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies.'' The SBA's small business size standard for this category is all such firms having 1,500 or fewer employees. U.S. Census Bureau data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this size standard, the majority of firms in this industry can be considered small. In addition to Census data, the Commission's Universal Licensing System indicates that as of October 2014, there are 2,206 active EBS licenses. The Commission estimates that of these 2,206 licenses, the majority are held by non-profit educational institutions and school districts, which are by statute defined as small businesses.

44. *Wireless Carriers and Service Providers.* Neither the SBA nor the Commission has developed a size standard specifically applicable to Wireless Carriers and Service Providers. The closest applicable SBA category and size standard is for Wireless Telecommunications Carriers (except Satellite), which is an entity employing no more than 1,500 persons. For this industry, U.S. Census Bureau data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had employment of 999 or fewer employees and 12 had employment of 1000 employees or more. Thus, under this category and the associated size standard, the Commission estimates that the majority of Wireless Carriers and Service Providers are small entities.

45. According to internally developed Commission data for all classes of Wireless Service Providers, there are 970 carriers that reported they were engaged in the provision of wireless services. Of this total, an estimated 815 have 1,500 or fewer employees, and 155

have more than 1,500 employees. Thus, using available data, the Commission estimates that the majority of Wireless Carriers and Service Providers can be considered small.

46. *Broadband Personal Communications Service.* The broadband personal communications services (PCS) spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission initially defined a ''small business'' for C- and F-Block licenses as an entity that has average gross revenues of $40 million or less in the three previous calendar years. For F-Block licenses, an additional small business size standard for ''very small business'' was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. These small business size standards, in the context of broadband PCS auctions, have been approved by the SBA. No small businesses within the SBA-approved small business size standards bid successfully for licenses in Blocks A and B. There were 90 winning bidders that claimed small business status in the first two C-Block auctions. A total of 93 bidders that claimed small business status won approximately 40% of the 1,479 licenses in the first auction for the D, E, and F Blocks. On April 15, 1999, the Commission completed the reauction of 347 C-, D-, E-, and F-Block licenses in Auction No. 22. Of the 57 winning bidders in that auction, 48 claimed small business status and won 277 licenses.

47. On January 26, 2001, the Commission completed the auction of 422 C and F Block Broadband PCS licenses in Auction No. 35. Of the 35 winning bidders in that auction, 29 claimed small business status. Subsequent events concerning Auction 35, including judicial and agency determinations, resulted in a total of 163 C and F Block licenses being available for grant. On February 15, 2005, the Commission completed an auction of 242 C-, D-, E-, and F-Block licenses in Auction No. 58. Of the 24 winning bidders in that auction, 16 claimed small business status and won 156 licenses. On May 21, 2007, the Commission completed an auction of 33 licenses in the A, C, and F Blocks in Auction No. 71. Of the 12 winning bidders in that auction, five claimed small business status and won 18 licenses. On August 20, 2008, the Commission completed the auction of 20 C-, D-, E-, and F-Block Broadband PCS licenses in Auction No. 78. Of the eight winning bidders for Broadband PCS licenses in that auction, six claimed small business status and won 14 licenses.

48. *Incumbent Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The closest applicable NAICS Code category is Wired Telecommunications Carriers. Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012 indicate that 3,117 firms operated the entire year. Of this total, 3,083 operated with fewer than 1,000 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by the Commission's actions. According to Commission data, one thousand three hundred and seven (1,307) Incumbent Local Exchange Carriers reported that they were incumbent local exchange service providers. Of this total, an estimated 1,006 have 1,500 or fewer employees. Thus using the SBA's size standard the majority of incumbent LECs can be considered small entities.

49. *Competitive Local Exchange Carriers (Competitive LECs).* Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers. Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate NAICS Code category is Wired Telecommunications Carriers and under that size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012 indicate that 3,117 firms operated during that year. Of that number, 3,083 operated with fewer than 1,000 employees. Based on these data, the Commission concludes that the majority of Competitive LECS, CAPs, Shared-Tenant Service Providers, and Other Local Service Providers, are small entities. According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services. Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees. In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees. Also, 72 carriers have reported that they are Other Local Service Providers. Of this total, 70 have 1,500 or fewer employees. Consequently, based on internally researched FCC data, the Commission estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and Other Local Service Providers are small entities.

50. *Satellite Telecommunications.* This category comprises firms ''primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.'' Satellite telecommunications service providers include satellite and earth station operators. The category has a small business size standard of $32.5 million or less in average annual receipts, under SBA rules. For this category, U.S. Census Bureau data for 2012 show that there were a total of 333 firms that operated for the entire year. Of this total, 299 firms had annual receipts of less than $25 million. Consequently, the Commission estimates that the majority of satellite telecommunications providers are small entities.

51. *All Other Telecommunications.* The ''All Other Telecommunications'' category is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing internet services or voice over internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry. The SBA has developed a small business size standard for All Other Telecommunications, which consists of all such firms with annual receipts of $32.5 million or less. For this category, U.S. Census Bureau data for 2012 shows that there were 1,442 firms that operated for the entire year. Of those firms, a total of 1,400 had annual receipts less than $25 million and 42 firms had annual receipts of $25 million to $49,999,999. Thus, the Commission estimates that the majority of ''All Other Telecommunications'' firms potentially affected by the Commission's action can be considered small.

5. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

52. The reporting, recordkeeping, and other compliance requirements resulting from the *EAS First Report and Order* as described in the previous FRFA in this proceeding are hereby incorporated by reference. The actions the Commission takes in the *Order* modify the SDARS testing requirements to make them symmetrical to the DBS testing requirements, and do not otherwise amend or revise the requirements adopted in the *EAS First Report and Order.* More specifically, SDARS providers will be required to log receipt of the weekly test (which represents a new reporting requirement for SDARS providers), and to transmit the monthly test on 10% of all of its channels, with channels tested varying from month to month, so that over the course of a given year, 100% of all of their channels are tested.

6. Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

53. The RFA requires an agency to describe any significant alternatives that it has considered in developing its approach, which may include the following four alternatives (among others): ''(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) and exemption from coverage of the rule, or any part thereof, for small entities.''

54. In granting partial reconsideration of the *EAS First Report and Order,* the Commission opted to modify the current SDARS testing requirements and make them symmetrical to the DBS testing requirements based on its finding that SDARS and DBS services are similarly situated. Notwithstanding their similarity and the similar challenges the two services faced in conducting weekly and monthly tests on all channels simultaneously, in the *EAS First Report and Order,* the Commission applied the same general monthly and weekly testing requirements to SDARS providers that it applied to terrestrial EAS Participant services, while applying modified testing requirements to DBS providers. The Commission's action to harmonize the SDARS testing requirements with the DBS testing requirements on reconsideration should significantly reduce the economic impact for SDARS providers associated with compliance with the general monthly and weekly testing requirements adopted in the *EAS First Report and Order.* The modified weekly test requirement for SDARS of substituting logging of receipt of a weekly test for conducting the weekly test, represents a reduced burden, as EAS equipment automatically records when weekly tests are received. Further, not having to transmit the EAS header codes and EOM on all channels randomly once per week relieves the SDARS provider from having to coordinate and administer such testing.

7. Report to Congress

55. The Commission will send a copy of the *Order,* including this Supplemental FRFA, in a report to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the Order, including this Supplemental FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the *Order* and Supplemental FRFA (or summaries thereof) will also be published in the **Federal Register**.

E. People With Disabilities

56. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

IV. Ordering Clauses

57. Accordingly, *it is ordered* that pursuant to sections 1, 2, 4(i), 4(o), 301, 303(r), 303(v), 307, 309, 335, 403, 405, and 706 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i) and (o), 301, 303(r), 303(v), 307, 309, 335, 403, 405, and 606, and section 1.429 of the Commission's rules, 47 CFR 1.429, the Petition for Partial Reconsideration and Clarification of Sirius XM Radio Inc., as modified by the Motion of Sirius XM Radio Inc. for Leave to Supplement Petition for Reconsideration and Request for Limited Waiver *are granted* to the extent set forth herein;

58. *It is further ordered* that pursuant to section 1.429(d) of the Commission's rules, 47 CFR 1.429(d), Sirius XM Radio Inc.'s request for leave to supplement its pending petition for reconsideration set forth in the Motion of Sirius XM Radio Inc. for Leave to Supplement Petition for Reconsideration and Request for Limited Waiver *is granted* to the extent set forth herein;

59. *It is further ordered* that pursuant to section 1.429(d) of the Commission's rules, 47 CFR 1.429(d), the Further Supplement of Sirius XM Radio Inc. to Petition for Reconsideration and Request for Limited Waiver *is dismissed* to the extent set forth herein;

60. *It is further ordered* that Part 11 of the Commission's rules, 47 CFR part 11, *is amended* as set forth herein, and such rule amendments *shall be effective* thirty (30) days after publication of the rule amendments in the **Federal Register**, except to the extent they contain information collections subject to PRA review. Rule amendments that contain information collections subject to PRA review *shall become effective* upon the effective date announced when the Commission publishes a notice in the **Federal Register** announcing such OMB approval and the effective date.

61. *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 Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 11

Radio, Television.

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 11 as follows:

PART 11—EMERGENCY ALERT SYSTEM (EAS)

■ 1. The authority citation for part 11 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i) and (o), 303(r), 544(g) and 606.

■ 2. Amend § 11.61 by:

■ a. Adding paragraph (a)(1)(iii);

■ b. Removing paragraph (a)(2)(i)(D); and

■ c. Revising paragraph (a)(2)(ii).

The addition and revision read as follows:

§ 11.61 Tests of EAS procedures.

(a) * * *

(1) * * *

(iii) SDARS providers must comply with this section by monitoring a state or local primary source to participate in testing. Tests should be performed on 10% of all channels monthly, with channels tested varying from month to

month, so that over the course of a given year, 100% of all channels are tested.

(2) * * *

(ii) DBS providers, SDARS providers, analog and digital class D non-commercial educational FM stations, analog and digital LPFM stations, and analog and digital LPTV stations are not required to transmit this test but must log receipt, as specified in § 11.35(a) and 11.54(a)(3).

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Proposed Rules

Federal Register

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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 ENERGY

10 CFR Part 430

[EERE–2020–BT–STD–0006]

RIN 1904–AD87

Energy Conservation Program: Energy Conservation Standards for External Power Supplies

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

ACTION: Request for information.

SUMMARY: The U.S. Department of Energy (''DOE'') is initiating an effort to determine whether to amend the current energy conservation standards for External Power Supplies (''EPS''). Under the Energy Policy and Conservation Act, as amended, DOE must review these standards at least once every six years and publish either propose new standards for EPSs or a notice of determination that the existing standards do not need to be amended. This request for information (''RFI'') solicits information from the public to help DOE determine whether amended standards for EPSs would result in significant energy savings and whether such standards would be technologically feasible and economically justified. As part of this RFI, DOE seeks comment on whether there have been sufficient technological or market changes since the most recent standards update that may justify a new rulemaking to consider more stringent standards. Specifically, DOE seeks data and information that could enable the agency to determine whether DOE should propose a ''no new standard'' determination because a more stringent standard: would not result in a significant savings of energy; is not technologically feasible; is not economically justified; or any combination of the foregoing. DOE welcomes written comments from the public on any subject within the scope of this document (including those topics not specifically raised), as well as the submission of data and other relevant information.

DATES: Written comments and information will be accepted on or before July 6, 2020.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *http://www.regulations.gov.* Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2020–BT–STD–0006, by any of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
2. *Email:* to *EPS2020STD006@ee.doe.gov* Include the docket number EERE–2020–BT–STD–0006 in the subject line of the message.
3. *Postal Mail:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. If possible, please submit all items on a compact disc (''CD''), in which case it is not necessary to include printed copies.
4. *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza SW, 6th Floor, Washington, DC 20024. Phone: (202) 287–1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimilies (faxes) will be accepted. For detailed instructions on submitting comments and additional information on the rulemaking process, see section III of this document.

Docket: The docket for this activity, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at *http://www.regulations.gov.* All documents in the docket are listed in the *http://www.regulations.gov* index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

The docket web page can be found at *http://www.regulations.gov/#!docketDetail;D=EERE-2020-BT-STD-0006.* The docket web page contains instructions on how to access all documents, including public comments, in the docket. See section III for information on how to submit comments through *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT:

Mr. Jeremy Dommu, 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) 586–9870. Email: *ApplianceStandardsQuestions@EE.Doe.Gov.*

Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–8145. Email: *Michael.Kido@hq.doe.gov*

For further information on how to submit a comment, or review other public comments and the docket contact the Appliance and Equipment Standards Program staff at (202) 586–6636 or by email: *ApplianceStandardsQuestions@ee.doe.gov*

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I. Introduction

A. Authority and Background

The Energy Policy and Conservation Act, as amended (''EPCA''),[1] authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part B [2] of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles. These products include external power supplies (''EPSs''), the subject of this document. See 42 U.S.C. 6295(u) EPCA, as amended by the Energy Independence and Security Act of 2007, Public Law 110–140 (''EISA''), also defined a subset of EPSs, called Class A EPSs—devices that are ''able to convert to only 1 AC or DC output voltage at a time'' and have ''nameplate output power that is less than or equal to 250 watts'' among other characteristics.[3] (42 U.S.C. 6291(36)(C)(i)) These devices are also, by definition, (1) designed to convert line voltage AC input into lower voltage AC or DC output, (2) sold with (or intended to be used with) a separate end-use product that constitutes the primary load, (3) contained in a separate physical enclosure from the end-use product, and (4) connected to the end-use product via a removable or hard-wired male/female electrical connection, cable, cord or other wiring. See 42 U.S.C. 6291(36)(C)(i). EPCA prescribed energy conservation standards for Class A EPSs (hereafter referred to as the ''Level IV standards,'' the nomenclature of which is based on the marking required in accordance with the International Efficiency Marking Protocol) that became required on July 1, 2008. EPCA also directed DOE to conduct 2 cycles of rulemakings to determine whether to amend these standards. (42 U.S.C. 6295(u)(3))

Following the EISA amendments, Congress further amended EPCA to exclude EPSs used for certain security and life safety alarms and surveillance systems manufactured prior to July 1, 2017, from the statutorily-prescribed ''no-load'' energy conservation standards. (Pub. L. 111–360 (January 4, 2011) (codified at 42 U.S.C. 6295(u)(3)(E)). EPCA's EPS provisions were again amended by the Power and Security Systems (''PASS'') Act, which extended the rulemaking deadline and effective date established under the EISA 2007 amendments from July 1, 2015, and July 1, 2017, to July 1, 2021, and July 1, 2023, respectively. (Pub. L. 115–78 (November 2, 2017) (codified at 42 U.S.C. 6295(u)(3)(D)(ii))). The PASS Act also extended the exclusion of certain security and life safety alarms and surveillance systems from no-load standards until the effective date of the final rule issued under 42 U.S.C. 6295(u)(3)(D)(ii) and allows the Secretary to treat some or all EPSs designed to be connected to a security or life safety alarm or surveillance system as a separate product class or to further extend the exclusion. See 42 U.S.C. 6295(u)(3)(E)(ii) and (iv).

Most recently, on January 12, 2018, the EPS Improvement Act of 2017, Public Law 115–115, amended EPCA to exclude the following devices from the EPS definition: power supply circuits, drivers, or devices that are designed exclusively to be connected to and power (1) light-emitting diodes providing illumination, (2) organic light-emitting diodes providing illumination, or (3) ceiling fans using direct current motors.[4] (42 U.S.C. 6291(36)(A)(ii))

The energy conservation program under EPCA consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA specifically include definitions (42 U.S.C. 6291), test procedures (42 U.S.C. 6293), labeling provisions (42 U.S.C. 6294), energy conservation standards (42 U.S.C. 6295), and the authority to require information and reports from manufacturers (42 U.S.C. 6296).

Federal energy efficiency requirements for covered products established under EPCA generally supersede State laws and regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6297(a)–(c)) DOE may, however, grant waivers of Federal preemption for particular State laws or regulations, in accordance with the procedures and other provisions set forth under EPCA. (See 42 U.S.C. 6297(d)).

DOE completed the first of two required rulemaking cycles in 2014 by adopting amended performance standards for EPSs manufactured on or after February 10, 2016. 79 FR 7846 (February 10, 2014) (setting amended standards to apply starting on February 10, 2016) (''February 2014 Final Rule''). The final rule amended the Level IV standards prescribed by Congress and separated EPSs into two groups regardless of whether they met the Class A criteria—direct operation EPSs and indirect operation EPSs. The February 2014 Final Rule set new standards that applied only to direct operation EPSs (hereafter referred to as ''Level VI standards''), which increased the stringency of the average active-mode and no-load power consumption metrics over the Level IV standards. Under this rule, Class A EPSs that could directly power a consumer product (excluding battery chargers) became subject to the Level VI standards, whereas a Class A EPS that requires the use of a battery to power a consumer product remained subject to the Level IV standards. Likewise, a non-Class A EPS that could directly power a consumer product (excluding battery chargers) became subject to efficiency standards for the first time (Level VI standards)—non-Class A indirect operation EPS continued to remain free from any efficiency requirements. 79 FR 7865. The current energy conservation standards are located in title 10 of the Code of Federal Regulations (''CFR'') part 430, section 32(w). The currently applicable DOE test procedures for EPS are at 10 CFR part 430, subpart B, appendix Z (''Appendix Z'').

In implementing its standards, DOE provided more detailed guidance in an EPS test procedure rulemaking to help manufacturers and others determine whether a given device fell into the direct operation or indirect operation group. See 80 FR 51424 (Aug. 25, 2014). In that document, DOE noted that the separation between these two types of EPSs is based on their ability to power an end-use product when the product's battery is removed or depleted. If the product can still operate as intended when the battery is removed and the EPS is connected, the EPS is considered a direct operation EPS provided that the EPS operates a consumer product. If the product can only operate a battery charger or if the product cannot operate with the battery removed, it is considered an indirect operation EPS. 80 FR 51434–51435.

On December 6, 2019, DOE published a notice of proposed rulemaking (NOPR) for the EPS test procedure as codified at 10 CFR part 430, subpart B, Appendix Z, ''Uniform Test Method for Measuring the Energy Consumption of External Power Supplies.'' This notice was issued in response to several test

[1] All references to EPCA in this document refer to the statute as amended through America's Water Infrastructure Act of 2018, Public Law 115–270 (October 23, 2018).

[2] For editorial reasons, upon codification in the U.S. Code, Part B was re-designated Part A.

[3] Congress also excluded certain devices from the Class A EPS definition, specifically certain devices requiring listing and approval as a medical device and devices that either (1) power the charger of a detachable battery pack or (2) charge the battery of a product that is fully or primarily motor operated. See 42 U.S.C. 6291(36)(C)(ii).

[4] DOE amended its regulations to reflect the changes introduced by the PASS Act and EPS Improvement Act. 84 FR 437 (January 29, 2018).

procedure waivers, and stakeholder inquiries regarding testing methods for EPSs that incorporated certain newer technologies. Specifically, the proposed amendments address issues regarding the emergence of adaptive and multiple-output EPSs.

EPCA also requires that, not later than 6 years after the issuance of any final rule establishing or amending a standard, DOE evaluate the energy conservation standards for each type of covered product, including those at issue here, and publish either a notice of determination that the standards do not need to be amended, or a NOPR that includes new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6295(m)(1)) In making a determination that the standards do not need to be amended, DOE must evaluate whether amended standards (1) will result in significant conservation of energy, (2) are technologically feasible, and (3) are cost effective as described under 42 U.S.C. 6295(o)(2)(B)(i)(II). (42 U.S.C. 6295(m)(1)(A); 42 U.S.C. 6295(n)(2)) Under 42 U.S.C. 6295(o)(2)(B)(i)(II), DOE must determine whether the benefits of a standard exceed its burdens by, to the greatest extent practicable, considering the savings in operating costs throughout the estimated average life of the covered product in the type (or class) compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the covered products which are likely to result from the imposition of the standard. If DOE publishes a final determination that a standard does not need amending based on the statutory criteria, not later than 3 years after the issuance of DOE's determination, DOE must either make a new determination that standards for the product do not need to be amended or propose new energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6295(m)(3)(B)) DOE must make the analysis on which a determination is based publicly available and provide an opportunity for written comment. (42 U.S.C. 6295(m)(2))

In proposing new standards, DOE must evaluate that proposal against the criteria of 42 U.S.C. 6295(o), as described in the following section, and follow the rulemaking procedures set out in 42 U.S.C. 6295(p). (42 U.S.C. 6295(m)(1)(B) If DOE decides to amend the standard based on the statutory criteria, DOE must publish a final rule not later than two years after energy conservation standards are proposed. (42 U.S.C. 6295(m)(3)(A))

DOE is publishing this RFI to collect data and information to inform its decision consistent with its obligations under EPCA.

B. Rulemaking Process

DOE must follow specific statutory criteria when prescribing new or amended standards for covered products. EPCA requires that any new or amended energy conservation standard prescribed by the Secretary be designed to achieve the maximum improvement in energy or water efficiency that is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) To determine whether a standard is economically justified, EPCA requires that the Secretary of Energy (''the Secretary'') determine whether the benefits of the standard exceed its burdens by considering, to the greatest extent practicable, the following seven factors:

(1) The economic impact of the standard on the manufacturers and consumers of the affected products;

(2) The savings in operating costs throughout the estimated average life of the product compared to any increases in the initial cost, or maintenance expenses likely to result from the imposition of the standard;

(3) The total projected amount of energy and water (if applicable) savings likely to result directly from the standard;

(4) Any lessening of the utility or the performance of the products likely to result from the standard;

(5) The impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the standard;

(6) The need for national energy and water conservation; and

(7) Other factors the Secretary of Energy considers relevant. (42 U.S.C. 6295(o)(2)(B)(i)(I)–(VII))

DOE fulfills these and other applicable requirements by conducting a series of analyses throughout the rulemaking process. Table I.1 shows the individual analyses that are performed to satisfy each of the requirements within EPCA.

TABLE I.1—EPCA REQUIREMENTS AND CORRESPONDING DOE ANALYSIS

EPCA requirement	Corresponding DOE analysis
Significant Energy Savings	• Shipments Analysis. • National Impact Analysis. • Energy and Water Use Determination.
Technological Feasibility	• Market and Technology Assessment. • Screening Analysis. • Engineering Analysis.
Economic Justification:	
1. Economic impact on manufacturers and consumers	• Manufacturer Impact Analysis. • Life-Cycle Cost and Payback Period Analysis. • Life-Cycle Cost Subgroup Analysis. • Shipments Analysis.
2. Lifetime operating cost savings compared to increased cost for the product.	• Markups for Product Price Determination. • Energy and Water Use Determination. • Life-Cycle Cost and Payback Period Analysis.
3. Total projected energy savings	• Shipments Analysis. • National Impact Analysis.
4. Impact on utility or performance	• Screening Analysis. • Engineering Analysis.
5. Impact of any lessening of competition	• Manufacturer Impact Analysis.
6. Need for national energy and water conservation	• Shipments Analysis. • National Impact Analysis.
7. Other factors the Secretary considers relevant	• Employment Impact Analysis. • Utility Impact Analysis. • Emissions Analysis. • Monetization of Emission Reductions Benefits.

TABLE I.1—EPCA REQUIREMENTS AND CORRESPONDING DOE ANALYSIS—Continued

EPCA requirement	Corresponding DOE analysis
	• Regulatory Impact Analysis.

As detailed throughout this RFI, DOE is publishing this document to seek input and data from interested parties to aid in the development of the technical analyses on which DOE will ultimately rely to determine whether (and if so, how) to amend the standards for EPSs.

II. Request for Information and Comments

In the following sections, DOE has identified a variety of issues on which it seeks input to aid in the development of the technical and economic analyses regarding whether amended standards for EPSs may be warranted.

As an initial matter, DOE seeks comment on whether there have been sufficient technological or market changes since the most recent standards update that may justify a new rulemaking to consider more stringent standards. Specifically, DOE seeks data and information that could enable the agency to determine whether DOE should propose a ''no new standard'' determination because a more stringent standard: (1) Would not result in a significant savings of energy; (2) is not technologically feasible; (3) is not economically justified; or (4) any combination of foregoing.

Additionally, DOE recently published an RFI on the emerging smart technology appliance and equipment market. 83 FR 46886 (Sept. 17, 2018). In that RFI, DOE sought information to better understand market trends and issues in the emerging market for appliances and commercial equipment that incorporate smart technology. DOE's intent in issuing the RFI was to ensure that DOE did not inadvertently impede such innovation in fulfilling its statutory obligations in setting efficiency standards for covered products and equipment. DOE seeks comments, data and information on the issues presented in the RFI as they may be applicable to EPSs.

A. Products Covered by This Process

This RFI covers those products that meet the definitions of various EPSs codified at 10 CFR 430.2. An EPS is defined as an external power supply circuit that is used to convert household electric current into DC current or lower-voltage AC current to operate a consumer product. 10 CFR 430.2. DOE's regulations also include more specific definitions of other EPS variants. See 10 CFR 430.2.

DOE is interested in any feedback stakeholders may have on the classification of specific types of EPSs but notes that the EPS definition is established by statute. (See 42 U.S.C. 6291(36)(A)) There are products that would initially appear to be within the broad statutory definition of EPS, such as: Consumer devices with multiple primary functions one of which is an EPS; and, wireless power supplies. In each of these examples, a circuit is used to convert household electric current into DC current or lower-voltage AC current to operate a consumer product. DOE is seeking information on the technical differences between such products and other products that are EPSs.

1. Consumer Devices With Auxiliary Power Supply Function

The ubiquitous nature of universal serial bus (''USB'') devices as charging and communication platforms has led many manufacturers to embed USB ports within consumer devices whose primary function may not be to serve as an external power supply. (A universal serial bus is a type of interface that enables communication between various devices and a host controller.) With ever improving specifications such as 100W of power and 10 gigabits per second (Gbps) of throughout data, DOE anticipates the presence of embedded USB ports to become even more commonplace. This projected development raises the question about whether these products are EPSs and subject to the EPS standards. This section addresses this topic and seeks feedback from interested parties on specific questions.

The USB specification, published by the USB Implementers Forum,[5] requires any USB output port, even those embedded in other products, to output a DC voltage. Therefore, a consumer product could generally receive AC input from the mains and convert it into a DC output at an embedded USB port. This includes products as varied as: Laptops, desktop computers, TVs, power strips, surge protectors, refrigerators, lamps, or any other household consumer goods with USB output ports. DOE seeks feedback on the following topics related to consumer products with USB output ports:

Issue 1: How can a product that has a primary functionality other than power conversion but with an integrated USB output, be differentiated from a product of which power conversion is the primary function? For such products, is it possible to isolate the power conversion associated with the USB output and measure its efficiency independently from that of the remainder of the product?

2. Wireless Power Devices

A wireless power device is one that transfers electrical energy from a power source to an electrical load without the use of physical conductors such as wires and cables. DOE has identified two types of wireless power devices, one of which appears to meet the definition of an EPS.

One group of wireless power devices, which includes chargers for electric toothbrushes, shavers, and smartwatches, consists of devices that operate by only powering battery charging circuits in an end-use product. These devices interface with the end-use product using proprietary charging connections that only work with products from the same manufacturer. However, only some of these devices are subject to the battery charger standards—namely, electric toothbrushes and water jets. These devices are collectively known as inductive chargers for wet environments. To date, all other applications of inductive battery charging fall under the dry environment terminology, for which DOE has not promulgated any standards.

The second group of wireless power devices consists of devices that can work with products that are equipped with or without batteries as well as with products from different manufacturers. These include products such as universal wireless mats that can be used with various consumer devices made by different manufacturers. In DOE's view, these devices could therefore be considered EPSs, but would not be Class A EPSs because they are not connected to the end-use product using a removable or hard-wired electrical connection, cable, cord, or other wiring.

[5] The USB Implementers Forum is an organization made up of industry stakeholders that support the advancement and adoption of USB technologies. For more information, visit *https://www.usb.org/about.*

See 42 U.S.C. 6291(36)(C)(i)(V). Further, DOE is not aware of any wireless power device that can operate a consumer product that is not a battery charger without the assistance of a battery—making them non-Class A indirect operation EPSs, a subset of products for which energy efficiency standards do not currently exist under DOE's regulations. Accordingly, these products are not subject to the current EPS standards. DOE seeks public input on the following questions to help assess the necessity of regulating the energy efficiency of these devices:

Issue 2: How many varieties of wireless EPS products that can power a non-battery operated end-use product directly are currently offered for sale? What are the shipment volumes of these products and what are the projected sales in the industry over the next 5 years?

DOE requests feedback on what factors should be considered when evaluating product classes and standards for wireless EPSs such as wireless mats.

What are the design options associated with wireless EPSs that could be used to improve the efficiency of the power transfer process and what are the costs associated with each design option? What are the achievable efficiencies of wireless EPSs and is there a correlation between efficiency and output power such as in more traditional wired EPSs?

Issue 3: How can the efficiency of wireless power devices be measured and replicated in a lab setting to achieve repeatable results? Do any industry standards or test methods exist or are any being developed to test the energy efficiency or power consumption of wireless EPSs that DOE would consider adopting? If yes, what are the pros and cons of each? If no published industry testing standard exist, do stakeholders have any input regarding a method to test these products?

B. Market and Technology Assessment

The market and technology assessment that DOE routinely conducts when analyzing the impacts of a potential new or amended energy conservation standard provides information about the EPS industry that will be used in DOE's analysis throughout the rulemaking process. DOE uses qualitative and quantitative information to characterize the structure of the industry and market. DOE identifies manufacturers, estimates market shares and trends, addresses regulatory and non-regulatory initiatives intended to improve energy efficiency or reduce energy consumption, and explores the potential for efficiency improvements in the design and manufacturing of EPSs. DOE also reviews product literature, industry publications, and company websites. Additionally, DOE may conduct interviews with manufacturers to improve its assessment of the market and available technologies for EPSs.

1. Product Classes

When evaluating and establishing energy conservation standards, DOE may divide covered products into product classes by the type of energy used, or by capacity or other performance-related features that would justify a different standard from that which applies (or will apply) to other products within such type or class. (42 U.S.C. 6295(q)) In making a determination whether capacity or another performance-related feature justifies a different standard, DOE must consider such factors as the utility of the feature to the consumer and other factors DOE deems appropriate. (*Id.*)

For EPSs, the current energy conservation standards specified in 10 CFR 430.32 are based on 8 product classes determined according to the following performance-related features that provide utility to the consumer, in terms of output voltage type, output voltage and current levels, number of simultaneous output voltage(s) and whether the product meets the definition of direct or indirect operation EPSs. Additionally, EPCA, as amended by EISA 2007, also prescribes the criteria for a subcategory of EPSs—those classified as Class A EPSs. 42 U.S.C. 6291(36)(C)(i). Indirect operation EPSs falling within the Class A EPS definition are subject to Level IV standards while non-Class A indirect operation EPSs would not be subject to any standards. Direct operation EPSs are subject to Level VI standards regardless of whether they meet the Class A definition. 10 CFR 430.32. Table II.1 lists the level of standards applicable to different types of EPSs based on operation type and whether it meets the Class A definition.

TABLE II.1—APPLICATION OF STANDARDS FOR CLASS A/NON-CLASS A EPS STANDARD LEVELS BASED ON TYPE OF OPERATION

	Class A EPS	Non-class A EPS
Direct Operation EPS	Level VI: 10 CFR 430.32(w)(1)(ii)	Level VI: 10 CFR 430.32(w)(1)(ii).
Indirect Operation EPS	Level IV: 10 CFR 430.32(w)(1)(i)	No Standards.

Table II.2 lists the current 8 product classes for EPSs and their respective product class codes for EPSs. A ''low-voltage EPS'' means an EPS with a nameplate output voltage less than 6 volts and nameplate output current greater than or equal to 550 milliamps. A ''basic-voltage EPS'' means an EPS that is not a low-voltage EPS. See 10 CFR 430.2.

TABLE II.2—CURRENT EPS PRODUCT CLASSES

Product class code	Product class description
B	Direct Operation, AC-DC, Basic-Voltage.
C	Direct Operation, AC-DC, Low-Voltage (except those with nameplate output voltage less than 3 volts and nameplate output current greater than or equal to 1,000 milliamps that charge the battery of a product that is fully or primarily motor operated).
C–1	Direct Operation, AC-DC, Low-Voltage with nameplate output voltage less than 3 volts and nameplate output current greater than or equal to 1,000 milliamps and charges the battery of a product that is fully or primarily motor operated.
D	Direct Operation, AC-AC, Basic-Voltage.
E	Direct Operation, AC-AC, Low-Voltage.
X	Direct Operation, Multiple-Voltage.

TABLE II.2—CURRENT EPS PRODUCT CLASSES—Continued

Product class code	Product class description
H	Direct Operation, High-Power.
N	Indirect Operation.

Issue 4: DOE requests feedback on the current EPS product classes and whether these classes continue to reasonably depict the make-up of the EPS market or whether changes are merited. Related to this request, DOE seeks information on whether combining certain classes could impact product utility by eliminating any performance-related features or impact the stringency of the current energy conservation standard for these products. DOE also requests comment on separating any of the existing product classes and whether it would impact product utility by eliminating any performance-related features or reduce any compliance burdens.

Issue 5: Separate from the approach to combine product classes, DOE may also consider modifying the certification template to reduce the number of individual product codes by requesting additional information such as voltage rating and current rating which would then be used to assign the appropriate product class and identify the corresponding standard. DOE requests comment on this approach, or other approaches that achieve the same purpose.

DOE also understands that new configurations and features may be available for EPSs that may not have been available at the time of the last energy conservation standards analysis.

Issue 6: DOE seeks information regarding any other new product classes that are not already addressed by its current regulations that it should consider for inclusion in its analysis. Specifically, DOE requests information on the performance-related features (*e.g.,* improved switched-mode topologies, semiconductor materials, component designs *etc.*) that provide unique consumer utility and data detailing the corresponding impacts on energy use that would justify separate product classes (*i.e.,* explanation for why the presence of these performance-related features would increase energy consumption).

Issue 7: Has the distribution of the various EPS product classes that DOE regulates changed since DOE's analysis for the final rule published on February 10, 2014? In that prior analysis, DOE indicated that, for total EPS shipments in 2009, direct operation, AC-DC, basic-voltage and low-voltage EPSs combined constituted nearly 73 percent of shipments, indirect operation EPSs made up approximately 22 percent of shipments, and the remaining product classes (AC-AC EPSs, multiple-voltage EPSs, and high-power EPSs) made up 5 percent of shipments.[6]

a. Direct Operation and Indirect Operation EPSs

The February 2014 Final Rule divided all EPSs into two categories, direct operation and indirect operation EPSs—with only direct operation EPSs being subject to the new Level VI standards that DOE adopted in that rule. That final rule also indicated that indirect operation EPSs that also met the definition of a Class A EPS would continue to be required to meet the already statutorily prescribed Level IV standards. The original intent of classifying all EPSs into these categories was to distinguish between EPSs that directly operate an end-use product, *i.e.,* that can operate a consumer product that is not a battery charger without the assistance of a battery (direct operation EPSs), versus those devices that cannot operate a consumer product that is not a battery charger without the assistance of a battery (indirect operation EPSs). At the time of the February 2014 Final Rule's publication, DOE believed that it would be more effective to regulate indirect operation EPSs as part of the then-parallel battery charger rulemaking than to regulate them under the new and amended external power supply standards.

Since the publication of the February 2014 Final Rule, DOE has received many questions regarding EPSs that provide direct operation with one end-use product but may also be used to provide indirect operation with a different consumer product containing batteries and or a battery charging system. In the 2015 test procedure rule, DOE clarified that if an EPS can operate any consumer product directly, that product would be treated as a direct operation EPS. 80 FR 51434. Of particular importance are EPSs with common output plugs that can be used with products made by different manufacturers. An example of this scenario is an EPS with standard universal serial bus (''USB'') connectors. These devices are often sold with end-use products containing batteries, such as a smartphone. Because these same EPSs are capable of directly operating other end-use products that do not contain batteries (*e.g.,* small LED lamps, external speakers, etc.), they are not treated as indirect operation EPSs under DOE's regulations. DOE's analysis of the EPSs that are certified in the Compliance Certification Management System (''CCMS'')[7] database further shows that only a small percentage are indirect operation EPSs. Specifically, of the 6,764 non-adaptive basic models of EPSs that are certified in the database, only 60 basic models are classified as indirect operation Class A and of which, a further 42 are able to meet both the Level IV and Level VI standards. DOE therefore seeks feedback on the practicality of continuing to categorize EPSs as direct operation and indirect operation and on the merit of continuing to have separate standards for each. Any potential alignment of the standards between direct and indirect operation EPSs would result in standards either as stringent or more stringent than the Level VI standards currently required for direct operation EPSs.[8] As is typically the case, DOE would also consider the economic justification and technological feasibility of a proposal based on such an approach.

DOE also requests feedback on whether the EPS standards could be expressed in alternate terms. For instance, DOE may consider removing the distinction between direct operation/indirect operation EPSs. DOE notes that other regulations for EPSs,

[6] For additional details, see chapter 3 of the TSD for the February 2014 Final Rule. *https://www.regulations.gov/document?D=EERE-2008-BT-STD-0005-0217.*

[7] U.S. Department of Energy. Energy Efficiency and Renewable Energy. Appliance and Equipment Standards Program. CCMS. Last accessed on July 18, 2019. *https://www.regulations.doe.gov/certification-data/CCMS-4-External_Power_Supplies_-_Other_Than_Switch-Selectable_and_Adaptive_Single-Voltage_External_Power_Supplies.html#q=Product_Group_s%3A%22External%20Power%20Supplies%20-%20Other%20Than%20Switch-Selectable%20and%20Adaptive%20Single-Voltage%20External%20Power%20Supplies%22.*

[8] See 42 U.S.C. 6295(o)(1), commonly referred to as the ''anti-backsliding provision''.

including those in Canada[9] and the European Union,[10] do not distinguish between direct and indirect operation EPSs.

Based on these considerations, DOE requests feedback on the following questions:

As DOE considers whether to amend its current standards, is the distinction between direct and indirect operation EPSs necessary and/or helpful and do they continue to merit separate standards?

Issue 8: Would manufacturers and other stakeholders better understand their compliance obligations under the applicable standards if DOE removed this classification and provided revised definitions for EPSs that are subject to conservation standards that more clearly specified the characteristics of EPSs that would be subject to or exempt from future standards. New definitions for EPSs would not, however, exempt EPSs from the standards to which they are currently subject (*i.e.,* Level IV and Level VI standards).

Issue 9: Whether DOE retains the definitions for direct operation EPS and indirect operation EPS or proposes new definitions to describe which EPSs are subject to standards, is there any ambiguity in these existing definitions that DOE should consider clarifying? For instance, how (if at all) should DOE clarify these definitions as it relates to specific applications for which EPSs are used?

Issue 10: If DOE were to propose new definitions, what criteria or characteristics should DOE use to identify whether an EPS is either subject to or exempt from standards?

For the purposes of this document, DOE continues to refer to direct operation and indirect operation EPSs, as appropriate, in the following sections. These terms are used to discuss and seek feedback based on the existing regulation. DOE's decision regarding the continued use of these terms may be considered should DOE determine to proceed with a rulemaking.

b. Low-Voltage, High-Current External Power Supplies

In the February 2014 Final Rule, DOE separated direct operation low-voltage, AC-DC EPSs into two separate product classes and outlined two separate standards requirements. 79 FR 7866–7867. The first class is reserved for all direct operation EPSs with nameplate output voltages less than 6 volts and nameplate output currents greater than or equal to 550 milliamps. EPSs in this product class are subject to the Level VI standards.

The second class DOE created is a sub-set within this product class, generally referred to as ''low-voltage, high-current EPSs.'' This class represents all EPSs with nameplate output voltages of less than 3 volts and nameplate output currents greater than or equal to 1000 milliamps that are designed to charge the battery of a product that is fully or primarily motor operated. EPSs in this product class are not subject to the Level VI standards. Since these low-voltage, high-current EPSs still meet the statutory definition of Class A EPSs, they remain subject to the Level IV standards set by EISA. However, DOE did not apply the Level VI standards to these products over manufacturer concerns about the ability of these products to meet these higher efficiency levels. See 79 FR 7866–7867.

DOE intends to analyze potential efficiency levels for these low-voltage, high-current EPSs that are more stringent than the EISA Level IV standards. DOE plans to conduct a market assessment, energy use analysis, and third-party testing to develop a cost-efficiency relationship for low-voltage, high-current EPSs to determine whether any incremental improvements in energy efficiency are technologically feasible and economically justified. DOE is specifically interested in gathering particular information through this RFI on the following questions:

In the February 2014 Final Rule, DOE determined that the inherent design of a low-voltage high-current EPS limits its achievable efficiencies due to input rectification voltage drops relative to the output voltage, resistive losses in the higher current outputs, and the potential to decrease the utility of these products to improve efficiency by forcing manufacturers to utilize more expensive and larger components to meet the proposed standards. Is this justification for exempting ''low-voltage, high-current'' EPSs from the active mode efficiency requirements still valid?

Are there any products in the current market that would fall in the low-voltage high-current product class? If so, which types of products?

Issue 11: Are there any unique technology or design options associated with low-voltage, high-current EPSs? If so, what (if any) specific unique design considerations (*i.e.,* special topologies, additional component derating, etc.) would be necessary in addressing potential energy efficiency improvements for these EPSs?

Issue 12: What are the specific limitations (if any) associated with the achievable efficiencies of low-voltage, high-current EPSs?

Issue 13: What technology options (if any) would allow low-voltage, high-current EPSs to improve their average active-mode efficiency? What specific costs (in dollars) are associated with these technology options and subsequent efficiency gains?

2. Technology Assessment

In analyzing the feasibility of potential new or amended energy conservation standards, DOE uses information about existing and past technology options and prototype designs to help identify technologies that manufacturers could use to meet and/or exceed a given set of energy conservation standards under consideration. In consultation with interested parties, DOE intends to develop a list of technologies to consider in its analysis. That analysis will likely include a number of the technology options DOE previously considered during its most recent rulemaking for EPSs. A complete list of those prior options appears in Table II.2. As certain technologies have progressed since the February 2014 Final Rule, Table II.3 lists newer technology options that DOE may also consider in a future EPS energy conservation standards rulemaking.

TABLE II.3—TECHNOLOGY OPTIONS FOR EPSS CONSIDERED IN THE DEVELOPMENT OF THE FEBRUARY 2014 FINAL RULE

1	Improved Transformers.
2	Switched-Mode Power Supplies.
3	Low-Power Integrated Circuits.
4	Schottky Diodes and Synchronous Rectification.
5	Low-Loss Transistors.
6	Resonant Switching.
7	Resonant (''Lossless'') Snubbers.

TABLE II.4—NEW TECHNOLOGY OPTIONS FOR EPSS

1	Adaptive voltage modulation via digital communication.
2	Wide Band Gap Semiconductors.
3	Advanced Core Materials.
4	Low Equivalent Series Resistance Capacitors.
5	Litz Wire.
6	Printed Circuit Boards with Higher Copper Content.

[9] *http://www.nrcan.gc.ca/energy/regulations-codes-standards/products/6909.*

[10] *http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32009R0278&from=EN.*

DOE seeks information on the technologies listed in Table II.2 regarding their applicability to the current market and how these technologies may impact the efficiency of EPSs as measured according to the DOE test procedure. DOE also seeks information on how these technologies may have changed since they were considered in the February 2014 Final Rule analysis. Specifically, DOE seeks information on the range of efficiencies or performance characteristics that are currently available for each technology option.

DOE seeks information on the technologies listed in Table II.3 regarding their market adoption, costs, and any concerns with incorporating them into products (*e.g.,* impacts on consumer utility, potential safety concerns, manufacturing/production/implementation issues, *etc.*), particularly as to changes that may have occurred since the February 2014 Final Rule.

Issue 14: DOE seeks comment on other technology options that it should consider for inclusion in its analysis and if these technologies may impact product features or consumer utility.

C. Screening Analysis

The purpose of the screening analysis is to evaluate the technologies that improve equipment efficiency to determine which technologies will be eliminated from further consideration and which will be included in the engineering analysis for further consideration.

DOE determines whether to eliminate certain technology options from further consideration based on the following criteria:

(1) *Technological feasibility.* Technologies that are not incorporated in commercial products or in working prototypes will not be considered further.

(2) *Practicability to manufacture, install, and service.* If it is determined that mass production of a technology in commercial products and reliable installation and servicing of the technology could not be achieved on the scale necessary to serve the relevant market at the time of the compliance date of the standard, then that technology will not be considered further.

(3) *Impacts on equipment utility or equipment availability.* If a technology is determined to have significant adverse impact on the utility of the equipment to significant subgroups of consumers, or result in the unavailability of any covered equipment type with performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as equipment generally available in the United States at the time, it will not be considered further.

(4) *Adverse impacts on health or safety.* If it is determined that a technology will have significant adverse impacts on health or safety, it will not be considered further.

10 CFR part 430, subpart C, appendix A, 6(c)(3) and 7(b).

Technology options identified in the technology assessment are evaluated against these criteria using DOE analyses and inputs from interested parties (*e.g.,* manufacturers, trade organizations, and energy efficiency advocates). Technologies that pass through the screening analysis are referred to as ''design options'' in the engineering analysis. Technology options that fail to meet one or more of the four criteria are eliminated from consideration.

Additionally, DOE notes that the four screening criteria do not directly address the propriety status of technology options. DOE only considers potential efficiency levels achieved through the use of proprietary designs in the engineering analysis if they are not part of a unique pathway to achieve that efficiency level (*i.e.,* if there are other non-proprietary technologies capable of achieving the same efficiency level).

DOE did not screen out any technology options for EPSs, having considered the following four factors: (1) Technological feasibility; (2) practicability to manufacture, install, and service; (3) adverse impacts on product utility to consumers; and (4) adverse impacts on health or safety.[11]

Issue 15: DOE requests feedback on what impact, if any, the four screening criteria described in this section would have on each of the technology options listed in Table II.2 and Table II.3 with respect to EPSs. Similarly, DOE seeks information regarding how these same criteria would affect any other technology options not already identified in this document with respect to their potential use in EPSs.

D. Engineering Analysis

The engineering analysis estimates the cost-efficiency relationship of products at different levels of increased energy efficiency (''efficiency levels''). This relationship serves as the basis for the cost-benefit calculations for consumers, manufacturers, and the Nation. In determining the cost-efficiency relationship, DOE estimates the increase in manufacturer production cost (''MPC'') associated with increasing the efficiency of products above the baseline, up to the maximum technologically feasible (''max-tech'') efficiency level for each product class.

DOE historically has used the following three methodologies to generate incremental manufacturing costs and establish efficiency levels (''ELs'') for analysis: (1) The design-option approach, which provides the incremental costs of adding to a baseline model various design options that will improve its efficiency; (2) the efficiency-level approach, which provides the relative costs of achieving increases in energy efficiency levels, without regard to the particular design options used to achieve such increases; and (3) the cost-assessment (or reverse engineering) approach, which provides ''bottom-up'' manufacturing cost assessments for achieving various levels of increased efficiency, based on detailed cost data for parts and material, labor, shipping/packaging, and investment for models that operate at particular efficiency levels.

1. Baseline Efficiency Levels

For each established product class, DOE selects a baseline model as a reference point against which any changes resulting from new or amended energy conservation standards can be measured. The baseline model in each product class represents the characteristics of common or typical products in that class. Typically, a baseline model is one that meets the current minimum energy conservation standards and provides basic consumer utility.

If it determines that a rulemaking is necessary, consistent with this analytical approach, DOE tentatively plans to consider the current minimum energy conservations standards that were required for compliance on February 10, 2016 as the baseline efficiency levels for each product class. The current standards for each product class are based on Active Mode Efficiency and No-load mode (standby mode) power consumption. The current standards for EPS are found at 10 CFR 430.32.

Issue 16: DOE requests feedback on whether using the current energy conservation standards for EPSs would be appropriate baseline efficiency levels for DOE to apply to each product class in evaluating whether to amend the current energy conservation standards

[11] For additional details, see chapter 4 of the technical support document (''TSD'') for the February 2014 Final Rule. *https://www.regulations.gov/document?D=EERE-2008-BT-STD-0005-0217.*

for these products. DOE requests data and suggestions to evaluate the baseline efficiency levels in order to better evaluate whether to amend the energy conservation standards for these products.

Issue 17: DOE requests feedback on the appropriate baseline efficiency levels for any newly analyzed product classes that are not currently in place or for the contemplated combined product classes, as discussed in section II.B.1 of this document. For newly analyzed product classes, DOE requests energy use data to develop a baseline relationship between energy efficiency and nameplate power ratings.

2. Maximum Available and Maximum Technologically Feasible Levels

As part of DOE's analysis, the maximum available efficiency level is determined by the highest efficiency unit currently available on the market. For the February 2014 Final Rule, DOE did not analyze all 4 EPS configurations and 8 product classes. Rather, DOE focused the analysis on three configurations of EPSs: Direct operation EPSs, multiple-voltage and high-power EPSs, and indirect operation EPSs. For each configuration of EPS, DOE selected certain classes and units as ''representative'' and concentrated its analytical effort on these because they represent a significant majority of units and because analysis on these units and classes can be extended to all units and classes. For direct operation EPSs, DOE chose four representative units and scaled the analysis according to different nameplate power ratings. For multiple-voltage EPSs and high-power EPSs, DOE chose one representative unit for each class. DOE chose not to conduct an engineering analysis for indirect operation EPSs because DOE believed that the energy savings associated with these EPSs would be captured in a battery charger rulemaking. See 79 FR 57530 and chapter 5 of the preliminary analysis TSD for that rulemaking.[12] The current maximum available efficiencies for all product classes are included in Table II.5.

TABLE II.5—MAXIMUM EFFICIENCY LEVELS CURRENTLY AVAILABLE

Product class	Best-in-market efficiencies (%)
Direct Operation, AC-DC, Basic-Voltage	93.02
Direct Operation, AC-DC, Low-Voltage (except those with nameplate output voltage less than 3 volts and nameplate output current greater than or equal to 1,000 milliamps that charge the battery of a product that is fully or primarily motor operated)	91.8
Direct Operation, AC-DC, Low-Voltage with nameplate output voltage less than 3 volts and nameplate output current greater than or equal to 1,000 milliamps and charges the battery of a product that is fully or primarily motor operated	84.86
Direct Operation, AC-AC, Basic-Voltage	90.96
Direct Operation, AC-AC, Low-Voltage	87.58
Direct Operation, Multiple-Voltage	91.18
Direct Operation, High-Power	93.59
Indirect Operation	88.5

DOE defines a max-tech efficiency level to represent the theoretical maximum possible efficiency if all available design options are incorporated in a model. In many cases, the max-tech efficiency level is not commercially available because it is not economically feasible. In the February 2014 Final Rule, DOE determined max-tech efficiency levels using energy modeling. These energy models were based on use of all design options applicable to the specific product classes. While these product configurations had not likely been tested as prototypes, all of the individual design options had been incorporated in available products.

DOE seeks input on whether the maximum available efficiency levels are appropriate and technologically feasible for potential consideration as possible energy conservation standards for the products at issue—and if not, why not. DOE also requests feedback on whether the maximum available efficiencies presented in Table II.5 are representative of those for the other EPS product classes not directly analyzed in the February 2014 Final Rule. If the range of possible efficiencies is different for the other product classes not directly analyzed, what alternative approaches should DOE consider using for those product classes and why?

Issue 18: DOE seeks feedback on what design options would be incorporated at a max-tech efficiency level, and the efficiencies associated with those levels. As part of this request, DOE also seeks information as to whether there are limitations on the use of certain combinations of design options.

3. Manufacturer Production Costs and Manufacturing Selling Price

As described at the beginning of this section, the main outputs of the engineering analysis are cost-efficiency relationships that describe the estimated increases in manufacturer production cost associated with higher-efficiency products for the analyzed product classes. For the February 2014 Final Rule, DOE developed the cost-efficiency relationships by estimating the efficiency improvements and costs associated with incorporating specific design options into the assumed baseline model for each analyzed product class.

Issue 19: DOE requests feedback on how manufacturers would incorporate the technology options listed in Table II.2 and Table II.3 to increase energy efficiency in EPSs beyond the baseline. This includes information on the order in which manufacturers would incorporate the different technologies to incrementally improve the efficiencies of products. DOE also requests feedback on whether the increased energy efficiency would lead to other design changes that would not occur otherwise. DOE is also interested in information regarding any potential impact of design options on a manufacturer's ability to incorporate additional functions or attributes in response to consumer demand.

[12] See chapter 5 of the preliminary analysis TSD. *https://www.regulations.gov/document?D=EERE-2008-BT-STD-0005-0031.*

Issue 20: DOE also seeks input on the increase in MPC associated with incorporating each particular design option. Specifically, DOE is interested in whether and how the estimated costs for the design options used in the February 2014 Final Rule have changed since the time of that analysis. DOE also requests information on the investments necessary to incorporate specific design options, including, but not limited to, costs related to new or modified tooling (if any), materials, engineering and development efforts to implement each design option, and manufacturing/production impacts.

Issue 21: DOE requests comment on whether certain design options may not be applicable to (or incompatible with) specific product classes.

As described in section II.D.2 of this document, in the February 2014 Final Rule, DOE concentrated its analytical efforts on certain representative product classes and extended the analysis to all other product classes. DOE developed cost-efficiency curves for these product classes that were used as the input for the downstream analyses conducted in support of that rulemaking. See chapter 5 of the February 2014 Final Rule TSD for the cost-efficiency curves developed in that rulemaking.

Issue 22: DOE seeks feedback on whether the approach of analyzing a sub-set of product classes is appropriate for a future EPS energy conservation standards rulemaking. DOE requests comment on whether it is necessary to individually analyze all the other product classes established in the February 2014 Final Rule. For example, analysis of product classes with an AC output may not be necessary if the analysis performed for AC–DC product classes applies to both. Additionally, DOE seeks comment on whether the approach used to apply the analyzed product class results to the other product classes is appropriate—and if not, why not? For example, if it is necessary to individually analyze more than the one product class used in the February 2014 Final Rule, please provide information on why aggregating certain products is not appropriate. If this approach is not appropriate, what alternative approaches should DOE consider using as an alternative and why?

To account for manufacturers' non-production costs and profit margin, DOE applies a non-production cost multiplier (the manufacturer markup) to the MPC. The resulting manufacturer selling price (''MSP'') is the price at which the manufacturer distributes a unit into commerce. For the February 2014 Final Rule, DOE used increasing manufacturer markups for successive efficiency levels at a given power output within a product class. See Tables IV–5 through IV–10 in the February 2014 Final Rule for a complete list of all mark-ups used.

Issue 23: DOE requests feedback on whether the various manufacturer markups used in the February 2014 Final Rule are still appropriate and applicable.

E. Distribution Channels

In generating end-user price inputs for the life-cycle cost (''LCC'') analysis and national impact analysis (''NIA''), DOE must identify distribution channels (*i.e.,* how the products are distributed from the manufacturer to the consumer), and estimate relative sales volumes through each channel.

Issue 24: DOE requests information on the existence of any distribution channels, other than the retail outlet distribution channel, that are used to distribute the products at issue into the market.

Issue 25: Do the distribution channels and markups identified in DOE's analysis for the final rule published in February 10, 2014, still apply to the current EPS market? If not, what adjustments (if any) would be needed to account for the current EPS market? In this regard, DOE also seeks any supporting data that would help in making these adjustments to its analyses.

F. Energy Use Analysis

As part of the rulemaking process, DOE conducts an energy use analysis to identify how products are used by consumers, and thereby determine the energy savings potential of energy efficiency improvements. DOE bases the energy consumption of EPSs on the rated annual energy consumption as determined by the DOE test procedure. Along similar lines, the energy use analysis is meant to represent typical energy consumption in the field.

1. Active-Mode and No-Load Mode of External Power Supplies

DOE will review existing industry, international, and voluntary standards to assist in its analysis of whether (and how, as appropriate) to amend the current active-mode and no-load mode efficiency standards for EPSs. Current mandatory standards programs for EPSs include the European Union (''EU'') Code of Conduct, Version 4, the Level IV Congressional standards; the Tier 1 EPS standards established by National Resources Canada (''NRCan''); and DOE's Level VI efficiency standards. DOE will also consider such voluntary standards programs as the EU Code of Conduct, Version 5 (''Code of Conduct v5'') [13] when analyzing the impacts of more stringent standards on manufacturers and consumers. All of these standards-setting programs use active-mode and no-load mode metrics similar to DOE's EPS standards to regulate the energy efficiency and power consumption of EPSs.

DOE defines ''active-mode'' as the mode of operation when the EPS is connected to the main electricity supply and the output is connected to a load. See section 2.a of Appendix Z. In this mode, EPS efficiency is the conversion efficiency from the mains (*i.e.,* the electrical outlet) to the end-use load when the load draws some or all of the maximum rated output power of the EPS. DOE averages the active-mode efficiency at four loading conditions—25, 50, 75, and 100 percent of maximum rated output current—to assess the performance of an EPS when powering diverse loads.

Unlike active-mode efficiency, however, no-load mode is characterized by power consumption rather than conversion efficiency. This is because the EPS does not deliver power to the end use load in this mode. DOE defines ''no-load mode'' as the mode of operation where the EPS is connected to the main electricity supply and the output is not connected to a load. See 10 CFR part 430, subpart B, Appendix Z, section 2.q. The EPS test procedure measures the no-load performance of a given EPS at 0 percent of the maximum rated output current where the power consumed by the EPS is that drawn from the mains with all loads, either electronic or resistive, physically and electrically disconnected from the output of the EPS.

The Level IV and Level VI standards both use average active-mode efficiency, calculated as a percentage, to regulate the active-mode of EPSs and no-load power consumption, in watts, to regulate the standby mode of EPSs. DOE analyzed the CCMS database and sorted the product reports based on the compliance characteristics of Level VI EPSs. Of the models DOE could accurately categorize using the manufacturer-submitted output power and current data, more than 38% surpassed the minimum average active-mode efficiency standard by at least 2 percentage points (*i.e.,* more than 38% of models were more efficient than required by the standard by at least 2 percentage points). Similarly, DOE

[13] European Union: Code of Conduct on External Power Supplies Version 5 (available at *http://iet.jrc.ec.europa.eu/energyefficiency/sites/energyefficiency/files/files/documents/ICT_CoC/code_of_conduct_for_eps_version_5_-_final.pdf.*

identified over 7,700 models from NRCan's EPS database [14] that met or surpassed the Level VI standards, including 3,100 models that exceeded the minimum average active-mode efficiency standard by at least 2 percentage points. The majority of these efficiency increases were seen in EPSs with nameplate output powers greater than 49 watts, which may indicate that these types of EPSs are capable of achieving even higher average active-mode efficiencies than the minimum efficiency standards prescribed by DOE's Level VI standards.

Other efficiency programs have recognized the potential efficiency gains for these types of EPSs as well and have established energy efficiency guidelines more stringent than the standards developed by DOE. For instance, the EU's Code of Conduct v5 lays out the foundation for a set of voluntary guidelines for individual manufacturers to meet and includes specifications regarding EPS coverage, energy efficiency, and monitoring provisions. The Code of Conduct v5 measures the active-mode efficiency of an EPS at the same loading conditions as DOE's standards program and also includes a no-load power consumption metric at 0 percent load. Also like DOE's efficiency standards, the Code of Conduct v5's prescribed energy efficiency levels at the specified five loading points rely on equations that generate a minimum average active-mode efficiency requirement as a function of nameplate output power of an EPS. The energy efficiency provisions are divided into two groupings—Tier 1 and Tier 2. These tiers delineate two separate sets of voluntary energy efficiency guidelines with two unique effective dates. Tier 1 went into effect in January 2014, and the more stringent guidelines in Tier 2 in January 2016. These tiers sort the applicable efficiency guidelines for EPSs based on the type of power conversion and the nameplate output voltage in an identical manner to DOE's own direct operation product classes. However, the Code of Conduct v5 provisions do not address some of the products addressed by DOE's direct operation standards, such as EPSs with nameplate output powers greater than 250 watts and EPSs that output more than one voltage simultaneously. Instead, Code of Conduct v5 outlines unique efficiency standards for low-voltage [15] EPSs and EPSs that are not low-voltage.

While the Code of Conduct v5 efficiency program is voluntary, an assessment published in 2014 by the European Council for an Energy Efficient Economy (''ECEEE'') analyzed the benefits and burdens of harmonizing the EU Ecodesign Directive standards for EPSs [16] with both mandatory and voluntary international regulations. The Ecodesign Directive outlines mandatory energy consumption and energy efficiency standards for consumer and commercial products in the EU, and revises those standards based on their Ecodesign Working Plan.[17] The study concluded that any revised standards for EPSs in the EU should harmonize with DOE's Level VI standards while making the Code of Conduct v5's Tier 2 standards mandatory at a later date, and that failing to harmonize with, at the minimum, Level VI standards would risk having poorer efficiency products circulating through the EU that cannot be sold in the U.S. Currently, EPSs are regulated as part of the Ecodesign Directive under Commission Regulation (''EC'') No. 278/2009,[18] but an April 2015 working document [19] proposed to harmonize the EU standards for EPSs with DOE's Level VI requirements by January 2017 and implement standards equivalent to those found in Tier 2 of the Code of Conduct by January 2018. While this document was later revised to propose harmonization with DOE's Level VI standards by April 2020 and abandon pursuit of Tier 2 standards altogether, DOE found that more than 73% of the entries in its own CCMS database met or surpassed the Tier 2 standards initially proposed in the Code of Conduct v5 as did 67% of the units in the NRCan database. Therefore, DOE intends to analyze the impact of the Tier 2 standards on the EPS market for products sold in the U.S. and countries within the EU to determine whether more stringent efficiency standards in the U.S. are appropriate for EPSs. DOE welcomes feedback on its proposed approach to re-examine the minimum federal requirements for both the active-mode and no-load mode for all EPSs subject to the Level VI standards. Additionally, DOE seeks feedback from interested parties on the following questions:

Issue 26: What impact (if any) does the EU Code of Conduct v5 currently have on the EPS industry in the United States? If the effects are currently negligible, will the Code of Conduct v5 standards be likely to have an effect in the future? If so, what are those impacts likely to be and how long would it take for those impacts to impact the U.S. market?

Issue 27: Is active mode still the most energy consumptive state of operation for EPSs? If so, why? If not, why not?

Issue 28: Are there any specific types of EPSs for which it would be difficult to meet standards more stringent than the existing Level VI standards? If so, would it be difficult to meet the more stringent standards for average active mode efficiency, no-load mode power, or both? Which specific types of EPSs will find it difficult to meet more stringent standards and why?

Issue 29: Are there any specific types of EPSs for which increasing the efficiency requirement would impact the utility to consumers? If so, which types of EPSs will be impacted and how?

Issue 30: What design options exist for improving the efficiency of EPSs beyond the Level VI standard levels? Are any of the options proprietary—and if so, which ones?

Issue 31: Can manufacturers comply with the originally proposed Tier 2 Ecodesign requirements? If not, what are the technical and production barriers that would prevent manufacturers from meeting those proposed requirements? Will certain types of EPSs be likely to have greater difficulty in meeting these proposed requirements compared to other EPSs? If so, which types and why?

Issue 32: What are the costs (in dollars) associated with each of the design options utilized to implement efficiencies greater than the Level VI standards? Are there any currently available features that would likely be sacrificed if standards were made more stringent than Level VI?

Issue 33: Does the current average active-mode efficiency metric capture appropriately representative loading points for EPSs? If not, should DOE consider other loading points in active mode? If so, which ones and why?

[14] Natural Resources Canada. Energy Efficiency Ratings: Search. Last Accessed on January 20, 2017. <*http://oee.nrcan.gc.ca/pml-lmp/index.cfm?language_langue=en&action=app%2Esearch%2Drecherche&appliance=EPS*>.

[15] The EU Code of Conduct on External Power Supplies considers a low-voltage EPS to be any EPS with a nameplate output voltage of less than 6 volts and a nameplate output current greater than or equal to 550 milliamps.

[16] Additional Assessment in the Frame of the Review Study on Commission Regulation (EC) No. 278/2009 External Power Supplies. March 2014. Final Report. <*http://www.eceee.org/static/media/uploads/site-2/ecodesign/products/battery-chargers/eps-review-additional-assessment-updated-final-report.pdf*>.

[17] Ecodesign and Labeling. ErP Working Plan. <*http://www.eceee.org/ecodesign/Horizontal-matters/working-plan/*>.

[18] Commission Regulation (EC) No. 278/2009 of April 6 2009. <*http://www.eceee.org/static/media/uploads/site-2/ecodesign/products/battery-chargers/finalreg-eps.pdf*>.

[19] Ecodesign and Labeling. 278/2009: Battery chargers and external power supplies. <*http://www.eceee.org/ecodesign/products/battery-chargers/*>.

Issue 34: What impact would alternate loading points have on any determination of active mode efficiency for EPSs? Should different loading points be weighted differently from others based on usage when considering overall energy consumption? If not, why not? If so, how?

Issue 35: Can EPSs achieve lower no-load values than those described in the Level VI standard? If not, why not? If so, how?

Issue 36: The EU Code of Conduct v5 Tier 2 levels for no-load mode are much more stringent than DOE's no-load requirements in the Level VI standard. What technical difficulties (if any) are there in meeting the EU Code of Conduct v5 Tier 2 levels for the no-load mode condition? What barriers (if any) do manufacturers face meeting or exceeding the EU Code of Conduct v5 Tier 2 levels for no-load mode?

2. Idle Mode and Sleep Mode of External Power Supplies

As part of its review and evaluation that led to the Level VI standards, DOE analyzed the energy usage profiles of a number of different EPSs based on the end-use application. These usage profiles considered a number of different modes such as active mode, idle/standby mode, sleep mode, no-load mode, and unplugged mode and then assigned specific daily percentages to each mode based on the expected operation. DOE used these weightings to calculate the overall energy impact of more stringent standards because the loading conditions used to determine the average active-mode efficiency metric for EPSs are most often associated with the operating mode of the consumer products they power.[20] While DOE evaluated the energy impacts of all operating modes, the Level VI standards do not account for any loading points below those specified in the average active mode efficiency metric (*i.e.,* 25, 50, 75, and 100 percent of the nameplate output current of the EPS). DOE has been made aware that several consumer products may operate at lower loading conditions in standby or idle/standby modes.

Issue 37: Do EPSs spend a significant portion of time operating at loading conditions outside the range currently considered by the EPS standards? If so, which ones?

Issue 38: What are the design options associated with improving low-load efficiency? Are any of the design options proprietary? What are the associated costs (in dollars) with implementing such options?

Issue 39: What EPS loading points would best represent idle mode, sleep mode, or other low-power loading conditions associated with consumer products in a low-power state? For each loading point, please explain why it would be best for the applicable mode.

Issue 40: Would improving low-load conversion efficiency result in any significant energy reduction over the lifetime of an EPS? If so, would these anticipated reductions be limited to those EPSs that are paired with particular types of associated end-use products—and if this is the case, which ones and why?

Issue 41: What impact would lower loading points have on any determination of average efficiency for EPSs—and why? Should different loading points be weighted differently from others based on usage when considering overall energy consumption—if so, why? And if not, why not?

Issue 42: If DOE were to consider including additional loading conditions into its test procedure, should they be integrated into DOE's standards—and if so, how? Should the active mode efficiencies at the additional loading conditions be included in the calculation for the overall average active mode efficiency of a unit? If so, what impact (if any) would the additional active mode efficiencies have on overall efficiency ratings? If not, should DOE consider using a separate efficiency metric for low-loading points? Is there another approach that may be more appropriate for considering standby or idle mode energy savings?

Issue 43: Are there any additional resources concerning the operation of EPSs during idle or standby mode that DOE should consider when evaluating the EPS standards?

Issue 44: How has the typical usage of EPSs changed, if at all, since the Level VI standards became required, among the various modes of operation (*e.g.,* no-load, maintenance, active)? If the EPS usage has changed, what is the nature of those usage pattern changes and what are the technical reasons as to why those usage patterns have changed in that manner?

G. Shipments

DOE develops shipments forecasts of EPSs to calculate the national impacts of potential amended energy conservation standards on energy consumption, net present value (''NPV''), and future manufacturer cash flows. DOE shipments projections are based on available historical data broken out by product class, capacity, and efficiency. Current sales estimates allow for a more accurate model that captures recent trends in the market.

Issue 45: DOE requests 2018 annual sales data (*i.e.,* number of shipments) for EPSs and product classes. If disaggregated fractions of annual sales are not available at the EPS class level, DOE requests more aggregated fractions of annual sales at the EPS category level. DOE also requests data and reports on future market shipment trends.

If disaggregated fractions of annual sales are not available at the product type level, DOE requests more aggregated fractions of annual sales at the category level.

Issue 46: If available, DOE requests the same annual sales information of the various classes of EPSs for the five years prior to 2019 (*i.e.,* 2014–2018).

Issue 47: What are the potential impacts (if any) on EPS shipments if the current energy conservation standards for EPSs were to be amended to become more stringent?

Issue 48: Since compliance requirements with the Level VI standards began in 2016, what is the percentage of shipments in each product class at different efficiencies in the EPS market? In the absence of any further amendments to the current energy conservation standards, what are the current projected market trends (if any) in EPS efficiency and why? If the current standards were to be amended in a manner consistent with one of the approaches described elsewhere in this document (*e.g.,* increased stringency, combining of current classes, etc.), what impact(s) (if any) would be likely to occur in response?

H. Manufacturer Impact Analysis

The purpose of the manufacturer impact analysis (''MIA'') is to estimate the financial impact of amended energy conservation standards on EPS manufacturers, and to evaluate the potential impact of such standards on direct employment and manufacturing capacity. The MIA includes both quantitative and qualitative aspects. The quantitative part of the MIA primarily relies on the Government Regulatory Impact Model (''GRIM''), an industry cash-flow model adapted for each product in this analysis, with the key output of industry net present value (''INPV''). The qualitative part of the MIA addresses the potential impacts of energy conservation standards on manufacturing capacity and industry competition, as well as factors such as product characteristics, impacts on particular subgroups of firms, and important market and product trends.

[20] See Chapter 7 and Appendix 7A of the TSD for further details. *https://www.regulations.gov/document?D=EERE-2008-BT-STD-0005-0217.*

As part of the MIA, DOE intends to analyze impacts of amended energy conservation standards on subgroups of manufacturers of covered products, including small business manufacturers. DOE uses the Small Business Administration's (''SBA'') small business size standards to determine whether manufacturers qualify as small businesses, which are listed by the applicable North American Industry Classification System (''NAICS'') code.[21] Manufacturing of consumer EPS is classified under NAICS 335999, ''All Other Miscellaneous Electrical Equipment and Component Manufacturing,'' and the SBA sets a threshold of 1500 employees or less for a domestic entity to be considered as a small business. This employee threshold includes all employees in a business' parent company and any other subsidiaries.

One aspect of assessing manufacturer burden involves examining the cumulative impact of multiple DOE standards and the product-specific regulatory actions of other Federal agencies that affect the manufacturers of a covered product or equipment. While any one regulation may not impose a significant burden on manufacturers, the combined effects of several existing or impending regulations may have serious consequences for some manufacturers, groups of manufacturers, or an entire industry. Assessing the impact of a single regulation may overlook this cumulative regulatory burden. In addition to energy conservation standards, other regulations can significantly affect manufacturers' financial operations. Multiple regulations affecting the same manufacturer can strain profits and lead companies to abandon product lines or markets with lower than expected future returns than competing products. For these reasons, DOE conducts an analysis of cumulative regulatory burden as part of its rulemakings pertaining to appliance efficiency.

Issue 49: To the extent feasible, DOE seeks the names and contact information of any domestic or foreign-based manufacturers that distribute EPSs in the United States.

Issue 50: DOE identified small businesses as a subgroup of manufacturers that could be disproportionally impacted by amended energy conservation standards. In the manufacturer impact analysis for the February 2014 Final Rule, DOE did not identify any small business manufacturers of EPSs. DOE also did not identify any domestic manufacturers of EPSs (*i.e.,* DOE found that all residential EPSs sold in the U.S. were imported).[22] If the previous determinations are no longer valid, DOE requests the names and contact information of small business manufacturers, as defined by the SBA's size threshold, of EPSs that distribute products in the United States. In addition, DOE requests comment on any other manufacturer subgroups that could be disproportionally impacted by amended energy conservation standards. DOE requests feedback on any potential approaches that could be considered to address impacts on manufacturers, including small businesses.

Issue 51: DOE requests information regarding the cumulative regulatory burden impacts on manufacturers of EPSs associated with (1) other DOE standards applying to different products that these manufacturers may also make and (2) product-specific regulatory actions of other Federal agencies. DOE also requests comment on its methodology for computing cumulative regulatory burden and whether there are any flexibilities it can consider that would reduce this burden while remaining consistent with the requirements of EPCA.

Issue 52: Are there any additional maintenance or repair costs (in dollars), or differences in product lifetime, associated with EPSs at efficiencies higher than the Level VI standards? If so, what are they and what is the magnitude of those costs—both on a total basis and by application. If such costs exist, how do they compare with respect to the same types of costs for EPSs that were manufactured that did not meet the Level VI standards? With respect to any impacts on product lifetime, what is the extent of those impacts in light of the Level VI requirements—*i.e.* have they increased, decreased, or stayed constant?

I. Other Energy Conservation Standards Topics

1. Market Failures

In the field of economics, a market failure is a situation in which the market outcome does not maximize societal welfare. Such an outcome would result in unrealized potential welfare. DOE welcomes comment on any aspect of market failures, especially those in the context of amended energy conservation standards for EPSs such as a lack, or excess of information which leads to misinformed purchases, misaligned incentives between purchasers and users, and negative effects on external factors related to public health, environmental protection, or energy security.

2. Network/''Smart'' Technology

DOE published an RFI on the emerging smart technology appliance and equipment market. 83 FR 46886 (Sept. 17, 2018). In that RFI, DOE sought information to better understand market trends and issues in the emerging market for appliances and commercial equipment that incorporate smart technology. DOE's intent in issuing the RFI was to ensure that the Department did not inadvertently impede such innovation in fulfilling its statutory obligations in setting efficiency standards for covered products and equipment. DOE seeks comments, data and information on the issues presented in the RFI as they may be applicable to energy conservation standards for EPSs.

3. Other Issues

Additionally, DOE welcomes comments on other issues relevant to the conduct of its assessment in determining whether to amend the current EPS energy conservation standards that may not have been specifically identified in this document. In particular, DOE notes that under Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs,'' Executive Branch agencies such as DOE are directed to manage the costs associated with the imposition of expenditures required to comply with Federal regulations. See 82 FR 9339 (February 3, 2017). Consistent with that Executive Order, DOE encourages the public to provide input on measures DOE could take to lower the cost of its energy conservation standards rulemakings, recordkeeping and reporting requirements, and compliance and certification requirements applicable to EPSs while remaining consistent with the requirements of EPCA.

III. Submission of Comments

DOE invites all interested parties to submit in writing by the date specified previously in the **DATES** section of this document, comments and information on matters addressed in this notice and on other matters relevant to DOE's consideration of amended energy conservation standards for EPSs. After the close of the comment period, DOE will review the public comments received and may begin collecting data, conducting the analyses discussed in this document.

[21] Available online at *https://www.sba.gov/document/support-table-size-standards.*

[22] See chapter 12 of the TSD for the February 2014 Final Rule. *https://www.regulations.gov/document?D=EERE-2008-BT-STD-0005-0217.*

Submitting comments via *http://www.regulations.gov.* The *http://www.regulations.gov* web page requires you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies Office staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *http://www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through *http://www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *http://www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery/courier, or postal mail. Comments and documents submitted via email, hand delivery/courier, or postal mail also will be posted to *http://www.regulations.gov.* If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information on a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via postal mail or hand delivery/courier, please provide all items on a CD, if feasible. It is not necessary to submit printed copies. No facsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English and free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: One copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked ''non-confidential''a with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

DOE considers public participation to be a very important part of the process for developing energy conservations standards for consumer products. DOE actively encourages the participation and interaction of the public during the comment period in each stage of the rulemaking process. Interactions with and between members of the public provide a balanced discussion of the issues and assist DOE in the rulemaking process. Anyone who wishes to be added to the DOE mailing list to receive future notices and information about this rulemaking should contact Appliance and Equipment Standards Program at (202) 287–1445, or via email at *ApplianceStandardsQuestions@ee.doe.gov.*

Signing Authority

This document of the Department of Energy was signed on April 2, 2020, by Alexander N. Fitzsimmons, Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the **Federal Register**, the undersigned DOE **Federal Register** Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 6, 2020.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2020–09988 Filed 5–19–20; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 327

RIN 3064–AF53

Assessments, Mitigating the Deposit Insurance Assessment Effect of Participation in the Paycheck Protection Program (PPP), the PPP Lending Facility, and the Money Market Mutual Fund Liquidity Facility

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Deposit Insurance Corporation is seeking comment on a proposed rule that would mitigate the deposit insurance assessment effects of participating in the Paycheck Protection Program (PPP) established by the Small Business Administration (SBA), and the Paycheck

Protection Program Lending Facility (PPPLF) and Money Market Mutual Fund Liquidity Facility (MMLF) established by the Board of Governors of the Federal Reserve System. The proposed changes would remove the effect of participation in the PPP and PPPLF on various risk measures used to calculate an insured depository institution's assessment rate, remove the effect of participation in the PPPLF and MMLF programs on certain adjustments to an IDI's assessment rate, provide an offset to an insured depository institution's assessment for the increase to its assessment base attributable to participation in the MMLF and PPPLF, and remove the effect of participation in the PPPLF and MMLF programs when classifying insured depository institutions as small, large, or highly complex for assessment purposes.

DATES: Comments must be received no later than May 27, 2020.

ADDRESSES: You may submit comments on the proposed rule, identified by RIN 3064–AF53, using any of the following methods:

- *Agency website: https://www.fdic.gov/regulations/laws/federal.* Follow the instructions for submitting comments on the agency website.
- *Email: comments@fdic.gov.* Include RIN 3064–AF53 on the subject line of the message.
- *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429. Include RIN 3064–AF53 in the subject line of the letter.
- *Hand Delivery:* Comments may be hand delivered to the guard station at the rear of the 550 17th Street NW, building (located on F Street) on business days between 7 a.m. and 5 p.m.
- *Public Inspection:* All comments received, including any personal information provided, will be posted generally without change to *https://www.fdic.gov/regulations/laws/federal.*

FOR FURTHER INFORMATION CONTACT: Michael Spencer, Associate Director, 202–898–7041, *michspencer@fdic.gov;* Ashley Mihalik, Chief, Banking and Regulatory Policy, 202–898–3793, *amihalik@fdic.gov;* Nefretete Smith, Counsel, 202–898–6851, *nefsmith@fdic.gov;* Samuel Lutz, Counsel, *salutz@fdic.gov*, 202–898–3773.

SUPPLEMENTARY INFORMATION:

I. Summary

Pursuant to its authority under the Federal Deposit Insurance Act (FDI Act), the FDIC is issuing this notice of proposed rulemaking to mitigate the effects of an insured depository institution's participation in the PPP, MMLF, and PPPLF programs on its deposit insurance assessments.[1] Absent a change to the assessment rules, an IDI that participates in the PPP, PPPLF, or MMLF programs could be subject to increased deposit insurance assessments. To remove the effect of these programs on the risk measures used to determine the deposit insurance assessment rate for each insured depository institution (IDI), the FDIC is proposing to exclude PPP loans, which include loans pledged to the PPPLF, from an institution's loan portfolio; exclude loans pledged to the PPPLF from an institution's total assets; and exclude amounts borrowed from the Federal Reserve Banks under the PPPLF from an institution's liabilities. In addition, because participation in the PPPLF and MMLF programs will have the effect of expanding an IDI's balance sheet (and, by extension, its assessment base), the FDIC is proposing to exclude loans pledged to the PPPLF and assets purchased under the MMLF in the calculation of certain adjustments to an IDI's assessment rate, and to provide an offset to an IDI's total assessment amount for the increase to its assessment base attributable to participation in the MMLF and PPPLF. Finally, in defining IDIs for assessment purposes, the FDIC would exclude from an IDI's total assets the amount of loans pledged to the PPPLF and assets purchased under the MMLF.

II. Background

Recent events have significantly and adversely impacted the global economy and financial markets. The spread of the Coronavirus Disease (COVID–19) has slowed economic activity in many countries, including the United States. Sudden disruptions in financial markets have put increasing liquidity pressure on money market mutual funds (MMFs) and raised the cost of credit for most borrowers. MMFs have faced redemption requests from clients with immediate cash needs and may need to sell a significant number of assets to meet these redemption requests, which could further increase market pressures. Small businesses also are facing severe liquidity constraints and a collapse in revenue streams, as millions of Americans have been ordered to stay home, severely reducing their ability to engage in normal commerce. Many small businesses have been forced to close temporarily or furlough employees. Continued access to financing will be crucial for small businesses to weather economic disruptions caused by COVID–19 and, ultimately, to help restore economic activity.

In order to prevent the disruption in the money markets from destabilizing the financial system, on March 18, 2020, the Board of Governors of the Federal Reserve System (Board of Governors), with approval of the Secretary of the Treasury, authorized the Federal Reserve Bank of Boston (FRBB) to establish the MMLF, pursuant to section 13(3) of the Federal Reserve Act.[2] Under the MMLF, the FRBB is extending non-recourse loans to eligible borrowers to purchase assets from MMFs. Assets purchased from MMFs will be posted as collateral to the FRBB. Eligible borrowers under the MMLF include IDIs. Eligible collateral under the MMLF includes U.S. Treasuries and fully guaranteed agency securities, securities issued by government-sponsored enterprises, and certain types of commercial paper. The MMLF is scheduled to terminate on September 30, 2020, unless extended by the Board of Governors.

As part of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) and in recognition of the exigent circumstances faced by small businesses, Congress created the PPP.[3] PPP loans are fully guaranteed as to principal and accrued interest by the Small Business Administration (SBA), the amount of each being determined at the time the guarantee is exercised. As a general matter, SBA guarantees are backed by the full faith and credit of the U.S. Government. PPP loans also afford borrowers forgiveness up to the principal amount of the PPP loan, if the proceeds of the PPP loan are used for certain expenses. The SBA reimburses PPP lenders for any amount of a PPP loan that is forgiven. PPP lenders are not held liable for any representations made by PPP borrowers in connection with a borrower's request for PPP loan forgiveness.[4]

In order to provide liquidity to small business lenders and the broader credit markets, and to help stabilize the financial system, on April 8, 2020, the

[1] *See* 12 U.S.C. 1817, 1819 (Tenth).

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

[3] Public Law 116–136 (Mar. 27, 2020).

[4] Under the PPP, eligible borrowers generally include businesses with fewer than 500 employees or that are otherwise considered by the SBA to be small, including individuals operating sole proprietorships or acting as independent contractors, certain franchisees, nonprofit corporations, veterans' organizations, and Tribal businesses. The loan amount under the PPP would be limited to the lesser of $10 million and 250 percent of a borrower's average monthly payroll costs. For more information on the Paycheck Protection Program, see *https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program-ppp.*

Board of Governors, with approval of the Secretary of the Treasury, authorized each of the Federal Reserve Banks to extend credit under the PPPLF, pursuant to section 13(3) of the Federal Reserve Act.[5] Under the PPPLF, Federal Reserve Banks are extending non-recourse loans to institutions that are eligible to make PPP loans, including IDIs. Under the PPPLF, only PPP loans that are guaranteed by the SBA with respect to both principal and interest and that are originated by an eligible institution may be pledged as collateral to the Federal Reserve Banks (loans pledged to the PPPLF). The maturity date of the extension of credit under the PPPLF[6] equals the maturity date of the PPP loans pledged to secure the extension of credit.[7] No new extensions of credit will be made under the PPPLF after September 30, 2020, unless extended by the Board of Governors and the Department of the Treasury.

To facilitate use of the MMLF and PPPLF, the FDIC, Board of Governors, and Comptroller of the Currency (together, the agencies) adopted interim final rules on March 23, 2020, and April 13, 2020, respectively, to allow banking organizations to neutralize the regulatory capital effects of purchasing assets through the MMLF program and loans pledged to the PPPLF.[8] Consistent with Section 1102 of the CARES Act, the April 2020 interim final rule also required banking organizations to apply a zero percent risk weight to PPP loans originated by the banking organization under the PPP for purposes of the banking organization's risk-based capital requirements.

Deposit Insurance Assessments

Pursuant to Section 7 of the FDI Act, the FDIC has established a risk-based assessment system through which it charges all IDIs an assessment amount for deposit insurance.[9] Under the FDIC's regulations, an IDI's assessment is equal to its assessment base multiplied by its risk-based assessment rate.[10] An IDI's assessment base and assessment rate are determined each quarter based on supervisory ratings and information collected on the Consolidated Reports of Condition and Income (Call Report) or the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002), as appropriate. Generally, an IDI's assessment base equals its average consolidated total assets minus its average tangible equity.[11] An IDI's assessment rate is calculated using different methods based on whether the IDI is a small, large, or highly complex institution.[12] For assessment purposes, a large bank is generally defined as an institution with $10 billion or more in total assets, a small bank is generally defined as an institution with less than $10 billion in total assets, and a highly complex bank is generally defined as an institution that has $50 billion or more in total assets and is controlled by a parent holding company that has $500 billion or more in total assets, or is a processing bank or trust company.[13]

Assessment rates for established small banks are calculated based on eight risk measures that are statistically significant in predicting the probability of an institution's failure over a three-year horizon.[14] Large banks are assessed using a scorecard approach that combines CAMELS ratings and certain forward-looking financial measures to assess the risk that a large bank poses to the deposit insurance fund (DIF).[15] All institutions are subject to adjustments to their assessment rates for certain liabilities that can increase or reduce loss to the DIF in the event the bank fails.[16] In addition, the FDIC may adjust a large bank's total score, which is used in the calculation of its assessment rate, based upon significant risk factors not adequately captured in the appropriate scorecard.[17]

Absent a change to the assessment rules, an IDI that participates in the PPP, PPPLF, or MMLF programs could be subject to increased deposit insurance assessments. For example, an institution that holds PPP loans, including loans pledged to the PPPLF, would increase its total loan portfolio, all else equal, which may increase its assessment rate. An IDI that receives funding through the PPPLF would increase the total assets on its balance sheet (equal to the amount of PPP pledged to the Federal Reserve Banks), and increase its liabilities by the same amount, which would increase the IDI's assessment base and also may increase its assessment rate. Similarly, an IDI that participates in the MMLF would increase its total assets by the amount of assets purchased from MMFs under the MMLF and increase its liabilities by the same amount, which in turn would increase its assessment base and may also increase its assessment rate.

III. The Proposed Rule

A. Summary

The FDIC, under its general rulemaking authority in Section 9 of the FDI Act, and its specific authority under Section 7 of the FDI Act to establish a risk-based assessment system and set assessments,[18] is proposing to mitigate the deposit insurance assessment effects of holding PPP loans, pledging loans to the PPPLF, and purchasing assets under the MMLF. Under the proposal, an IDI generally would not be subject to a higher deposit insurance assessment rate solely due to its participation in the PPP, PPPLF, or MMLF. In addition, the FDIC would provide an offset against an IDI's assessment amount for the increase to its assessment base attributable to participation in the MMLF and PPPLF.

Changes to reporting requirements applicable to the Consolidated Reports of Condition and Income (Call Report), the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks, and their respective instructions, would be required in order to make the proposed adjustments to the assessment system. These changes are concurrently being effectuated in coordination with the other member entities of the Federal Financial Institutions Examination Council.[19]

[5] 12 U.S.C. 343(3).

[6] The maturity date of the extension of credit under the PPPLF will be accelerated if the underlying PPP loan goes into default and the eligible borrower sells the PPP Loan to the SBA to realize the SBA guarantee. The maturity date of the extension of credit under the PPPLF also will be accelerated to the extent of any PPP loan forgiveness reimbursement received by the eligible borrower from the SBA.

[7] Under the SBA's interim final rule, a lender may request that the SBA purchase the expected forgiveness amount of a PPP loan or pool of PPP loans at the end of week seven of the covered period. See Interim Final Rule ''Business Loan Program Temporary Changes; Paycheck Protection Program,'' 85 FR 20811, 20816 (Apr. 15, 2020).

[8] *See* 85 FR 16232 (Mar. 23, 2020) and 85 FR 20387 (Apr. 13, 2020).

[9] *See* 12 U.S.C. 1817(b).

[10] *See* 12 CFR 327.3(b)(1).

[11] *See* 12 CFR 327.5.

[12] *See* 12 CFR 327.16(a) and (b).

[13] As used in this proposed rule, the term ''bank'' is synonymous with the term ''insured depository institution'' as it is used in section 3(c)(2) of the Federal Deposit Insurance Act (FDI Act), 12 U.S.C. 1813(c)(2). As used in this proposed rule, the term ''small bank'' is synonymous with the term ''small institution'' and the term ''large bank'' is synonymous with the term ''large institution'' or ''highly complex institution,'' as the terms are defined in 12 CFR 327.8.

[14] *See* 12 CFR 327.16(a); *see also* 81 FR 32180 (May 20, 2016).

[15] *See* 12 CFR 327.16(b); *see also* 76 FR 10672 (Feb. 25, 2011) and 77 FR 66000 (Oct. 31, 2012).

[16] *See* 12 CFR 327.16(e).

[17] *See* 12 CFR 327.16(b)(3); *see also Assessment Rate Adjustment Guidelines for Large and Highly Complex Institutions,* 76 FR 57992 (Sept. 19, 2011).

[18] 12 U.S.C. 1817 and 12 U.S.C. 1819 (Tenth).

[19] As discussed in greater detail in the section on the Paperwork Reduction Act, the agencies have submitted requests for seven additional items on the Call Report (FFIEC 031, FFIEC 041, and FFIEC 051): (1) The outstanding balance of PPP loans; (2) the outstanding balance of loans pledged to the PPPLF as of quarter-end; (3) the quarterly average amount of loans pledged to the PPPLF; (4) the

Continued

B. Mitigating the Effects of Loans Pledged to the PPPLF and of PPP Loans Held by an IDI on an IDI's Assessment Rate

To mitigate the assessment effect of PPP loans, including loans pledged to the PPPLF, the FDIC is proposing to exclude PPP loans held by an IDI from its loan portfolio for purposes of calculating the IDI's deposit insurance assessment rate.[20] Consistent with the substantial protections from risk provided by the Federal Reserve, the FDIC is also proposing to modify various risk measures to exclude loans pledged to the PPPLF from total assets and to exclude borrowings from the Federal Reserve Banks under the PPPLF from total liabilities when calculating an IDI's deposit insurance assessment rate.

Based on data from the SBA and on the terms of the PPP, the FDIC expects that most PPP loans will be categorized as Commercial and Industrial (C&I) Loans.[21] PPP loans may also be reported in other loan types, including Agricultural Loans and All Other Loans.[22] Under the proposed rule, and to minimize reporting burden, the FDIC would therefore exclude outstanding PPP loans, which includes loans pledged to the PPPLF, from an IDI's loan portfolio using assumptions under a waterfall approach. First, the FDIC would exclude the balance of PPP loans outstanding, which includes loans pledged to the PPPLF, from the balance of C&I Loans. In the unlikely event that the outstanding balance of PPP loans, which includes loans pledged to the PPPLF, exceeds the balance of C&I Loans, the FDIC would exclude any remaining balance of these loans from the balance of All Other Loans, up to the balance of All Other Loans, then exclude any remaining balance of PPP loans from the balance of Agricultural Loans, up to the total amount of Agricultural Loans. As described below, the FDIC proposes to apply this waterfall approach, as appropriate, in the calculation of the Loan Mix Index (LMI) for small banks, and in the calculation of the growth-adjusted portfolio concentration measure and loss severity measure for large or highly complex banks.

Question 1: The FDIC invites comment on its proposal to apply a waterfall approach in excluding PPP loans, which include loans pledged to the PPPLF, from C&I Loans, All Other Loans, and Agricultural Loans in the calculation of an IDI's assessment rate. Is the assumption that all PPP loans are C&I Loans appropriate, or should these loans be distributed across loan categories in another manner? Should the FDIC collect additional data on how PPP loans are categorized in order to more accurately mitigate the deposit insurance assessment effects of these loans? Alternatively, should institutions report PPP loans as a separate loan category instead of including them in C&I Loans or other loan categories, thus providing data that would reduce the need for the FDIC to rely on certain assumptions, reduce the amount of necessary changes to specific risk measures and other factors, and potentially more accurately mitigate the deposit insurance assessment effects of an IDI's participation in the program? Would this be overly burdensome for institutions?

1. Established Small Institutions

a. Exclusion of Loans Pledged to the PPPLF in Various Risk Measures

For established small banks, the outstanding balance of loans pledged to the PPPLF would be excluded from total assets in the calculation of six risk measures: The net income before taxes to total assets ratio,[23] the nonperforming loans and leases to gross assets ratio, the other real estate owned to gross assets ratio, the brokered deposit ratio, the one-year asset growth measure, and the LMI.

b. Exclusion of PPP Loans and Loans Pledged to the PPPLF in the LMI

The LMI is a measure of the extent to which a bank's total assets include higher-risk categories of loans. In its calculation of the LMI, the FDIC is proposing to exclude PPP loans, which include loans pledged to the PPPLF, from an institution's loan portfolio, based on the waterfall approach described above. Under the proposed rule, the FDIC would therefore exclude outstanding PPP loans, which includes loans pledged to the PPPLF, from the balance of C&I Loans in the calculation of the LMI. In the unlikely event that the outstanding balance of PPP loans, which includes loans pledged to the PPPLF, exceeds the balance of C&I Loans, the FDIC would exclude any remaining balance of these loans from the balance of Agricultural Loans, up to the total amount of Agricultural Loans, in the calculation of the LMI.[24] The FDIC is also proposing to exclude loans pledged to the PPPLF from total assets in the calculation of the LMI.

2. Large and Highly Complex Institutions

For IDIs defined as large or highly complex for deposit insurance assessment purposes, the FDIC is proposing to exclude the outstanding balance of loans pledged to the PPPLF and borrowings from the Federal Reserve Banks under the PPPLF from five risk measures used in the scorecard method: the core earnings ratio, the core deposit ratio, the balance sheet liquidity ratio, the average short-term funding ratio and the loss severity measure. For four risk measures—the growth-adjusted portfolio concentration measure, the

outstanding balance of borrowings from the Federal Reserve Banks under the PPPLF with a remaining maturity of one year or less, as of quarter-end; (5) the outstanding balance of borrowings from the Federal Reserve Banks under the PPPLF with a remaining maturity of greater than one year, as of quarter-end; (6) the outstanding amount of assets purchased from MMFs under the MMLF as of quarter-end; and (7) the quarterly average amount of assets purchased under the MMLF. In addition, the agencies have submitted requests for two additional items on the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002): the quarterly average amount of loans pledged to the PPPLF and the quarterly average amount of assets purchased from MMFs under the MMLF. The FDIC is requesting these items in order to make the proposed adjustments described below.

[20] The FDIC is not proposing to modify its assessment pricing system with respect to the Tier 1 leverage ratio, which is one of the measures used to determine the assessment rate for both large and small IDIs. In accordance with the agencies' April 13, 2020, interim final rule, banking organizations are required to neutralize the regulatory capital effects of assets pledged to the PPPLF on leverage capital ratios. *See* 85 FR 20387 (April 13, 2020). Therefore, the effects of participation in the PPPLF will be automatically incorporated in an IDI's regulatory capital reporting and the FDIC does not need to make any adjustments to an IDI's deposit insurance assessment.

[21] At least 75 percent of the PPP loan proceeds shall be used for payroll costs, and collateral is not required to secure the loans. Therefore, the FDIC expects that PPP loans will not be included in other loan categories, such as those that are secured by real estate or consumer loans, in measures used to determine an IDI's deposit insurance assessment rate. *See* 85 FR 20811 (Apr. 15, 2020) and Slide 5, Industry by NAICS Subsector, Paycheck Protection Program (PPP) Report: Approvals through 12 p.m. EST, April 16, 2020, Small Business Administration, available at: *https://home.treasury.gov/system/files/136/SBA%20PPP%20Loan%20Report%20Deck.pdf.*

[22] According to the instruction for the Call Report, All Other Loans includes loans to finance agricultural production and other loans to farmers and loans to nondepository financial institutions.

[23] The FDIC expects that IDIs that participate in the PPP, PPPLF, and MMLF will earn additional income from participation in these programs. To minimize additional reporting burden, however, the FDIC is not proposing to exclude income related to participation in these programs from the net income before taxes to total assets ratio in the calculation of an IDI's deposit insurance assessment rate.

[24] All Other Loans are not included in the LMI; therefore, the FDIC proposes to exclude the outstanding balance of PPP loans, which include loans pledged to the PPPLF, first from the balance of C&I Loans, followed by Agricultural Loans. The loan categories used in the Loan Mix Index are: Construction and Development, Commercial and Industrial, Leases, Other Consumer, Real Estate Loans Residual, Multifamily Residential, Nonfarm Nonresidential, 1–4 Family Residential, Loans to Depository Banks, Agricultural Real Estate, Agricultural Loans. 12 CFR 327.16(a)(1)(ii)(B).

balance sheet liquidity ratio, the trading asset ratio, and the loss severity measure—the FDIC is proposing to treat the outstanding balance of PPP loans, which includes loans pledged to the PPPLF, as riskless. These measures are described in more detail below.

a. Core Earnings Ratio

For the core earnings ratio, the FDIC divides the four-quarter sum of merger-adjusted core earnings by the average of five quarter-end total assets (most recent and four prior quarters).[25] The FDIC is proposing to exclude the outstanding balance of loans pledged to the PPPLF at quarter-end from total assets for the applicable quarter-end periods prior to averaging.[26]

b. Core Deposit Ratio

The core deposit ratio is defined as total domestic deposits excluding brokered deposits and uninsured non-brokered time deposits divided by total liabilities.[27] For purposes of this calculation, the FDIC is proposing to exclude from total liabilities borrowings from Federal Reserve Banks under the PPPLF.

c. Balance Sheet Liquidity Ratio

The balance sheet liquidity ratio measures the amount of highly liquid assets needed to cover potential cash outflows in the event of stress.[28] In calculating this ratio, the FDIC is proposing to treat the outstanding balance of PPP loans as of quarter-end that exceed borrowings from the Federal Reserve Banks under the PPPLF as riskless and to treat them as highly liquid assets. The FDIC is also proposing to exclude from the ratio an IDI's reported borrowings from the Federal Reserve Banks under the PPPLF with a remaining maturity of one year or less.

d. Average Short-Term Funding Ratio

The ratio of average short-term funding to average total assets is one of the measures used to determine the assessment rate for a highly complex IDI.[29] In calculating the average short-term funding ratio, the FDIC is proposing to reduce the quarterly average of total assets by the quarterly average amount of loans pledged to the PPPLF.

e. Growth-Adjusted Portfolio Concentrations

The growth-adjusted portfolio concentration measure is one of the measures used to determine a large IDI's overall concentration measure.[30] Under the proposal, the FDIC would apply a waterfall approach as described above and assume that all outstanding PPP loans, which include loans pledged to the PPPLF, are categorized as C&I Loans and would exclude these loans from C&I Loans in the calculation of the portfolio growth rate calculations for this measure.[31]

f. Trading Asset Ratio

For highly complex IDIs, the trading asset ratio is used to determine the relative weights assigned to the credit quality measure and the market risk measure.[32] In calculating this ratio, the FDIC is proposing to reduce the balance of loans by the outstanding balance as of quarter-end of PPP loans, which includes loans pledged to the PPPLF.[33]

g. Loss Severity Measure

The loss severity measure estimates the relative magnitude of potential losses to the DIF in the event of an IDI's failure.[34] In calculating the loss severity score, the FDIC is proposing to remove the total amount of borrowings from the Federal Reserve Banks under the PPPLF from short- and long-term secured borrowings, as appropriate. The FDIC also would exclude PPP loans, which include loans pledged to the PPPLF, using a waterfall approach, described above. Under this approach, the FDIC would exclude PPP loans, which include loans pledged to the PPPLF, from an IDI's balance of C&I Loans. In the unlikely event that the outstanding balance of PPP loans exceeds the balance of C&I Loans, the FDIC would exclude any remaining balance from All Other Loans, up to the total amount of All Other Loans, followed by Agricultural Loans, up to the total amount of Agricultural Loans. To the extent that an IDI's outstanding PPP loans exceeds its borrowings under the PPPLF, and consistent with the treatment of these loans as riskless, the FDIC would then add outstanding PPP loans in excess of borrowings under the PPPLF to cash.

Question 2: The FDIC invites comment on its proposal to exclude PPP loans from C&I Loans, All Other Loans, and Agricultural Loans in the calculation of an IDI's assessment rate. Is the assumption that all PPP loans are C&I loans appropriate, or should these loans be distributed across loan categories in another manner? If so, how and why? Should the FDIC collect additional data on how PPP loans are categorized?

Question 3: The FDIC invites comment on advantages and disadvantages of mitigating the effects of participating in the PPP and PPPLF on deposit insurance assessments. How does the approach in the proposed rule support or not support the objectives of the Paycheck Protection Program and the associated liquidity facility?

C. Mitigating the Effects of Loans Pledged to the PPPLF and Assets Purchased Under the MMLF on Certain Adjustments to an IDI's Assessment Rate

The FDIC proposes to exclude the quarterly average amount of loans pledged to the PPPLF and the quarterly

[25] Appendix A to subpart A of 12 CFR part 327.

[26] The FDIC expects that IDIs that participate in the PPP, PPPLF, and MMLF will earn additional income from participation in these programs. To minimize additional reporting burden, the FDIC is not proposing to exclude earnings related to participation in these programs from the core earnings ratio in the calculation of an IDI's deposit insurance assessment rate.

[27] Appendix A to subpart A of 12 CFR part 327.

[28] The balance sheet liquidity ratio is defined as the sum of cash and balances due from depository institutions, federal funds sold and securities purchased under agreements to resell, and the market value of available-for-sale and held-to-maturity agency securities (excludes agency mortgage-backed securities but includes all other agency securities issued by the U.S. Treasury, U.S. government agencies, and U.S. government sponsored enterprises) divided by the sum of federal funds purchased and repurchase agreements, other borrowings (including FHLB) with a remaining maturity of one year or less, 5 percent of insured domestic deposits, and 10 percent of uninsured domestic and foreign deposits. Appendix A to subpart A of 12 CFR part 327.

[29] Appendix A to subpart A of 12 CFR part 327 describes the average short-term funding ratio.

[30] For large banks, the concentration measure is the higher of the ratio of higher-risk assets to Tier 1 capital and reserves, and the growth-adjusted portfolio measure. For highly complex institutions, the concentration measure is the highest of three measures: The ratio of higher risk assets to Tier 1 capital and reserves, the ratio of top 20 counterparty exposure to Tier 1 capital and reserves, and the ratio of the largest counterparty exposure to Tier 1 capital and reserves. *See* Appendix A to subpart A of part 327.

[31] All Other Loans and Agricultural Loans are not included in the growth-adjusted portfolio concentration measure; therefore, the FDIC proposes to exclude the outstanding balance of PPP loans, which include loans pledged to the PPPLF, from the balance of C&I Loans. The loan concentration categories used in the growth-adjusted portfolio concentration measure are: Construction and development, other commercial real estate, first lien residential mortgages (including non-agency residential mortgage-backed securities), closed-end junior liens and home equity lines of credit, commercial and industrial loans, credit card loans, and other consumer loans. Appendix C to subpart A of 12 CFR part 327.

[32] *See* 12 CFR 327.16(b)(2)(ii)(A)(2)(vii).

[33] To minimize reporting burden, the FDIC would reduce average loans by the outstanding balance of PPP loans, which includes loans pledged to the PPPLF, as of quarter-end, rather than requiring institutions to additionally report the average balance of PPP loans and the average balance of loans pledged to the PPPLF.

[34] Appendix D to subpart A of 12 CFR 327 describes the calculation of the loss severity measure.

average amount of assets purchased under the MMLF from the calculation of the unsecured debt adjustment, depository institution debt adjustment, and the brokered deposit adjustment. These adjustments would continue to be applied to an IDI's initial base assessment rate, as applicable, for purposes of calculating the IDI's total base assessment rate.[35]

D. Offset To Deposit Insurance Assessment Due to Increase in the Assessment Base Attributable to Assets Pledged to the PPPLF and Assets Purchased Under the MMLF

Under the proposed rule, the FDIC would provide an offset to an IDI's total assessment amount due for the increase to its assessment base attributable to participation in the PPPLF and MMLF.[36] To determine this offset amount, the FDIC would calculate the total of the quarterly average amount of assets pledged to the PPPLF and the quarterly average amount of assets purchased under the MMLF, multiply that amount by an IDI's total base assessment rate (after excluding the effect of participation in the MMLF and PPPLF, as proposed), and subtract the resulting amount from an IDI's total assessment amount.[37]

Question 4: The FDIC invites comment on the advantages and disadvantages of adjusting an IDI's assessment to offset the increase in its assessment base due to participation in the MMLF and PPPLF. How does the approach in the proposed rule support or not support the objectives of the Facilities?

E. Classification of IDIs as Small, Large, or Highly Complex for Assessment Purposes

In defining IDIs for assessment purposes, the FDIC would exclude from an IDI's total assets the amount of loans pledged to the PPPLF and assets purchased under the MMLF. As a result, the FDIC would not reclassify a small institution as large or a large institution as a highly complex institution solely due to participation in the PPPLF and MMLF programs, which would otherwise have the effect of expanding an IDI's balance sheet. In addition, an institution with total assets between $5 billion and $10 billion, excluding the amount of loans pledged to the PPPLF and assets purchased under the MMLF, may request that the FDIC determine its assessment rate as a large institution.

F. Other Conforming Amendments to the Assessment Regulations

The FDIC is proposing to make conforming amendments to the FDIC's assessment regulations to effectuate the modifications described above. These conforming amendments would ensure that the proposed modifications to an IDI's assessment rate and the proposed offset to an IDI's assessment payment are properly incorporated into the assessment regulation provisions governing the calculation of an IDI's quarterly deposit insurance assessment.

G. Expected Effects

To facilitate participation in the PPP and use of PPPLF and MMLF, the FDIC is proposing to mitigate the deposit insurance assessment effects of PPP loans, loans pledged to the PPPLF, and assets purchased under the MMLF. Because IDIs are not yet reporting the necessary data, the FDIC does not have sufficient data on the distribution of loans among IDIs and other non-bank financial institutions made under the PPP, loans pledged to the PPPLF, and dollar volume of assets purchased under the MMLF by IDIs, nor on the loan categories of PPP loans held. Therefore, the FDIC has estimated the potential effects of these programs on deposit insurance assessments based on certain assumptions. Although this estimate is subject to considerable uncertainty, the FDIC estimates that absent the proposed rule, PPP loans, loans pledged to the PPPLF, and assets purchased under the MMLF could increase quarterly assessment revenue from IDIs by approximately $90 million, based on the assumptions described below.

The FDIC anticipates that PPP loans will be held by both IDIs and non-IDIs, and that some IDIs will hold PPP loans without pledging them to the PPPLF, although the rate of IDI participation in the PPP and PPPLF is uncertain. Based on Call Report data as of December 31, 2019, and assuming that (1) $600 billion of PPP loans are held by IDIs, (2) the PPP loans that are held by IDIs are evenly distributed across all IDIs that have C&I loans, which results in a 27 percent increase in those loans, (3) 25 percent of PPP loans held by IDIs are pledged to the PPPLF, (4) 100 percent of loans pledged to the PPPLF are matched by borrowings from the Federal Reserve Banks with maturities greater than one year, and (5) large and highly complex banks hold approximately $50 billion in assets pledged under the MMLF,[38] the FDIC estimates that quarterly deposit insurance assessments would increase by approximately $90 million.

The actual effect of these programs on deposit insurance assessments will vary depending on participation in the programs by IDIs and non-IDIs, the maturity of borrowings from the Federal Reserve Banks under these programs, and the types of loans held under the PPP, as described above.

H. Alternatives Considered

The FDIC considered the reasonable and possible alternatives described below. On balance, the FDIC believes the current proposal would mitigate the deposit insurance assessments effects of an IDI's participation in the PPP, PPPLF, and MMLF in the most appropriate and straightforward manner.

One alternative would be to leave in place the current assessment regulations. As a result, participation in the PPP, PPPLF, and MMLF could have the effect of increasing an IDI's quarterly deposit insurance assessment. This option, however, would not accomplish the policy objective of mitigating the assessment effects of holding PPP loans, pledging loans to the PPPLF, and purchasing assets under the MMLF and would potentially lead to sharp increases in assessments for an

[35] For certain IDIs, adjustments include the unsecured debt adjustment and the depository institution debt adjustment (DIDA). The unsecured debt adjustment decreases an IDI's total assessment rate based on the ratio of its long-term unsecured debt to its assessment base. The DIDA increases an IDI's total assessment rate if it holds long-term, unsecured debt issued by another IDI. In addition, large banks that meet certain criteria and new small banks are subject to the brokered deposit adjustment. The brokered deposit adjustment increases the total assessment rate of large IDIs that hold significant concentrations of brokered deposits and that are less than well capitalized, not CAMELS composite 1- or 2-rated, as well as new, small IDIs that are not assigned to Risk Category I. *See* 12 CFR 327.16(e).

[36] Under the proposed rule, the offset to the total assessment amount due for the increase to the assessment base attributable to participation in the PPPLF and MMLF would apply to all IDIs, including new small institutions as defined in 12 CFR 327.8(w), and insured U.S. branches and agencies of foreign banks.

[37] Currently, an IDI's total assessment amount on its quarterly certified statement invoice is equal to the product of the institution's assessment base (calculated in accordance with 12 CFR 327.5) multiplied by the institution's assessment rate (calculated in accordance with 12 CFR 327.4 and 12 CFR 327.16). *See* 12 CFR 327.3(b)(1).

[38] These assumptions reflect current participation in the PPP and PPPLF and an expectation of increased participation in the PPPLF over time, based on data published by the SBA and Federal Reserve Board. These assumptions use SBA data to estimate the participation in the PPP program of nonbank lenders including CDFI funds, CDCs, Microlenders, Farm Credit Lenders, and FinTechs. *See* Paycheck Protection Program (PPP) Report: Second Round, Approvals from 4/27/2020 through 05/01/2020, Small Business Administration, available at: *https://www.sba.gov/sites/default/files/2020–05/PPP2%20Data%2005012020.pdf;* Factors Affecting Reserve Balances, Federal Reserve statistical release H.4.1, as of May 7, 2020, available at: *https://www.federalreserve.gov/releases/h41/current/,* and Board of Governors of the Federal Reserve System as of April 1, 2020, available at *https://fred.stlouisfed.org/series/H41RESPPALDBNWW.*

individual IDI solely due to its participation in programs intended to provide liquidity to small businesses and stabilize the financial system.

As described above, a second alternative is that the FDIC could require that institutions report PPP loans as a separate loan category instead of including them in C&I Loans or other loan categories, as appropriate, depending on the nature of the loan. Under the current proposal, the FDIC would exclude PPP loans from C&I Loans, Agricultural Loans, and All Other Loans using a waterfall approach in the calculation of an IDI's assessment rate, and would have to apply certain assumptions to do so. Under this approach, the FDIC would assume that all PPP loans are C&I Loans, and to the extent that balance of PPP loans exceed the balance of C&I Loans, any excess loan amounts are assumed to be categorized as either All Other Loans or Agricultural Loans, as applicable for a given measure. Under the alternative considered, institutions would report PPP loans as a separate loan category, thus providing data that would reduce the need for the FDIC to rely on certain assumptions, reduce the amount of necessary changes to specific risk measures and other factors, and potentially more accurately mitigate the deposit insurance assessment effects of an IDI's participation in the program. The FDIC did not propose this alternative due to concerns that it may shift additional reporting burden onto IDIs in comparison to the current proposal, which would achieve a similar result with less burden. However, as mentioned below, the FDIC is interested in feedback on this alternative.

The FDIC also considered excluding the effects of participation in the MMLF from measures used to determine an IDI's deposit insurance assessment rate. For example, an IDI that participates in the MMLF could increase its total assets by the amount of assets that are eligible collateral pledged to the FRBB, and increase its liabilities by the amount of borrowings received from the FRBB through the MMLF. With respect to the MMLF, the FDIC expects a limited number of IDIs to participate in the program, and that all of these IDIs are priced as large or highly complex institutions. Furthermore, the FDIC expects that participation in the MMLF will have minimal to no effect on an IDI's deposit insurance assessment rate. The MMLF is scheduled to cease on September 30, 2020, and eligible collateral includes a variety of assets, including U.S. Treasuries and fully guaranteed agency securities, Certificates of Deposit, securities issued by government-sponsored enterprises, and certain types of commercial paper. Given the minimal expected effect of participation in the MMLF on an IDI's assessment rate and the short duration of the program, and to minimize the additional reporting burden associated with the variety of potential assets in the program, the FDIC decided not to propose this alternative. Under the proposal, the FDIC would exclude loans pledged to the PPPLF and assets purchased from the MMLF from the calculation of certain adjustments to an IDI's assessment rate, and would provide an offset to an IDI's assessment for the increase to its assessment base attributable to participation in the MMLF and PPPLF. In addition, an IDI that is priced as large or highly complex may request an adjustment to its total score, used in determining an institution's assessment rate, based on supporting data reflecting its participation in the MMLF.[39]

Question 5: The FDIC invites comment on the reasonable and possible alternatives described in this proposed rule. Should the FDIC consider other reasonable and possible alternatives?

I. Comment Period, Proposed Effective Date and Application Date

The FDIC is issuing this proposal with a 7-day comment period, in order to allow sufficient time for the FDIC to consider comments and ensure publication of a final rule before June 30, 2020 (the end of the second quarterly assessment period).

As stated above, in response to recent events which have significantly and adversely impacted global financial markets along with the spread of COVID–19, which has slowed economic activity in many countries, including the United States, the agencies moved quickly due to exigent circumstances and issued two interim final rules to allow banking organizations to neutralize the regulatory capital effects of purchasing assets through the MMLF program and loans pledged to the PPPL Facility. Since the implementation of the PPP, PPPLF, and MMLF, the FDIC has observed uncertainty from the public and the banking industry and wants to provide clarity on how, if at all, these programs would affect the assessments of IDIs which participate in these programs. Because PPP loans must be issued by June 30, 2020, the full assessment impact of these programs will first occur in the second quarterly assessment period. Congress has also given indications that implementation of these programs is an urgent policy matter, instructing the SBA to issue regulations for the PPP within 15 days of the CARES Act's enactment.[40] The FDIC has therefore concluded that rapid administrative action is critical and warrants an abbreviated comment period.

The 7-day comment period will afford the public and affected institutions with an opportunity to review and comment on the proposal, and will allow the FDIC sufficient time to consider and respond to comments received. In addition, a proposed effective date by June 30, 2020 and a proposed application date of April 1, 2020 will enable the FDIC to provide the relief contemplated in this rulemaking as soon as practicable, starting with the second quarter of 2020, and provide certainty to IDIs regarding the assessment effects of participating in the PPP, PPPLF, or MMLF for the second quarter of 2020, which is the first assessment quarter in which the assessments will be affected.

IV. Request for Comment

The FDIC is requesting comment on all aspects of the notice of proposed rulemaking, in addition to the specific requests for comment above.

V. Administrative Law Matters

A. Administrative Procedure Act

Under the Administrative Procedure Act (APA),[41] ''[t]he required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except as otherwise provided by the agency for good cause found and published with the rule.'' [42] Under this proposal, the amendments to the FDIC's deposit insurance assessment regulations would be effective upon publication of a final rule in the **Federal Register**. It is anticipated that the FDIC would find good cause that the publication of a final rule implementing the proposal can be less than 30 days before its effective date in order to fully effectuate the intent of ensuring that IDIs benefit from the mitigation effects to their deposit insurance assessments as soon as practicable, and to provide banks with certainty regarding the assessment effects of participating in the PPP, PPPLF, or MMLF for the second quarter of 2020, which is the first assessment quarter in which the assessments will be affected.

[39] *See Assessment Rate Adjustment Guidelines for Large and Highly Complex Institutions,* 76 FR 57992 (Sept. 19, 2011).

[40] *See* CARES Act, § 1114.

[41] 5 U.S.C. 553.

[42] 5 U.S.C. 553(d).

As explained in the Supplementary Information section, the FDIC expects that an IDI that participates in either the PPP, the PPPLF, or the MMLF program could be subject to increased deposit insurance assessments, beginning with the second quarter of 2020. The FDIC invoices for quarterly deposit insurance assessments in arrears. As a result, invoices for the second quarterly assessment period of 2020 (*i.e.,* April 1–June 30) would be made available to IDIs in September 2020, with a payment due date of September 30, 2020.

While it is anticipated that the FDIC would find good cause to issue the final rule with an immediate effective date, the FDIC is interested in the views of the public and requests comment on all aspects of the proposal.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.,* generally requires an agency, in connection with a proposed rule, to prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of a proposed rule on small entities.[43] However, a regulatory flexibility analysis is not required if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The Small Business Administration (SBA) has defined ''small entities'' to include banking organizations with total assets of less than or equal to $600 million.[44] Generally, the FDIC considers a significant effect to be a quantified effect in excess of 5 percent of total annual salaries and benefits per institution, or 2.5 percent of total non-interest expenses. The FDIC believes that effects in excess of these thresholds typically represent significant effects for FDIC-insured institutions. Certain types of rules, such as rules of particular applicability relating to rates or corporate or financial structures, or practices relating to such rates or structures, are expressly excluded from the definition of ''rule'' for purposes of the RFA.[45] The proposed rule relates directly to the rates imposed on IDIs for deposit insurance and to the deposit insurance assessment system that measures risk and determines each established small bank's assessment rate and is, therefore, not subject to the RFA. Nonetheless, the FDIC is voluntarily presenting information in this RFA section.

Based on quarterly regulatory report data as of December 31, 2019, the FDIC insures 5,186 depository institutions, of which 3,841 are defined as small entities by the terms of the RFA.[46] The proposed rule applies to all FDIC-insured institutions, but is expected to affect only those institutions that participate in the PPP, PPPLF, and MMLF. The FDIC does not presently have access to information that would enable it to identify which institutions are participating in these programs and lending facilities.

As previously discussed in this Notice, to facilitate participation in the PPP and use of PPPLF and MMLF, the FDIC is proposing to mitigate the deposit insurance assessment effects of PPP loans, loans pledged to the PPPLF, and assets purchased under the MMLF. Therefore, the FDIC estimated the potential effects of these programs on deposit insurance assessments based on certain assumptions. Based on Call Report data as of December 31, 2019, assuming that (1) $600 billion of PPP loans are held by IDIs, (2) the PPP loans that are held by IDIs are evenly distributed across all IDIs that have C&I loans, which results in a 27 percent increase in those loans, (3) 25 percent of PPP loans held by IDIs are pledged to the PPPLF, and (4) 100 percent of loans pledged to the PPPLF are matched by borrowings from the Federal Reserve Banks with maturities greater than one year,[47] the FDIC estimates that the proposal would save small IDIs approximately $5 million in quarterly deposit insurance assessments.

The actual effect of these programs on deposit insurance assessments will vary depending on IDI's participation in the PPP and Federal Reserve Facilities, the maturity of borrowings from the Federal Reserve Banks under these programs, and the types of loans held under the PPP.

The FDIC invites comments on all aspects of the supporting information provided in this RFA section. In particular, would this proposed rule have any significant effects on small entities that the FDIC has not identified?

C. Riegle Community Development and Regulatory Improvement Act

Section 302 of the Riegle Community Development and Regulatory Improvement Act (RCDRIA) requires that the Federal banking agencies, including the FDIC, in determining the effective date and administrative compliance requirements of new regulations that impose additional reporting, disclosure, or other requirements on IDIs, consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations. In addition, section 302(b) of RCDRIA requires new regulations and amendments to regulations that impose additional reporting, disclosures, or other new requirements on IDIs generally to take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form, with certain exceptions, including for good cause.[48] The FDIC invites comments that will further inform its consideration of RCDRIA.

D. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) states that no agency may conduct or sponsor, nor is the respondent required to respond to, an information collection unless it displays a currently valid OMB control number.[49] The proposed rule affects the agencies' current information collections for the Call Report (FFIEC 031, FFIEC 041, and FFIEC 051). The

[43] 5 U.S.C. 601 *et seq.*

[44] The SBA defines a small banking organization as having $600 million or less in assets, where an organization's ''assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year.'' *See* 13 CFR 121.201 (as amended, effective August 19, 2019). In its determination, the SBA ''counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates.'' 13 CFR 121.103. Following these regulations, the FDIC uses a covered entity's affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the covered entity is ''small'' for the purposes of RFA.

[45] 5 U.S.C. 601.

[46] FDIC Call Report data, as of December 31, 2019.

[47] These assumptions reflect current participation in the PPP and PPPLF and an expectation of increased participation in the PPPLF over time, based on data published by the SBA and Federal Reserve Board. These assumptions use SBA data to estimate the participation in the PPP program of nonbank lenders including CDFI funds, CDCs, Microlenders, Farm Credit Lenders, and FinTechs. *See* Paycheck Protection Program (PPP) Report: Second Round, Approvals from 4/27/2020 through 05/01/2020, Small Business Administration, available at: *https://www.sba.gov/sites/default/files/2020-05/PPP2%20Data%2005012020.pdf*; Factors Affecting Reserve Balances, Federal Reserve statistical release H.4.1, as of May 7, 2020, available at: *https://www.federalreserve.gov/releases/h41/current/,* and Board of Governors of the Federal Reserve System as of April 1, 2020, available at *https://fred.stlouisfed.org/series/H41RESPPALDBNWW.*

[48] 5 U.S.C. 553(b)(B).

[48] 5 U.S.C. 553(d).

[48] 5 U.S.C. 601 *et seq.*

[48] 5 U.S.C. 801 *et seq.*

[48] 5 U.S.C. 801(a)(3).

[48] 5 U.S.C. 804(2).

[48] 5 U.S.C. 808(2).

[48] 12 U.S.C. 4802(a).

[48] 12 U.S.C. 4802(b).

[49] 4 U.S.C. 3501–3521.

agencies' OMB control numbers for the Call Reports are: Comptroller of the Currency OMB No. 1557–0081; Board of Governors OMB No. 7100–0036; and FDIC OMB No. 3064–0052. The proposed rule also affects the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002), which the Federal Reserve System collects and processes on behalf of the three agencies (Board of Governors OMB No. 7100–0032). Submissions will be made by the agencies to OMB for their respective information collections. The changes to the Call Report, the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks, and their respective instructions, will be addressed in a separate **Federal Register** notice or notices.

E. Plain Language

Section 722 of the Gramm-Leach-Bliley Act [50] requires the Federal banking agencies to use plain language in all proposed and final rulemakings published in the **Federal Register** after January 1, 2000. The FDIC invites your comments on how to make this proposed rule easier to understand. For example:

- Has the FDIC organized the material to suit your needs? If not, how could the material be better organized?
- Are the requirements in the proposed rule clearly stated? If not, how could the proposed rule be stated more clearly?
- Does the proposed rule contain language or jargon that is unclear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the proposed rule easier to understand?

List of Subjects in 12 CFR Part 327

Bank deposit insurance, Banks, banking, Savings associations.

Authority and Issuance

For the reasons stated above, the Federal Deposit Insurance Corporation proposes to amend 12 CFR part 327 as follows:

PART 327—ASSESSMENTS

■ 1. The authority citation for part 327 is revised to read as follows:

Authority: 12 U.S.C. 1813, 1815, 1817–19, 1821.

■ 2. Amend § 327.3 by revising paragraph (b)(1) to read as follows:

§ 327.3 Payment of assessments.

* * * * *

(b) * * *

(1) *Quarterly certified statement invoice.* Starting with the first assessment period of 2007, no later than 15 days prior to the payment date specified in paragraph (b)(2) of this section, the Corporation will provide to each insured depository institution a quarterly certified statement invoice showing the amount of the assessment payment due from the institution for the prior quarter (net of credits or dividends, if any), and the computation of that amount. Subject to paragraph (e) of this section and § 327.17, the invoiced amount on the quarterly certified statement invoice shall be the product of the following: The assessment base of the institution for the prior quarter computed in accordance with § 327.5 multiplied by the institution's rate for that prior quarter as assigned to the institution pursuant to §§ 327.4(a) and 327.16.

* * * * *

■ 3. Amend § 327.16 by adding introductory text to read as follows:

§ 327.16 Assessment pricing methods—beginning the first assessment period after June 30, 2016, where the reserve ratio of the DIF as of the end of the prior assessment period has reached or exceeded 1.15 percent.

Subject to the modifications described in § 327.17, the following pricing methods shall apply beginning in the first assessment period after June 30, 2016, where the reserve ratio of the DIF as of the end of the prior assessment period has reached or exceeded 1.15 percent, and for all subsequent assessment periods.

* * * * *

■ 4. Add § 327.17 to read as follows:

§ 327.17 Mitigating the Deposit Insurance Assessment Effect of participation in the Money Market Mutual Fund Liquidity Facility, the Paycheck Protection Program Lending Facility, and the Paycheck Protection Program.

(a) *Mitigating the assessment effects of Paycheck Protection Program loans for established small institutions.* Effective as of April 1, 2020, the FDIC will take the following actions when calculating the assessment rate for established small institutions under § 327.16:

(1) *Exclusion from net income before taxes ratio, nonperforming loans and leases ratio, other real estate owned ratio, brokered deposit ratio, and one-year asset growth measure.* Notwithstanding any other section of this part, and as described in Appendix E to this subpart, the FDIC will exclude the outstanding balance of loans that are pledged as collateral to the Paycheck Protection Program Lending Facility, as reported on the Consolidated Report of Condition and Income, from the total assets in the calculation of the following risk measures: Net income before taxes ratio, the nonperforming loans and leases ratio, the other real estate owned ratio, the brokered deposit ratio, and the one-year asset growth measure, which are described in § 327.16(a)(1)(ii)(A).

(2) *Exclusion from Loan Mix Index.* Notwithstanding any other section of this part, and as described in appendix E to this subpart A, when calculating the loan mix index described in § 327.16(a)(1)(ii)(B), the FDIC will exclude:

(i) The outstanding balance of loans that are pledged as collateral to the Paycheck Protection Program Lending Facility, as reported on the Consolidated Report of Condition and Income, from the total assets; and

(ii) The amount of outstanding loans provided as part of the Paycheck Protection Program, including loans pledged to the Paycheck Protection Program Lending Facility, as reported on the Consolidated Report of Condition and Income, from an established small institution's balance of commercial and industrial loans. To the extent that the outstanding balance of loans provided as part of the Paycheck Protection Program, including loans pledged to the Paycheck Protection Program Lending Facility, exceeds an established small institution's balance of commercial and industrial loans, the FDIC will exclude any remaining balance of these loans from the balance of agricultural loans, up to the amount of agricultural loans, in the calculation of the loan mix index.

(b) *Mitigating the assessment effects of Paycheck Protection Program loans for large or highly complex institutions.* Effective as of April 1, 2020, the FDIC will take the following actions when calculating the assessment rate for large institutions and highly complex institutions under § 327.16:

(1) *Exclusion from average short-term funding ratio.* Notwithstanding any other section of this part, and as described in appendix E of this subpart, the FDIC will exclude the quarterly average amount of loans that are pledged as collateral to the Paycheck Protection Program Lending Facility, as reported on the Consolidated Report of Condition and Income, from the calculation of the average short-term funding ratio, which is described in appendix E to this subpart.

(2) *Exclusion from core earnings ratio.* Notwithstanding any other section of this part, and as described in appendix E of this subpart, the FDIC will exclude the outstanding balance of loans that are pledged as collateral to the Paycheck

[50] 12 U.S.C. 4809.

Protection Program Lending Facility as of quarter-end, as reported on the Consolidated Report of Condition and Income, from the calculation of the core earnings ratio, which is described in appendix E to this subpart.

(3) *Exclusion from core deposit ratio.* Notwithstanding any other section of this part, and as described in appendix E of this subpart, the FDIC will exclude the amount of borrowings from the Federal Reserve Banks under the Paycheck Protection Program Lending Facility, as reported on the Consolidated Report of Condition and Income, from the calculation of the core deposit ratio, which is described in appendix E to this subpart.

(4) *Exclusion from growth-adjusted portfolio concentration measure and trading asset ratio.* Notwithstanding any other section of this part, and as described in appendix E to this subpart, the FDIC will exclude, as applicable, the outstanding balance of loans provided under the Paycheck Protection Program, including loans pledged to the Paycheck Protection Program Lending Facility, as reported on the Consolidated Report of Condition and Income, from the calculation of the growth-adjusted portfolio concentration measure and the trading asset ratio, which are described in appendix E to this subpart.

(5) *Balance sheet liquidity ratio.* Notwithstanding any other section of this part, and as described in appendix E to this subpart, when calculating the balance sheet liquidity measure described under appendix A to this subpart, the FDIC will include the outstanding balance of loans provided under the Paycheck Protection Program that exceed total borrowings from the Federal Reserve Banks under the Paycheck Protection Program Lending Facility, as reported on the Consolidated Report of Condition and Income in highly liquid assets, and exclude the amount of borrowings from the Federal Reserve Banks under the Paycheck Protection Program Lending Facility with a remaining maturity of one year or less, as reported on the Consolidated Report of Condition and Income from other borrowings with a remaining maturity of one year or less.

(6) *Exclusion from loss severity measure.* Notwithstanding any other section of this part, and as described in appendix E to this subpart, when calculating the loss severity measure described under appendix A to this subpart, the FDIC will exclude the total amount of borrowings from the Federal Reserve Banks under the Paycheck Protection Program Lending Facility from short- and long-term secured borrowings, as appropriate. The FDIC will exclude the total amount of outstanding loans provided as part of the Paycheck Protection Program, as reported on the Consolidated Report of Condition and Income, from an institution's balance of commercial and industrial loans. To the extent that the outstanding balance of loans provided as part of the Paycheck Protection Program exceeds an institution's balance of commercial and industrial loans, the FDIC will exclude any remaining balance from all other loans, up to the total amount of all other loans, followed by agricultural loans, up to the total amount of agricultural loans. To the extent that an institution's outstanding loans under the Paycheck Protection Program exceeds its borrowings under the Paycheck Protection Program Loan Facility, the FDIC will add outstanding loans under the Paycheck Protection Program in excess of borrowings under the Paycheck Protection Program Loan Facility to cash and interest-bearing balances.

(c) *Mitigating the effects of loans pledged to the PPPLF and assets purchased under the MMLF on the unsecured adjustment, depository institution debt adjustment, and the brokered deposit adjustment to an IDI's assessment rate.* Notwithstanding any other section of this part, and as described in appendix E to this subpart, when calculating an insured depository institution's unsecured debt adjustment, depository institution debt adjustment, or the brokered deposit adjustment described in § 327.16(e), as applicable, the FDIC will exclude the quarterly average amount of loans pledged to the Paycheck Protection Program Lending Facility and the quarterly average amount of assets purchased under the Money Market Mutual Fund Liquidity Facility, as reported on the Consolidated Report of Condition and Income.

(d) *Mitigating the effects on the assessment base attributable to the Paycheck Protection Program Lending Facility and the Money Market Mutual Fund Liquidity Facility.* Notwithstanding any other section of this part, and as described in appendix E to this subpart, when calculating an insured depository institution's quarterly deposit insurance assessment payment due under this part, the FDIC will provide an offset to an institution's assessment for the increase to its assessment base attributable to participation in the Money Market Mutual Fund Liquidity Facility and the Paycheck Protection Program Lending Facility.

(1) *Calculation of offset amount.* To determine the offset amount, the FDIC will take the sum of the quarterly average amount of loans pledged to the Paycheck Protection Program Lending Facility and the quarterly average amount of assets purchased under the Money Market Mutual Fund Liquidity Facility, and multiply the sum by an institution's total base assessment rate, as calculated under § 327.16, including any adjustments under § 327.16(e).

(2) *Calculation of assessment amount due.* Notwithstanding any other section of this part, the FDIC will subtract the offset amount described in § 327.17(d)(1) from an insured depository institution's total assessment amount.

(e) *Definitions.* For the purposes of this section:

(1) *Paycheck Protection Program.* The term ''Paycheck Protection Program'' means the program that was created in section 1102 of the Coronavirus Aid, Relief, and Economic Security Act.

(2) *Paycheck Protection Program Liquidity Facility.* The term ''Paycheck Protection Program Liquidity Facility'' means the program of that name that was announced by the Board of Governors of the Federal Reserve System on April 9, 2020.

(3) *Money Market Mutual Fund Liquidity Facility.* The term ''Money Market Mutual Fund Liquidity Facility'' means the program of that name announced by the Board of Governors of the Federal Reserve System on March 18, 2020.

■ 5. Add Appendix E to subpart A of part 327 to read as follows:

Appendix E to Subpart A of Part 327—Mitigating the Deposit Insurance Assessment Effect of Participation in the Money Market Mutual Fund Liquidity Facility, the Paycheck Protection Program Lending Facility, and the Paycheck Protection Program

I. Mitigating the Assessment Effects of Paycheck Protection Program Loans for Established Small Institutions

TABLE E.1—EXCLUSIONS FROM CERTAIN RISK MEASURES USED TO CALCULATE THE ASSESSMENT RATE FOR ESTABLISHED SMALL INSTITUTIONS

Variables	Description	Exclusions
Leverage Ratio (%)	Tier 1 capital divided by adjusted average assets. (Numerator and denominator are both based on the definition for prompt corrective action.).	No Exclusion.
Net Income before Taxes/Total Assets (%).	Income (before applicable income taxes and discontinued operations) for the most recent twelve months divided by total assets [1].	Exclude from total assets the balance of loans pledged to the PPPLF outstanding at end of quarter.
Nonperforming Loans and Leases/Gross Assets (%).	Sum of total loans and lease financing receivables past due 90 or more days and still accruing interest and total nonaccrual loans and lease financing receivables (excluding, in both cases, the maximum amount recoverable from the U.S. Government, its agencies or government-sponsored enterprises, under guarantee or insurance provisions) divided by gross assets [2].	Exclude from total assets the balance of loans pledged to the PPPLF outstanding at end of quarter.
Other Real Estate Owned/Gross Assets (%).	Other real estate owned divided by gross assets [2]	Exclude from total assets the balance of loans pledged to the PPPLF outstanding at end of quarter.
Brokered Deposit Ratio	The ratio of the difference between brokered deposits and 10 percent of total assets to total assets. For institutions that are well capitalized and have a CAMELS composite rating of 1 or 2, brokered reciprocal deposits as defined in § 327.8(q) are deducted from brokered deposits. If the ratio is less than zero, the value is set to zero.	Exclude from total assets (in both numerator and denominator) the balance of loans pledged to the PPPLF outstanding at end of quarter.
Weighted Average of C, A, M, E, L, and S Component Ratings.	The weighted sum of the "C," "A," "M," "E", "L", and "S" CAMELS components, with weights of 25 percent each for the "C" and "M" components, 20 percent for the "A" component, and 10 percent each for the "E", "L" and "S" components.	No Exclusion.
Loan Mix Index	A measure of credit risk described paragraph (A) of this section	Exclusions are described in paragraph (A) of this section..
One-Year Asset Growth (%)	Growth in assets (adjusted for mergers [3]) over the previous year in excess of 10 percent.[4] If growth is less than 10 percent, the value is set to zero.	Exclude from total assets (in both numerator and denominator) the balance of loans pledged to the PPPLF outstanding at end of quarter.

[1] The ratio of Net Income before Taxes to Total Assets is bounded below by (and cannot be less than) −25 percent and is bounded above by (and cannot exceed) 3 percent.
[2] Gross assets are total assets plus the allowance for loan and lease financing receivable losses (ALLL) or allowance for credit losses, as applicable.
[3] Growth in assets is also adjusted for acquisitions of failed banks.
[4] The maximum value of the Asset Growth measure is 230 percent; that is, asset growth (merger adjusted) over the previous year in excess of 240 percent (230 percentage points in excess of the 10 percent threshold) will not further increase a bank's assessment rate.

(A) *Definition of Loan Mix Index.* The Loan Mix Index assigns loans in an institution's loan portfolio to the categories of loans described in the following table. Exclude from the balance of commercial and industrial loans the balance of PPP loans, which includes loans pledged to the PPPLF, outstanding at end of quarter. In the event that the balance of outstanding PPP loans, which includes loans pledged to the PPPLF, exceeds the balance of commercial and industrial loans, exclude the remaining balance from the balance of agricultural loans, up to the total amount of agricultural loans. The Loan Mix Index is calculated by multiplying the ratio of an institution's amount of loans in a particular loan category to its total assets, excluding the balance of loans pledged to the PPPLF outstanding at end of quarter by the associated weighted average charge-off rate for that loan category, and summing the products for all loan categories. The table gives the weighted average charge-off rate for each category of loan. The Loan Mix Index excludes credit card loans.

LOAN MIX INDEX CATEGORIES AND WEIGHTED CHARGE-OFF RATE PERCENTAGES

	Weighted charge-off rate percent
Construction & Development	4.4965840
Commercial & Industrial	1.5984506
Leases	1.4974551
Other Consumer	1.4559717
Real Estate Loans Residual	1.0169338

LOAN MIX INDEX CATEGORIES AND WEIGHTED CHARGE-OFF RATE PERCENTAGES—Continued

	Weighted charge-off rate percent
Multifamily Residential	0.8847597
Nonfarm Nonresidential	0.7289274
I–4 Family Residential	0.6973778
Loans to Depository banks	0.5760532
Agricultural Real Estate	0.2376712
Agriculture	0.2432737

II. Mitigating the Assessment Effects of Paycheck Protection Program Loans for Large or Highly Complex Institutions

TABLE E.2—EXCLUSIONS FROM CERTAIN RISK MEASURES USED TO CALCULATE THE ASSESSMENT RATE FOR LARGE OR HIGHLY COMPLEX INSTITUTIONS

Scorecard measures [1]	Description	Exclusions
Leverage Ratio	Tier 1 capital for Prompt Corrective Action (PCA) divided by adjusted average assets based on the definition for prompt corrective action.	No Exclusion.
Concentration Measure for Large Insured depository institutions (excluding Highly Complex Institutions).	The concentration score for large institutions is the higher of the following two scores:.	
(1) Higher-Risk Assets/Tier 1 Capital and Reserves.	Sum of construction and land development (C&D) loans (funded and unfunded), higher-risk commercial and industrial (C&I) loans (funded and unfunded), nontraditional mortgages, higher-risk consumer loans, and higher-risk securitizations divided by Tier 1 capital and reserves. See Appendix C for the detailed description of the ratio.	No Exclusion.
(2) Growth-Adjusted Portfolio Concentrations.	The measure is calculated in the following steps:	
	(1) Concentration levels (as a ratio to Tier 1 capital and reserves) are calculated for each broad portfolio category:.	
	• Constructions and land development (C&D)	
	• Other commercial real estate loans	
	• First lien residential mortgages (including non-agency residential mortgage-backed securities).	
	• Closed-end junior liens and home equity lines of credit (HELOCs)	
	• Commercial and industrial loans (C&I)	
	• Credit card loans, and	
	• Other consumer loans	
	(2) Risk weights are assigned to each loan category based on historical loss rates.	
	(3) Concentration levels are multiplied by risk weights and squared to produce a risk-adjusted concentration ratio for each portfolio.	
	(4) Three-year merger-adjusted portfolio growth rates are then scaled to a growth factor of 1 to 1.2 where a 3-year cumulative growth rate of 20 percent or less equals a factor of 1 and a growth rate of 80 percent or greater equals a factor of 1.2. If three years of data are not available, a growth factor of 1 will be assigned.	Exclude from C&I loan growth rate the amount of PPP loans, which includes loans pledged to the PPPLF, outstanding at end of quarter.
	(5) The risk-adjusted concentration ratio for each portfolio is multiplied by the growth factor and resulting values are summed.	
	See Appendix C for the detailed description of the measure	
Concentration Measure for Highly Complex Institutions.	Concentration score for highly complex institutions is the highest of the following three scores:.	
(1) Higher-Risk Assets/Tier 1 Capital and Reserves.	Sum of C&D loans (funded and unfunded), higher-risk C&I loans (funded and unfunded), nontraditional mortgages, higher-risk consumer loans, and higher-risk securitizations divided by Tier 1 capital and reserves. See Appendix C for the detailed description of the measure.	No Exclusion.
(2) Top 20 Counterparty Exposure/Tier 1 Capital and Reserves.	Sum of the 20 largest total exposure amounts to counterparties divided by Tier 1 capital and reserves. The total exposure amount is equal to the sum of the institution's exposure amounts to one counterparty (or borrower) for derivatives, securities financing transactions (SFTs), and cleared transactions, and its gross lending exposure (including all unfunded commitments) to that counterparty (or borrower). A counterparty includes an entity's own affiliates. Exposures to entities that are affiliates of each other are treated as exposures to one counterparty (or borrower). Counterparty exposure excludes all counterparty exposure to the U.S. Government and departments or agencies of the U.S. Government that is unconditionally guaranteed by the full faith and credit of the United States. The exposure amount for derivatives, including OTC derivatives, cleared transactions that are derivative contracts, and netting sets of derivative contracts, must be calculated using the methodology set forth in 12 CFR 324.34(b), but without any reduction for collateral other than cash collateral that is all or part of variation margin and that satisfies the requirements of 12 CFR 324.10(c)(4)(ii)(C)(1)(ii) and (iii) and 324.10(c)(4)(ii)(C)(3) through (7). The exposure amount associated with SFTs, including cleared transactions that are SFTs, must be calculated using the standardized approach set forth in 12 CFR 324.37(b) or (c). For both derivatives and SFT exposures, the exposure amount to central counterparties must also include the default fund contribution.	No Exclusion.

TABLE E.2—EXCLUSIONS FROM CERTAIN RISK MEASURES USED TO CALCULATE THE ASSESSMENT RATE FOR LARGE OR HIGHLY COMPLEX INSTITUTIONS—Continued

Scorecard measures [1]	Description	Exclusions
(3) Largest Counterparty Exposure/ Tier 1 Capital and Reserves.	The largest total exposure amount to one counterparty divided by Tier 1 capital and reserves. The total exposure amount is equal to the sum of the institution's exposure amounts to one counterparty (or borrower) for derivatives, SFTs, and cleared transactions, and its gross lending exposure (including all unfunded commitments) to that counterparty (or borrower). A counterparty includes an entity's own affiliates. Exposures to entities that are affiliates of each other are treated as exposures to one counterparty (or borrower). Counterparty exposure excludes all counterparty exposure to the U.S. Government and departments or agencies of the U.S. Government that is unconditionally guaranteed by the full faith and credit of the United States. The exposure amount for derivatives, including OTC derivatives, cleared transactions that are derivative contracts, and netting sets of derivative contracts, must be calculated using the methodology set forth in 12 CFR 324.34(b), but without any reduction for collateral other than cash collateral that is all or part of variation margin and that satisfies the requirements of 12 CFR 324.10(c)(4)(ii)(C)(1)(ii) and (iii) and 324.10(c)(4)(ii)(C)(3) through (7). The exposure amount associated with SFTs, including cleared transactions that are SFTs, must be calculated using the standardized approach set forth in 12 CFR 324.37(b) or (c). For both derivatives and SFT exposures, the exposure amount to central counterparties must also include the default fund contribution.	No Exclusion.
Core Earnings/Average Quarter-End Total Assets.	Core earnings are defined as net income less extraordinary items and tax-adjusted realized gains and losses on available-for-sale (AFS) and held-to-maturity (HTM) securities, adjusted for mergers. The ratio takes a four-quarter sum of merger-adjusted core earnings and divides it by an average of five quarter-end total assets (most recent and four prior quarters). If four quarters of data on core earnings are not available, data for quarters that are available will be added and annualized. If five quarters of data on total assets are not available, data for quarters that are available will be averaged.	Prior to averaging, exclude from total assets for the applicable quarter-end periods the balance of loans pledged to the PPPLF outstanding at end of quarter.
Credit Quality Measure [1]	The credit quality score is the higher of the following two scores:	
(1) Criticized and Classified Items/ Tier 1 Capital and Reserves.	Sum of criticized and classified items divided by the sum of Tier 1 capital and reserves. Criticized and classified items include items an institution or its primary federal regulator have graded ''Special Mention'' or worse and include retail items under Uniform Retail Classification Guidelines, securities, funded and unfunded loans, other real estate owned (ORE), other assets, and marked-to-market counterparty positions, less credit valuation adjustments. Criticized and classified items exclude loans and securities in trading books, and the amount recoverable from the U.S. government, its agencies, or government-sponsored enterprises, under guarantee or insurance provisions.	No Exclusion.
(2) Underperforming Assets/Tier 1 Capital and Reserves.	Sum of loans that are 30 days or more past due and still accruing interest, nonaccrual loans, restructured loans (including restructured 1—4 family loans), and ORE, excluding the maximum amount recoverable from the U.S. government, its agencies, or government-sponsored enterprises, under guarantee or insurance provisions, divided by a sum of Tier 1 capital and reserves.	No Exclusion.
Core Deposits/Total Liabilities	Total domestic deposits excluding brokered deposits and uninsured non-brokered time deposits divided by total liabilities.	Exclude from total liabilities borrowings from Federal Reserve Banks under the PPPLF with a maturity of one year or less and borrowings from the Federal Reserve Banks under the PPPLF with a maturity of greater than one year, outstanding at end of quarter.

TABLE E.2—EXCLUSIONS FROM CERTAIN RISK MEASURES USED TO CALCULATE THE ASSESSMENT RATE FOR LARGE OR HIGHLY COMPLEX INSTITUTIONS—Continued

Scorecard measures [1]	Description	Exclusions
Balance Sheet Liquidity Ratio	Sum of cash and balances due from depository institutions, federal funds sold and securities purchased under agreements to resell, and the market value of available for sale and held to maturity agency securities (excludes agency mortgage-backed securities but includes all other agency securities issued by the U.S. Treasury, U.S. government agencies, and U.S. government sponsored enterprises) divided by the sum of federal funds purchased and repurchase agreements, other borrowings (including FHLB) with a remaining maturity of one year or less, 5 percent of insured domestic deposits, and 10 percent of uninsured domestic and foreign deposits.	Include in highly liquid assets the outstanding balance of PPP loans that exceed borrowings from the Federal Reserve Banks under the PPPLF at end of quarter. Exclude from other borrowings with a remaining maturity of one year or less the balance of borrowings from the Federal Reserve Banks under the PPPLF with a remaining maturity of one year or less outstanding at end of quarter.
Potential Losses/Total Domestic Deposits (Loss Severity Measure).	Potential losses to the DIF in the event of failure divided by total domestic deposits. Paragraph [A] of this section describes the calculation of the loss severity measure in detail.	Exclusions are described in paragraph (A) of this section.
Market Risk Measure for Highly Complex Institutions.	The market risk score is a weighted average of the following three scores:.	
(1) Trading Revenue Volatility/Tier 1 Capital.	Trailing 4-quarter standard deviation of quarterly trading revenue (merger-adjusted) divided by Tier 1 capital.	No Exclusion.
(2) Market Risk Capital/Tier 1 Capital.	Market risk capital divided by Tier 1 capital	No Exclusion.
(3) Level 3 Trading Assets/Tier 1 Capital.	Level 3 trading assets divided by Tier 1 capital	No Exclusion.
Average Short-term Funding/Average Total Assets.	Quarterly average of federal funds purchased and repurchase agreements divided by the quarterly average of total assets as reported on Schedule RC–K of the Call Reports.	Exclude from the quarterly average of total assets the quarterly average amount of loans pledged to the PPPLF.

[1] The credit quality score is the greater of the criticized and classified items to Tier 1 capital and reserves score or the underperforming assets to Tier 1 capital and reserves score. The market risk score is the weighted average of three scores—the trading revenue volatility to Tier 1 capital score, the market risk capital to Tier 1 capital score, and the level 3 trading assets to Tier 1 capital score. All of these ratios are described in appendix A of this subpart and the method of calculating the scores is described in appendix B of this subpart. Each score is multiplied by its respective weight, and the resulting weighted score is summed to compute the score for the market risk measure. An overall weight of 35 percent is allocated between the scores for the credit quality measure and market risk measure. The allocation depends on the ratio of average trading assets to the sum of average securities, loans and trading assets (trading asset ratio) as follows: (1) Weight for credit quality score = 35 percent * (1 − trading asset ratio); and, (2) Weight for market risk score = 35 percent * trading asset ratio. In calculating the trading asset ratio, exclude from the balance of loans the balance of PPP loans, which includes loans pledged to the PPPLF, outstanding as of quarter-end.

(A) *Description of the loss severity measure.* The loss severity measure applies a standardized set of assumptions to an institution's balance sheet to measure possible losses to the FDIC in the event of an institution's failure. To determine an institution's loss severity rate, the FDIC first applies assumptions about uninsured deposit and other unsecured liability runoff, and growth in insured deposits, to adjust the size and composition of the institution's liabilities. Exclude from liabilities total borrowings from Federal Reserve Banks under the PPPLF from short-and long-term secured borrowings outstanding at end of quarter, as appropriate. Assets are then reduced to match any reduction in liabilities Exclude from commercial and industrial loans included in assets PPP loans, which include loans pledged to the PPPLF, outstanding at end of quarter. In the event that the outstanding balance of PPP loans exceeds the balance of C&I loans, exclude any remaining balance first from the balance of all other loans, up to the total amount of all other loans, followed by the balance of agricultural loans, up to the total amount of agricultural loans. Increase cash and interest-bearing balances by outstanding PPP loans exceeding total borrowings under the PPPLF, if any. The institution's asset values are then further reduced so that the Leverage ratio reaches 2 percent. In both cases, assets are adjusted pro rata to preserve the institution's asset composition. Assumptions regarding loss rates at failure for a given asset category and the extent of secured liabilities are then applied to estimated assets and liabilities at failure to determine whether the institution has enough unencumbered assets to cover domestic deposits. Any projected shortfall is divided by current domestic deposits to obtain an end-of-period loss severity ratio. The loss severity measure is an average loss severity ratio for the three most recent quarters of data available.

Runoff and Capital Adjustment Assumptions

Table E.3 contains run-off assumptions.

TABLE E.3—RUNOFF RATE ASSUMPTIONS

Liability type	Runoff rate * (percent)
Insured Deposits	(10)
Uninsured Deposits	58
Foreign Deposits	80
Federal Funds Purchased	100
Repurchase Agreements	75
Trading Liabilities	50
Unsecured Borrowings < = 1 Year	75
Secured Borrowings < = 1 Year, excluding outstanding borrowings from the Federal Reserve Banks under the PPPLF < = 1 Year	25

TABLE E.3—RUNOFF RATE ASSUMPTIONS—Continued

Liability type	Runoff rate * (percent)
Subordinated Debt and Limited Liability Preferred Stock	15

* A negative rate implies growth.

Given the resulting total liabilities after runoff, assets are then reduced pro rata to preserve the relative amount of assets in each of the following asset categories and to achieve a Leverage ratio of 2 percent:

- Cash and Interest Bearing Balances, including outstanding PPP loans in excess of borrowings under the PPPLF;
- Trading Account Assets;
- Federal Funds Sold and Repurchase Agreements;
- Treasury and Agency Securities;
- Municipal Securities;
- Other Securities;
- Construction and Development Loans;
- Nonresidential Real Estate Loans;
- Multifamily Real Estate Loans;
- 1—4 Family Closed-End First Liens;
- 1—4 Family Closed-End Junior Liens;
- Revolving Home Equity Loans; and
- Agricultural Real Estate Loans.

Recovery Value of Assets at Failure

Table E.4 shows loss rates applied to each of the asset categories as adjusted above.

TABLE E.4—ASSET LOSS RATE ASSUMPTIONS

Asset category	Loss rate (percent)
Cash and Interest Bearing Balances, including outstanding PPP loans in excess of borrowings under the PPPLF	0.0
Trading Account Assets	0.0
Federal Funds Sold and Repurchase Agreements	0.0
Treasury and Agency Securities	0.0
Municipal Securities	10.0
Other Securities	15.0
Construction and Development Loans	38.2
Nonresidential Real Estate Loans	17.6
Multifamily Real Estate Loans	10.8
1—4 Family Closed-End First Liens	19.4
1—4 Family Closed-End Junior Liens	41.0
Revolving Home Equity Loans	41.0
Agricultural Real Estate Loans	19.7
Agricultural Loans, excluding outstanding PPP loans, which include loans pledged to the PPPLF, as applicable	11.8
Commercial and Industrial Loans, excluding outstanding PPP loans, which include loans pledged to the PPPLF, as applicable	21.5
Credit Card Loans	18.3
Other Consumer Loans	18.3
All Other Loans, excluding outstanding PPP loans, which include loans pledged to the PPPLF, as applicable	51.0
Other Assets	75.0

Secured Liabilities at Failure

Federal home loan bank advances, secured federal funds purchased and repurchase agreements are assumed to be fully secured. Foreign deposits are treated as fully secured because of the potential for ring fencing.

Exclude outstanding borrowings from the Federal Reserve Banks under the PPPLF.

Loss Severity Ratio Calculation

The FDIC's loss given failure (LGD) is calculated as:

$$LGD = \frac{InsuredDeposits_{Failure}}{DomesticDeposits_{Failure}} \times \left(\text{DomesticDeposits}_{\text{Failure}} - \text{RecoveryValueofAssets}_{\text{Failure}} + \text{SecuredLiabilities}_{\text{Failure}}\right)$$

An end-of-quarter loss severity ratio is LGD divided by total domestic deposits at quarter-end and the loss severity measure for the scorecard is an average of end-of-period loss severity ratios for three most recent quarters.

III. Mitigating the Effects of Loans Pledged to the PPPLF and Assets Purchased under the MMLF on the Unsecured Adjustment, Depository Institution Debt Adjustment, and the Brokered Deposit Adjustment to an IDI's Assessment Rate.

TABLE E.5—EXCLUSIONS FROM ADJUSTMENTS TO THE INITIAL BASE ASSESSMENT RATE

Adjustment	Calculation	Exclusion
Unsecured debt adjustment	The unsecured debt adjustment shall be determined as the sum of the initial base assessment rate plus 40 basis points; that sum shall be multiplied by the ratio of an insured depository institution's long-term unsecured debt to its assessment base. The amount of the reduction in the assessment rate due to the adjustment is equal to the dollar amount of the adjustment divided by the amount of the assessment base.	Exclude the quarterly average amount of assets purchased under MMLF and quarterly average amount of loans pledged to the PPPLF.
Depository institution debt adjustment	An insured depository institution shall pay a 50 basis point adjustment on the amount of unsecured debt it holds that was issued by another insured depository institution to the extent that such debt exceeds 3 percent of the institution's Tier 1 capital. This amount is divided by the institution's assessment base. The amount of long-term unsecured debt issued by another insured depository institution shall be calculated using the same valuation methodology used to calculate the amount of such debt for reporting on the asset side of the balance sheets.	Exclude the quarterly average amount of assets purchased under MMLF and quarterly average amount of loans pledged to the PPPLF outstanding.
Brokered deposit adjustment	The brokered deposit adjustment shall be determined by multiplying 25 basis points by the ratio of the difference between an insured depository institution's brokered deposits and 10 percent of its domestic deposits to its assessment base.	Exclude the quarterly average amount of assets purchased under MMLF and quarterly average amount of loans pledged to the PPPLF outstanding.

IV. Mitigating the Effects on the Assessment Base Attributable to the Paycheck Protection Program Lending Facility and the Money Market Mutual Fund Liquidity Facility.

Total Assessment Amount Due = Total Assessment Amount LESS: (SUM (Quarterly average amount of assets pledged to the PPPLF and quarterly average amount of assets purchased under the MMLF) * Total Base Assessment Rate)

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on May 12, 2020.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2020–10454 Filed 5–18–20; 2:30 pm]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0503; Product Identifier 2018–SW–006–AD]

RIN 2120–AA64

Airworthiness Directives; Leonardo S.p.a. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Leonardo S.p.a. (Leonardo) Model AW189 helicopters. This proposed AD would require various repetitive inspections of the main rotor (MR) damper. This proposed AD is prompted by reports of in-service MR damper failures and the development of an improved MR damper. This condition, if not corrected, could lead to loss of the lead-lag damping function of the MR blade, possibly resulting in damage to adjacent critical rotor components and subsequent loss control of the helicopter. The actions of this proposed AD are intended to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by July 20, 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–2020–0503; 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 proposed AD, the European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD, 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 service information identified in this proposed rule, contact Leonardo S.p.A. Helicopters, Emanuele Bufano, Head of Airworthiness, Viale G.Agusta 520, 21017 C.Costa di Samarate (Va) Italy; telephone +39–0331–225074; fax +39–0331–229046; or at *https://www.leonardocompany.com/en/home.* You may view the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N–321, Fort Worth, TX 76177.

FOR FURTHER INFORMATION CONTACT: Matt Fuller, Senior Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy, Fort Worth, TX 76177; telephone 817–222–5110; email *matthew.fuller@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

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 might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, 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 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 proposed rulemaking. Before acting on this proposal, the FAA will consider all comments received on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The FAA may change this proposal in light of the comments received.

Discussion

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD No. 2016–0145R1, dated January 17, 2018 (EASA AD 2016–0145R1), to correct an unsafe condition for Leonardo S.p.A. Model AW189 helicopters with MR damper part number (P/N) 4F6220V00251 installed. EASA advises that a MR damper failed, which resulted in complete seizure of the body end lug and an in-flight disconnection of the damper. EASA states that a combination of factors may have contributed to the MR damper disconnection, and that this condition could result in loss of the lead-lag damping function of the MR blade, damage to adjacent critical rotor components, and subsequent reduced control of the helicopter. The contributing factors include cracks, slippage marks, damaged broach ring teeth, and loss of torque.

According to EASA, the AW189 MR damper is a similar design to the MR dampers installed on Model AW139 helicopters, where multiple MR damper failures have been reported involving the body end lug, the eye end lug, and the rod end. To correct this condition, EASA issued a series of superseded and revised ADs to require repetitive inspections of certain MR dampers, and similar corrective actions as those for Model AW139 helicopters. EASA AD 2016–0145R1 requires various one-time and repetitive inspections of the MR damper, a torque check of the damper body end, and replacing any MR damper with a crack or that fails the torque check. EASA AD 2016–0145R1 also allows installation of a new MR damper, P/N 8G6220V00151, as an optional terminating action for the repetitive inspections.

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 about the unsafe condition described in its AD. The FAA is proposing this AD after evaluating all known relevant information and determining that an unsafe condition is likely to exist or develop on other helicopters of the same type designs.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Finmeccanica Bollettino Tecnico No. 189–080, Revision A, dated July 15, 2016, which contains procedures for visual and dye penetrant inspections of the MR damper for cracks and for verifying the torque of the damper body ends.

The FAA also reviewed Leonardo Helicopters Alert Service Bulletin No. 189–102, Revision A, dated December 21, 2017, which contains procedures for installing an MR damper with reduced torque values and specifies replacing MR damper P/N 4F6220V00251 with new MR damper P/N 8G6220V00151.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Other Related Service Information

The FAA reviewed Finmeccanica Bollettino Tecnico No. 189–069, dated February 12, 2016, which contains procedures for installing a special washer on the MR damper rod end, modifying the installation torque of the MR damper, and inspecting the rod end bearings.

Proposed AD Requirements

This proposed AD would require compliance with certain procedures described in the manufacturer's service bulletins. For helicopters with a MR damper P/N 4F6220V00251, this proposed AD would require:

- Within 10 hours time-in-service (TIS), reducing the installation torque of the nuts on the bolts attaching the MR damper to the MR hub;
- Within 30 hours TIS or before a MR damper body end accumulates 500 hours TIS since first installation on a helicopter, whichever occurs later, and, thereafter at intervals not to exceed 500 hours TIS, replacing the affected MR damper;
- Before the MR damper accumulates 300 hours TIS since new or overhaul, dye penetrant or eddy current inspecting the rod end and body end of each MR damper for a crack, and thereafter, before the first flight of each day, visually inspecting the rod end and body end of each MR damper for a crack. If there is a crack, this proposed AD would require replacing the MR damper;
- Within 30 hours TIS and thereafter at intervals not exceeding 10 hours TIS for MR dampers that have accumulated less than 300 hours TIS since new or overhaul or within 5 hours TIS and therefore before the first flight of each day for MR dampers that have accumulated 300 or more hours TIS since new or overhaul, inspecting each rod end and body end bearing for rotation, and replacing the rod end or MR damper as applicable if there is any rotation;
- For certain serial-numbered MR dampers, within 30 hours TIS and thereafter at intervals not exceeding 20 hours TIS, inspecting the lag damper broached ring nut for damage, correct engagement, and alignment. If there is damage on the ring nut, incorrect engagement, or mis-alignment, this proposed AD would require removing the rod end and broached ring nut from service. These repetitive inspections would terminate after the MR damper has accumulated 600 hours TIS;
- Within 50 hours TIS and thereafter at intervals not exceeding 100 hours TIS, inspecting the bearing friction torque of each MR damper body end and rod end, and replacing the MR damper if the torque value exceeds 30.0 Nm (265.5 lb in);
- Within 50 hours TIS and thereafter at intervals not exceeding 100 hours TIS, inspecting the MR damper anti-rotation block for wear and replacing the anti-rotation block if there is wear beyond acceptable limits;

• Within 50 hours TIS, replacing each special washer P/N 3G6220A05051 with special washer P/N 3G6220A05052;

• For certain MR dampers, within 50 hours TIS, inspecting the broached ring for damage and alignment, removing the broached ring from service if there is damage, and replacing the broached ring if the rod end and broached ring cannot be aligned; and

• Prior to installation on any helicopter, inspecting certain serial-numbered MR dampers for correct torque of the broached ring.

Differences Between This Proposed AD and the EASA AD

The EASA AD requires contacting the manufacturer under certain conditions, while this proposed AD would not.

Costs of Compliance

The FAA estimates that this AD would affect 3 helicopters of U.S. Registry. The FAA estimates that operators may incur the following costs in order to comply with this AD. Labor costs are estimated at $85 per work-hour.

Adjusting the tightening torque would require about 10 work-hours, for an estimated cost of $850 per helicopter and $2,550 for the U.S. fleet.

Replacing an MR damper would require about 2 work-hours, and parts would cost about $18,000, for an estimated cost of $18,170 per MR damper.

Performing a dye penetrant or eddy current inspection of the MR damper would require about 8 work-hours, for an estimated cost of $680 per helicopter and $2,040 for the U.S. fleet.

Visually inspecting the rod ends and body ends would require about 0.5 hour, for an estimated cost of $43 per helicopter and $129 for the U.S. fleet, per inspection cycle.

Inspecting the rod ends and body ends for bearing rotation would require about 0.5 hour, for an estimated cost of $43 per helicopter and $129 for the U.S. fleet, per inspection cycle.

Inspecting the broached ring nut would require about 0.5 hour, for an estimated cost of $43 per helicopter and $129 for the U.S. fleet, per inspection cycle.

Inspecting for bearing friction would require about 2 hours, for an estimated cost of $170 per helicopter and $510 for the U.S. fleet, per inspection cycle.

Inspecting the broached ring teeth for proper alignment and applying torque would require about 8 work-hours, for an estimated cost of $680 per helicopter and $2,040 for the U.S. fleet.

Replacing a rod end would require about 3 work-hours and parts would cost about $500, for a cost an estimated cost of $755 per rod end.

Replacing a broached ring would require about 3 work-hours and parts would cost about $100, for an estimated cost of $355, per broached ring.

Replacing a broached ring nut would require about 3 work-hours and parts would cost about $125, for an estimated cost of $380 per broached ring nut.

Replacing an anti-rotation block would require about 3 work-hours and parts would cost about $50, for a cost an estimated cost of $305 per anti-rotation block.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed, 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):

Leonardo S.p.a: Docket No. FAA–2020–0503; Product Identifier 2018–SW–006–AD.

(a) Applicability

This AD applies to Leonardo S.p.A. Model AW189 helicopters, certificated in any category, with a main rotor (MR) damper part number (P/N) 4F6220V00251 installed.

(b) Unsafe Condition

This AD defines the unsafe condition as a crack in an MR damper, which if not detected and corrected, could lead to loss of the lead-lag damping function of the MR blade, resulting in damage of the MR damper, detachment of the MR damper in-flight, and subsequent loss of control of the helicopter.

(c) Comments Due Date

The FAA must receive comments by July 20, 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 10 hours time-in-service (TIS), reduce the torque of the nut on the bolt attaching each MR damper to the MR hub by following paragraphs 4 through 7 of the Accomplishment Instructions, Part I, of Leonardo Helicopters Alert Service Bulletin No. 189–102, Revision A, dated December 21, 2017 (ASB 189–102).

(2) Within 30 hours TIS or before the MR damper body end (body end) accumulates 500 hours TIS, whichever occurs later, and thereafter at intervals not to exceed 500 hours TIS, replace the MR damper.

(3) Within 30 hours TIS, before the MR damper accumulates 300 hours TIS, or within 300 hours TIS since the last overhaul, whichever occurs later, dye penetrant inspect using a 5X power magnifying glass or eddy current inspect each MR damper rod end (rod end) and body end for a crack in the areas depicted in Figure 2 of Finmeccanica Bollettino Tecnico No. 189–080, Revision A, dated July 15, 2016 (BT 189–080).

(i) If there is a crack on the body end, before further flight, replace the MR damper.

(ii) If there is a crack on the rod end, before further flight, replace the rod end and, within 300 hours TIS, dye penetrant or eddy current

inspect the rod end for a crack as described in paragraph (e)(3) of this AD.

(iii) If there are no cracks, before further flight, mark the rod end and body end with a dot of black polyurethane paint as shown in Figure 13 of BT 189–080.

(iv) Thereafter, before the first flight of each day, using a mirror and a magnifying glass visually inspect each rod end and body end for a crack in the areas shown in Figure 14 of BT 189–080. If there is a crack in the rod end, before further flight, replace the rod end. If there is a crack on the body end, before further flight, replace the MR damper.

(4) Within the compliance times listed in paragraphs (e)(4)(i) and (ii) of this AD, inspect each rod end bearing and body end for bearing rotation in the damper seat. An example of rotation (misaligned slippage marks) is shown in Figure 4 of BT 189–080. If there is any bearing rotation in the rod end, before further flight, replace the rod end. If there is any bearing rotation in the body end, before further flight, replace the MR damper.

(i) For MR dampers that have accumulated less than 300 hours TIS since new or since the last overhaul, within 30 hours TIS and thereafter at intervals not to exceed 10 hours TIS.

(ii) For MR dampers that have accumulated 300 or more hours TIS since new or since the last overhaul, within 5 hours TIS and thereafter before the first flight of each day.

(5) For helicopters with an MR damper with a serial number (S/N) MCR0001 through MCR0154 and MCR0174 through MCR0195, within 30 hours TIS and thereafter at intervals not to exceed 20 hours TIS until the MR damper has accumulated 600 hours TIS, visually inspect each MR damper broached ring nut for broken teeth, proper engagement, and alignment as depicted in Figure 5 and shown in Figures 6, 7, and 8 of BT 189–080. If there is a broken tooth, improper engagement, or misalignment of the broached ring nut, before further flight, remove from service the rod end and broached ring nut.

(6) Within 50 hours TIS and thereafter at intervals not to exceed 100 hours TIS:

(i) Rotate the body end around the damper axis to put it near the middle position and determine the bearing friction torque value of the body end, using as a reference Figure 11 of BT 189–080.

Note 1 to Paragraph (e)(6)(i) of this AD: Applying too much force while rotating the body end around the damper axis may cause damage.

(A) If the torque value of the body end is more than 30.0 Nm (265.5 in lb), before further flight, replace the MR damper.

(B) If the torque value of the body end is 30.0 Nm (265.5 in lb) or less, determine the bearing friction torque value of each rod end, using as a reference Figure 11 of BT 189–080. If the torque value of the rod end is more than 30.0 Nm (265.5 in lb), before further flight, replace the rod end.

(ii) Inspect each MR damper anti-rotation block for wear by following paragraphs 4.3 through 4.3.6 of the Compliance Instructions, Part VI, of BT 189–080. If there is wear, before further flight, replace the MR damper anti-rotation block.

(7) Within 50 hours TIS:

(i) On each MR damper, replace special washer P/N 3G6220A05051 with special washer P/N 3G6220A05052.

(ii) For helicopters with an MR damper with a S/N MCR0001 through MCR0041, MCR0043, MCR0045 through MCR0151, MCR0153 through MCR0157, MCR0159 through MCR 0179, and MCR0185 through MCR0370; and for MR dampers with a rod end P/N M006–01H004–045 or P/N M006–01H004–053 installed, do the following:

(A) Inspect each broached ring for wear, bent teeth, missing teeth, and stripped threads. Pay particular attention to the four pins that engage the piston grooves. If there is any wear or damage to the broached ring, before further flight, remove from service the broached ring. An example of an acceptable broached ring is shown in Figure 4, Annex A, of BT 189–080.

(B) Align each rod end and broached ring by applying a torque of 60 Nm (531 in lb) to 80 Nm (708 in lb). If the rod end and broached ring cannot be aligned, before further flight, replace the broached ring.

(8) Except for MR dampers with a S/N MCR0042, MCR0044, MCR0152, MCR0158, and MCR0180 through MCR0184, do not install an MR damper P/N 4F6220V00251 on any helicopter unless the MR damper has passed the requirements in paragraph (e)(7)(ii) of this AD.

(f) Credit for Previous Actions

(1) Actions accomplished before the effective date of this AD in accordance with the Compliance Instructions, Part II, of Finmeccanica Bollettino Tecnico No. 189–069, dated February 12, 2016 (BT 189–069), are considered acceptable for compliance with the corresponding actions in paragraph (e)(7)(i) of this AD.

(2) Actions accomplished before the effective date of this AD in accordance with the Compliance Instructions, Part III, of BT 189–069, are considered acceptable for compliance with the corresponding actions in paragraph (e)(7)(ii) of this AD.

(g) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Section, FAA, may approve AMOCs for this AD. Send your proposal to: Matt Fuller, Senior Aviation Safety Engineer, Safety Management 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.

(h) Additional Information

(1) Finmeccanica Bollettino Tecnico No. 189–069, dated February 12, 2016, which is not incorporated by reference, contains additional information about the subject of this AD. For service information identified in this AD, contact Leonardo S.p.A. Helicopters, Emanuele Bufano, Head of Airworthiness, Viale G.Agusta 520, 21017 C.Costa di Samarate (Va) Italy; telephone +39–0331–225074; fax +39–0331–229046; or at *https://www.leonardocompany.com/en/home.* You may view the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N–321, Fort Worth, TX 76177.

(2) The subject of this AD is addressed in European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD No. 2016–0145R1, dated January 17, 2018. You may view the EASA AD on the internet at *https://www.regulations.gov* in the AD Docket.

(i) Subject

Joint Aircraft Service Component (JASC) Code: 6200, Main Rotor System.

Issued on May 14, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–10752 Filed 5–19–20; 8:45 am]

BILLING CODE 4910–13–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1695

RIN 3046–AB18

Procedural Regulations for Issuing Guidance

AGENCY: Equal Employment Opportunity Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Equal Employment Opportunity Commission (EEOC or Commission) proposes to amend its procedural regulations to establish rules for issuing guidance. These rules make guidance documents readily available to the public, ensure that guidance will be treated as non-binding, require a notice and public comment period for significant guidance, and establish a public petition process for the issuance, amendment, or repeal of guidance.

DATES: Comments must be received on or before June 19, 2020.

ADDRESSES: You may submit comments by any of the following methods—please use only one method:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions on the website for submitting comments.
- *Mail:* Comments may be submitted by mail to Bernadette B. Wilson, Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 131 M Street NE, Washington, DC 20507.

Instructions: All comments received must include the agency name or Regulatory Information Number (RIN)

for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. However, the EEOC reserves the right to refrain from posting libelous or otherwise inappropriate comments, including those that contain obscene, indecent, or profane language; that contain threats or defamatory statements; that contain hate speech directed at race, color, sex, national origin, age, religion, disability, or genetic information; or that promote or endorse services or products.

All comments received, including any personal information provided, also will be available for public inspection during normal business hours by appointment only at the EEOC Headquarters' Library, 131 M Street NE, Washington, DC 20507. Upon request, individuals who require assistance viewing comments are provided appropriate aids such as readers or print magnifiers. To schedule an appointment to inspect the comments at the EEOC's library, contact the library staff at (202) 663–4630 (voice) or 800–669–6820 (TTY). (These are not toll-free numbers.)

FOR FURTHER INFORMATION CONTACT: Robert Carter, Special Assistant, Office of Legal Counsel, (202) 663–4692 or *robert.carter@eeoc.gov.*

SUPPLEMENTARY INFORMATION: On October 9, 2019, President Donald J. Trump issued Executive Order 13891, ''Executive Order on Promoting the Rule of Law Through Improved Agency Guidance Documents.'' It directed most Federal Departments, Agencies, and Commissions to adopt policies to ensure that ''Americans are subject only to those binding rules imposed through duly enacted statutes or through regulations lawfully promulgated under them'' and that those subject to such rules shall have ''fair notice of their obligations.'' Exec. Order 13891, 84 FR 55,235 (October 9, 2019).

The Administrative Procedure Act (APA), section 553 of Title 5, United States Code, generally requires federal agencies engaged in administrative rulemaking to give public notice of proposed regulations, provide interested parties an opportunity to comment, consider and respond to significant comments, and publish final regulations in the **Federal Register**. Agencies may also clarify existing obligations through non-binding guidance documents, which the APA exempts from the notice-and-comment process.

Executive Order 13891 asserts that some agencies have used guidance in the place of regulations to avoid the APA's statutory safeguards. To address these concerns, the Executive Order requires agencies to adopt regulations that make guidance documents more readily available to the public, better ensure that guidance will be treated as non-binding, require a notice and public comment period for significant guidance, and establish a public petition process for the issuance, amendment, or repeal of guidance.

This proposal seeks to create a new section, 29 CFR part 1695, to address the requirements of Executive Order 13891 and the Office of Management and Budget's explanation of these requirements in Memorandum M–20–02. The requirements of this proposed EEOC regulation apply to EEOC guidance documents as defined herein; they do not apply to or otherwise replace the requirements of the APA and associated Executive Orders for regulations or rules. The definitions, requirements, and procedures for issuing guidance, adopted in §§ 1695.1 through 1695.6 of the proposed rule, are modeled on sections 2 and 4 of Executive Order 13891. The adoption of a public petition process for the issuance, amendment, or repeal of guidance in § 1695.7 of the rulemaking is mandated by section 4(a) of Executive Order 13891. The requirement in § 1695.08 of posting of all existing guidance on the Commission website in a single, searchable, indexed database is consistent with section 3(a) of the Executive Order. (The EEOC launched this web page on February 28, 2020.) The prohibition in § 1695.9 against the agency citing to rescinded guidance, except for historical purposes, reflects the requirements of section (3)(b) of Executive Order 13891, and the disclaimer of judicial or enforceable rights in regulation § 1695.10 reflects section 7 of the Executive Order.

Regulatory Procedures

Executive Order 12866

The proposed rule will only govern the internal practices of the EEOC. It will not have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The proposed rule also will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency, nor will it materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof. Furthermore, it will not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866. In consequence, this rule is not a ''significant regulatory action'' within the meaning of section 3 of Executive Order 12866.

Paperwork Reduction Act

This regulation contains no new information collection requirements subject to review by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

Regulatory Flexibility Act

The Commission certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities because it primarily affects EEOC internal procedure. To the extent that it does affect small entities, it provides free access to all EEOC guidance documents, which may conserve their resources. Further, allowing small employers advance notice of significant guidance, and an opportunity to comment on proposed significant guidance, gives small employers a greater opportunity to have their concerns heard and addressed before documents are finalized.

Unfunded Mandates Reform Act of 1995

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

Congressional Review Act

While this action concerns agency procedure that does not substantially affect the rights or obligations of non-agency parties and, accordingly, is not a ''rule'' as that term is used by the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)), the Commission will still follow the reporting requirement of 5 U.S.C. 801.

List of Subjects in 29 CFR Part 1695

Administrative practice and procedure, Equal Employment Opportunity for the Commission.

Janet Dhillon,

Chair.

■ Accordingly, the EEOC proposes to add 29 CFR part 1695 to read as follows:

PART 1695—GUIDANCE PROCEDURES

Sec.
1695.0 Applicability
1695.1 Definitions.
1695.2 Guidance requirements.
1695.3 Good faith cost estimates.
1695.4 Significance determination.
1695.5 Significant guidance requirements.
1695.6 Notice and public comment.
1695.7 Petitions.
1695.8 Public access to current guidance documents.
1695.9 Rescinded guidance.
1695.10 No judicial review or enforceable rights.

Authority: E.O. 13891, 84 FR 55235; OMB Memorandum M–20–02.

§ 1695.0 Applicability.

This part prescribes general procedures that apply to guidance documents of the Equal Employment Opportunity Commission (EEOC or Commission) under all statutes enforced by the Commission.

§ 1695.1 Definitions.

(a) *Guidance document* means any statement of Commission policy or interpretation concerning a statute, regulation, or technical matter within its jurisdiction that is intended to have general applicability and future effect, but which is not intended to be binding in its own right 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. The term is not confined to formal written documents, and may include letters, memoranda, circulars, bulletins, advisories that set forth for the first time a new regulatory policy. It may also include equivalent video, audio, and Web-based formats. This definition does not apply to:

(1) Rules promulgated pursuant to notice and comment requirements under 5 U.S.C. 553 or similar statutory provisions.

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

(3) Rules of Commission organization, procedure, or practice;

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

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

(6) Commission statements of specific applicability, including advisory or legal opinions directed to particular parties about circumstance-specific questions, notices regarding particular locations or facilities, and correspondence with individual persons or entities;

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

(8) Commission 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, PowerPoint slides, editorials, media interviews, press materials, or congressional testimony that do not set forth for the first time a new regulatory policy;

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

(10) Grant solicitations and awards;

(11) Contract solicitations and awards; or

(12) Purely internal Commission policies or guidance directed solely to EEOC employees or contractors or to other Federal agencies that are not anticipated to have substantial future effect on the behavior of regulated parties outside of the government; for example, Volume I of the Commission's Compliance Manual, which is only for internal use.

(b) *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. It does not include any other category of guidance documents exempted in writing by OMB's Office of Information and Regulatory Affairs (OIRA).

§ 1695.2 Guidance requirements.

(a) Each guidance document shall comply with all relevant statutes and regulations.

(b) It shall be written in plain and understandable English and avoid using mandatory language, such as ''shall,'' ''must,'' ''required,'' or ''requirement,'' unless the language describes an established statutory or regulatory requirement or is addressed to EEOC staff and will not foreclose the Commission's consideration of positions advanced by affected private parties;

(c) It shall identify or include:

(1) The term ''guidance'' or its functional equivalent and that the Commission is issuing the document;

(2) A unique identifier that provides information on whether the document was subject to a vote (CV) or not (NVTA), the year of issuance, and unique number of its issuance and, if applicable, a Z–RIN;

(3) The activity or entities to which the guidance applies;

(4) A short summary of the subject matter covered in the guidance document at the top of the document.

(5) 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

(6) Citations to applicable statutes and regulations;

(7)(i) A clear and prominent statement of the following: ''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 Commission policies.''

(ii) When binding guidance is authorized by law or is incorporated into contract, the guidance statement in paragraph (c)(7)(i) of this section may be modified to reflect either of those facts.

(d) If the guidance document sets forth the Commission's position on a legal principle for the first time or changes the Commission's legal position on any issue, the Commission must approve the guidance document by majority vote. Any significant guidance or guidance that is otherwise subject to notice and comment procedures must be approved by a Commission vote. Any guidance document that requires a vote of the Commission to be approved shall be circulated to the Commissioners, and, if approved, shall be signed by the Chair on behalf of the Commission. If the document is not setting forth a new or changed legal position, is reiterating already established Commission policies, or is otherwise simply providing technical assistance on the laws the Commission enforces without announcing any new policy or legal position, it shall be circulated to the Commission for informational purposes for a period of not less than five days, unless emergency circumstances do not allow, and shall only require approval, but not signature, by the Chair.

§ 1695.3 Good faith cost estimates.

(a) A good faith effort shall be made, to the extent practicable, to estimate the likely economic cost impact of the guidance document to determine whether the document might be significant. It may, however, be difficult to predict with precision the economic impact of voluntary guidance.

(b) When determining the likely economic cost impact, the same level of analysis should be given as that required for a major determination under the Congressional Review Act (5 U.S.C. 801 *et seq.*) and the economic impact on small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

§ 1695.4 Significance determination.

(a) Prior to issuance, the Commission shall provide OIRA with an opportunity to review a guidance document to determine if it meets the definition of ''significant guidance document.''

(b) If the guidance document is determined not to be significant, the Commission shall proceed with issuance of the guidance without going through the procedures described in section 1695.05.

(c) In emergency situations, or when required by statutory deadline or court order to act more quickly than normal review procedures allow, the Chair shall notify OIRA as soon as possible and, to the extent practicable, comply with the requirements of this subpart at the earliest opportunity.

§ 1695.5 Significant guidance requirements.

(a) Each proposed significant guidance document shall be:

(1) Approved by the Commission before issuance and assigned a Z–RIN through the Regulatory Management System (RMS), or a successor data management system.

(2) Comply with the applicable requirements for regulations, including significant regulatory actions, in E.O. 12866, E.O. 13563, E.O. 13609, E.O. 13771, and E.O. 13777.

(3) Submitted to OMB for coordinated review. Proposed guidance documents that are otherwise important to the Commission's interests may also be submitted for review.

(4) Reviewed by OIRA under E.O. 12866 before issuance.

(b) The Chair may determine that it is appropriate to coordinate with OMB in the review of guidance documents that are otherwise of importance to the Commission's interests.

§ 1695.6 Notice and public comment.

(a) Each proposed significant guidance document shall have a period of notice and public comment of at least 30 days, unless the Commission, in consultation with OIRA, finds good cause that such notice and public comment are impracticable, unnecessary, or contrary to the public interest, and incorporates such finding and a brief statement of reasons therefor into the guidance document.

(b) Notice shall be published in the **Federal Register** announcing that a draft of the proposed guidance document is publicly available on the Federal e-regulation website, and the proposed significant guidance document also shall be posted on the Commission website.

(c) The Commission shall prepare and post a public response to major concerns raised in the comments, as appropriate, either before or when the significant guidance document is finalized and issued.

(d) When appropriate, the Chair may determine that a guidance document that is not otherwise required to go through notice and public comment shall also be subject to a period of public comment following the document's approval by the Commission before the document becomes effective.

(e) Unless otherwise determined in writing by the Chair, upon issuing a significant guidance document, a report shall be submitted to Congress and GAO in accordance with the procedures described in 5 U.S.C. 801 (the ''Congressional Review Act'').

§ 1695.7 Petitions.

(a) Any interested person may petition the Commission, in writing, for the issuance, amendment, or repeal of a guidance. Such petition shall state the guidance, regulation, or rule, together with a statement of grounds in support of such petition.

(b) Petitions may be filed with the EEOC, Office of Executive Secretariat, either electronically at the EEOC guidance portal, *http://www.eeoc.gov/guidance,* or in hard copy to U.S. Equal Employment Opportunity Commission, Executive Secretariat, 131 M Street NE, Washington, DC 20507.

(c) Upon the filing of such petition, the Commission shall consider the same and may thereupon either grant or deny the petition in whole or in part, conduct an appropriate proceeding thereon, or make other disposition of the petition.

(d) The Commission should respond to all petitions in a timely manner, but no later than 90 days after receipt of the petition, as to how it intends to proceed. Should the petition be denied in whole or in part, prompt notice shall be given of the denial, accompanied by a simple statement of the grounds unless the denial be self-explanatory.

(e) The issuance, amendment, or repeal of a guidance in response to a petition shall be considered by the Commission pursuant to its regular procedures.

§ 1695.8 Public access to current guidance documents.

(a) All current guidance documents shall be published with a unique identifier including, at a minimum, the document's title, date of issuance or revision, and its Z–RIN (if applicable).

(b) All current guidance documents shall made available through a single ''guidance portal'' on the Commission website, together with a single, searchable, indexed database available to the public;

(c) The guidance portal shall include a statement that guidance documents lack the force and effect of law, except as authorized by law or as incorporated into a contract;

(d) The Commission shall maintain and advertise on its website a means for the public to comment electronically on any guidance documents that are subject to the notice and comment procedures described in § 1695.6 and to submit requests electronically for issuance, reconsideration, modification, or rescission of guidance documents in accordance with § 1695.7; and

(e) Designate an office to receive and address complaints from the public that the Commission is not following the relevant requirements for issuing guidance or is improperly treating a guidance document as a binding requirement.

§ 1695.9 Rescinded guidance.

The Commission shall not cite, use, or rely on guidance documents that are rescinded, except to establish historical facts.

§ 1695.10 No judicial review or enforceable rights.

This part is intended to improve the internal management of the Commission. As such, it is for the use of EEOC 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.

[FR Doc. 2020–09813 Filed 5–19–20; 8:45 am]

BILLING CODE 6570–01–P

POSTAL SERVICE

39 CFR Part 501

Authorization To Manufacture and Distribute Postage Evidencing Systems

AGENCY: Postal Service™.

ACTION: Proposed rule.

SUMMARY: The Postal Service proposes to withdraw all authorizations to distribute Postage Evidencing Systems (PES) that are not producing compliant Intelligent Mail Indicia (IMI) on June 30th, 2024. IMI compliant PES are defined in the IMI Performance Criteria (IMIPC) and produce only IMI-Minimum (IMI-MIN), IMI-Standard (IMI-STD), and IMI-Maximum (IMI-MAX) indicia constructs (as stated in the Performance Criteria). All PES that are not IMIPC compliant, also referenced as Phase VI–IBI and Phase VII–PC Postage, will become Decertified PES on that date, and the Postal Service will withdraw the provider's authority to distribute Decertified PES. Postage indicia printed by Decertified PES will no longer be considered valid postage one hundred and eighty (180) days after June 30th, 2024.

DATES: Comments must be received on or before June 19, 2020.

ADDRESSES: Mail or deliver written comments to: Director, Commercial Payment, 475 L'Enfant Plaza SW, Room 3500, Washington, DC 20260. Emailed and faxed comments will not be accepted. You may inspect and photocopy all written comments, by appointment only, at the USPS Headquarter Library, 475 L'Enfant Plaza SW, 11th Floor North, Washington, DC 20260. These records are available for review on Monday through Friday, 9 a.m. to 4 p.m., by calling (202) 268–2904. All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: Ezana Dessie, Principal Business Systems Analyst, *Ezana.Dessie@usps.gov*, 202–268–5686.

SUPPLEMENTARY INFORMATION: The USPS (through regulations) manages the authorization, manufacturing, distribution, and decertification of Postage Evidencing Systems (PES); in addition, it establishes the PES Performance Criteria (PC). In 2000, the USPS implemented the first PES PC using the Information Based Indicia Program (IBIP); the IBIP started the movement from physical to digital PES transition. On February 4th, 2013, the USPS published an updated PES PC, the Intelligent Mail Indicia Performance Criteria (IMI-PC). Since its publication, the IMI-PC has undergone multiple updates; the current version in use is IMI-PC 1.5C, which was released on February 19th, 2019.

The Phase VI and Phase VII meters rely on the IBIP, which is an indicia format established over 19 years ago. Phase VI meters (both Closed and Open) are postage systems set exclusively via a modem or the internet, where a 2D barcode utilizing National Institute of Standards and Technology (NIST)-certified digital signatures provides integrity and authenticity to the postage evidence imprint. The Phase VII meters are postage systems wherein postage transactions created via Postal Security Devices (PSD) are approved under the IBIP and located within the Provider's infrastructure and the indicia; postage paid evidence is delivered via the internet to the remote user.

Phase VI and Phase VII PES no longer meet the USPS PES requirements adequately. The decertification of the Phase VI and Phase VII PES will allow for the full implementation of Phase VIII–IMI PES, in which both PC Postage and physical PES are validated under the current edition of the IMI-PC. The implementation of the IMI-PC was announced in the **Federal Register** on February 4th, 2013 (Vol. 78, No. 23, pages 7820–7821). In that notice, the Postal Service set forth an implementation schedule which stated new PES submissions after October 1st, 2013 must adhere to the then-currently effective IM-PC.

The Postal Service expected providers to update their systems to adhere to the IMI-PC within a few years after the publication of IMI-PC. However, little progress was made since 2013, until recently. Some providers did make great strides in IMI-PC compliance over the past three years, while others are still in the initial stage of their compliance work. This disparity has led to unequal PES compliance management/enforcement and in some instances afforded providers an unanticipated opportunity to market their non-compliant PES as a customer selling point.

In recent months, Commercial Payment has engaged with the providers to understand their short-term and long-term strategies to fully implement PESs that are compliant with the IMI-PC as well as to review their plans for phasing out non-compliant PES. After assessing the providers' input, weighing the USPS business/service needs, and determining potential impact to our customers, the Postal Service believes it has struck a balance between these competing objectives by setting June 30th, 2024 as the decertification date for non-IMI-PC-complaint PESs. This target date allows the providers to plan and execute their PES decertification for Phase VI and Phase VII PES (meters) with minimal impact to customers as they transition IBI PC Postage PES to IMI-PC compliant PES.

List of Subjects in 39 CFR Part 501

Administrative practice and procedure, Postal Service.

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

PART 501—[AMENDED]

■ 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 § 501.7 by revising paragraph (c) to read as follows:

§ 501.7 Postage Evidencing System requirements.

* * * * *

(c) The provider must ensure that any matter printed by a Postage Evidencing System, whether within the boundaries of the indicia or outside the clear zone as defined in DMM 604.4.0 and the Intelligent Mail Performance Criteria (IMI-PC), is:

* * * * *

■ 3. Amend § 501.20 by revising paragraph (b) to read as follows:

§ 501.20 Discontinued Postage Evidencing Indicia.

* * * * *

(b) Effective June 30, 2024, all Postage Evidencing Systems will be required to produce Intelligent Mail Indicia (IMI) for evidence of pre-paid postage. Non-IMI indicia, which are not compliant with the then-current version of the IMI-PC, will be decertified and may not be used as a valid form of postage evidence. These decertified indicia may not be recognized as valid postage after December 27, 2024.

Joshua J. Hofer,

Attorney, Federal Compliance.

[FR Doc. 2020–10245 Filed 5–19–20; 8:45 am]

BILLING CODE 7710–12–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0 and 64

[CG Docket No. 20–93; FCC 20–57; FRS 16748]

Protecting Consumers From One-Ring Scams

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (FCC or Commission) proposes rules to implement section 12 of the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act) to protect consumers from one-ring scams.

DATES: Comments are due on or before June 19, 2020 and reply comments are due on or before July 6, 2020.

ADDRESSES: You may submit comments, identified by CG Docket No. 20–93, by any of the following methods:

- *Federal Communications Commission: https://www.fcc.gov/ecfs.filings.* Follow the instructions for submitting comments.
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first class, Express, and Priority mail must be addressed to 445 12th Street SW, Washington, DC 20554.
- *Effective March 19, 2020, and until further notice,* the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID–19. *See* FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy, Public Notice, DA 20–304 (March 19, 2020), *https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy.*

People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

FOR FURTHER INFORMATION CONTACT: Mika Savir of the Consumer Policy Division, Consumer and Governmental Affairs Bureau, at *mika.savir@fcc.gov* or (202) 418–0384.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking, FCC 20–57, CG Docket No. 20–93, adopted on April 24, 2020, and released on April 28, 2020. The full text of this document is available online at *https://docs.fcc.gov/public/attachments/FCC-20-57A1.pdf.* To request this document in accessible formats for people with disabilities (*e.g.,* Braille, large print, electronic files, audio format) or to request reasonable accommodations (*e.g.,* accessible format documents, sign language interpreters, CART), 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). This matter shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's ex parte rules. 47 CFR 1.1200 *et seq.* Persons making oral ex parte presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. *See* 47 CFR 1.1206(b). Other rules pertaining to oral and written ex parte presentations in permit-but-disclose proceedings are set forth in § 1.1206(b) of the Commission's rules, 47 CFR 1.1206(b).

Initial Paperwork Reduction Act of 1995 Analysis

The NPRM, FCC 20–57, seeks comment on proposed rule amendments that may result in modified information collection requirements. If the Commission adopts any modified information collection requirements, the Commission will publish another notice in the **Federal Register** inviting the public to comment on the requirements, as required by the Paperwork Reduction Act. Public Law 104–13; 44 U.S.C. 3501–3520. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, the Commission seeks comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees. Public Law 107–198; 44 U.S.C. 3506(c)(4).

Synopsis

1. In the NPRM, the Commission proposes to implement section 12 of the Pallone-Thune TRACED Act. Section 12 of the TRACED Act directs the Commission to consider taking additional steps to protect called parties from a type of illegal call known as the one-ring scam. In this scam, consumers in the United States receive a call from a foreign country and after one ring, the scammer hangs up, causing the consumer to call back and incur phone charges.

2. In the NPRM, the Commission seeks comment on how to implement section 12(b)(1) of the TRACED Act by working with federal, state, and foreign law enforcement and other government agencies. How can the Commission further enhance the coordination efforts with federal, Tribal, state, and local partners on one-ring scams more specifically? Which agencies should the Commission work with?

3. The Commission seeks comment on how to implement section 12(b)(2) of the TRACED Act to work with governments of foreign countries to address one-ring scams as the scams originate in other countries. Which foreign governments should the Commission work with? How can the Commission best work with these governments to protect consumers from one-ring scams? Might the Federal Trade Commission's (FTC's) work on robocall enforcement with India prove instructive?

4. Section 12(b)(3) of the TRACED Act requires the Commission to consider how, in consultation with the FTC, to better educate consumers about how to avoid one-ring scams. How can the Commission build upon current consumer education materials and efforts? Are there ways the Commission can enhance messaging to give consumers more effective information and advice? How can the Commission further collaborate with partners at the FTC?

5. Section 12(b)(4) of the TRACED Act requires the Commission to consider ways to incentivize voice service providers to stop calls that perpetrate one-ring scams from being received by called parties, including consideration of adding identified one-ring scam-type numbers to the Commission's existing list of permissible categories for carrier-initiated blocking. The Commission proposes to allow voice service providers to block all calls from phone numbers associated with one-ring scams (or purporting to be from such numbers). Is there a method, other than reasonable analytics, by which voice service providers can identify one-ring scam calls? How can the Commission encourage voice service providers to block one-ring scam calls?

6. Section 12(b)(5) of the TRACED Act requires the Commission to consider how it can work with entities that provide call blocking services to address one-ring scams. Might STIR/SHAKEN offer enhanced protection against one-ring scams? How should the

Commission work with analytics companies and voice service providers to stop one-ring scam calls?

7. Section 12(b)(6) of the TRACED Act requires the Commission to consider how it can establish obligations on international gateway providers that are the first point of entry for these calls into the United States, including potential requirements that such providers ''verify with the foreign originator the nature or purpose of calls before initiating service.'' What technical processes do gateway providers have to identify traffic that is likely to be illegal? How might gateway providers go about determining ''the nature and purpose'' of calls? Should the Commission codify a rule that enables voice service providers to block traffic from an international gateway provider that fails to block calls from numbers known to be used in one-ring scams? Would labeling calls be a useful alternative to blocking?

Initial Regulatory Flexibility Analysis

8. The Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this NPRM. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM. The Commission will send a copy of the NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

9. *Need for, and Objectives of, the Proposed Rules.* The NPRM seeks comment on ways to implement section 12 of the TRACED Act, to prevent consumers from a type of scam called the one-ring scam.

10. Section 12 of the TRACED Act requires the Commission to initiate a proceeding to protect consumers from one-ring scams and to consider the following ways: Work with federal and state law enforcement agencies; work with the governments of foreign countries; in consultation with the FTC, better educate consumers about how to avoid one-ring scams; encourage voice service providers to stop one-ring scam calls, including adding identified one-ring scam-type numbers to the list of permissible categories for carrier-initiated blocking; work with entities that provide call-blocking services to address one-ring scams; and establish obligations on international gateway providers, including potential requirements that such providers verify with the foreign originator the nature or purpose of calls before initiating service.

11. The NPRM seeks comment on how to implement section 12 of the TRACED Act and proposes rules to permit voice service providers to block calls made from numbers associated with the one-ring scam.

12. *Legal Basis.* The proposed rules are authorized under the TRACED Act, 154(i), 201, 202, 227, 251(e), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 201, 202, 227, 251(e), 403.

13. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements.* The NPRM seeks comment on proposed rules to implement the TRACED Act. The NPRM does not propose reporting or recordkeeping requirements.

14. *Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered.* The proposed rules allow voice service providers, including small entities, to block calls from numbers associated with one-ring scams.

15. *Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules.* None.

List of Subjects in 47 CFR Part 64

Communications common carriers, Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 part 64 as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

■ 1. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 154, 201, 202, 217, 218, 220, 222, 225, 226, 227, 227(b), 228, 251(a), 251(e), 254(k), 262, 403(b)(2)(B), (c), 616, 620,1401–1473, unless otherwise noted, Pub. L. 115–141, Div. P, sec. 503, 132 Stat. 348, 1091.

§ 64.1200 [Amended]

■ 2. Amend § 64.1200 by revising paragraph (k)(2)(iv) to read as follows:

§ 64.1200 Delivery Restrictions

* * * * *

(k) * * *

(2) * * *

(iv) A telephone number that is highly likely to be associated with the ''one-ring scam,'' which is defined as ''a scam in which a caller makes a call and allows the call to ring the called party for a short duration, in order to prompt the called party to return the call, thereby subjecting the called party to charges.''

* * * * *

[FR Doc. 2020–10347 Filed 5–19–20; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 171, 172, 173, 174, 177, 178, 179, 180

[Docket No. PHMSA–2016–0077 (HM–251D)]

RIN 2137–AF24

Hazardous Materials: Vapor Pressure of Unrefined Petroleum Products and Class 3 Materials

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Advance notice of proposed rulemaking (ANPRM); withdrawal.

SUMMARY: PHMSA is withdrawing the January 18, 2017, ANPRM concerning vapor pressure for crude oil transported by rail. PHMSA's decision is based on comments received to the ANPRM, as well as an extensive study conducted by the Sandia National Laboratories which found that the vapor pressure of crude oil is not a significant factor in the severity of pool fire or fireball scenarios, and concluded that results of the study do not support creating a regulatory distinction for crude oils based on vapor pressure. In withdrawing the ANPRM, PHMSA is providing notice of its determination that the establishment of vapor pressure limits would not improve the safety of rail transportation of crude oil. Therefore, PHMSA is no longer considering vapor pressure limits for the transportation of crude oil by rail or any other mode. Furthermore, PHMSA is also providing notice that, after considering comments received to the ANPRM, it is no longer considering imposing vapor pressure standards for other unrefined petroleum-based products and Class 3 flammable liquid hazardous materials by any mode.

DATES: As of May 20, 2020, the ANPRM published on January 18, 2017 (82 FR 5499), is withdrawn.

FOR FURTHER INFORMATION CONTACT: Lad Falat, Sciences, Engineering, and Research (PHH–20), Telephone (202)

366–4545, or Ryan Larson, Standards and Rulemaking Division (PHH–10), Telephone (202) 366–8553. U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE, East Building, 2nd Floor, Washington, DC 20590–0001.

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I. Background

A. PHMSA Regulation of High-Hazard Flammable Trains

On May 8, 2015, PHMSA published a final rule titled ''Hazardous Materials: Enhanced Tank Car Standards and Operational Controls for High-Hazard Flammable Trains'' [HM–251; 80 FR 26643]. The final rule addressed safety concerns that arose following high-profile rail incidents involving crude oil produced in the Bakken region of the United States.[1] The HM–251 rulemaking targeted the hazards associated with the shipment of flammable liquids by rail by establishing enhanced standards for the tank cars used to transport Class 3 flammable liquids, operational controls in the form of reduced operating speeds and enhanced braking requirements, rail routing risk assessment and notification, and requirements for more accurate classification of unrefined petroleum-based products. In the HM–251 notice of proposed rulemaking (NPRM) [79 FR 45015], that preceded the May 8, 2015 final rule, PHMSA sought comments from the public on the appropriate role of vapor pressure in classifying flammable liquids and selecting packagings, including the threshold question regarding whether vapor pressure limits should be established. After reviewing the comments to the NPRM, PHMSA determined that additional research was necessary, and accordingly, PHMSA decided not to establish new vapor pressure requirements in the final rule. However, PHMSA expressed its intent to consider the issues raised by the commenters in a future regulatory action depending upon the outcome of extensive research efforts being undertaken by the Department.

B. North Dakota Order

In December 2014, as PHMSA was in the process of developing the HM–251 final rule, the North Dakota Industrial Commission (NDIC) issued Oil Conditioning Order No. 25417 (NDIC Order), which requires operators in the State of North Dakota to separate the gaseous and light hydrocarbons from all Bakken crude oil produced in North Dakota. The NDIC Order requires the use of a gas-liquid separator and/or an emulsion heater-treater capable of separating the gaseous and liquid hydrocarbons; prohibits blending of Bakken crude oil with specific materials; and requires crude oil produced to have a vapor pressure (determined using ASTM D6377 [2]) no greater than 13.7 pounds per square inch (psi), or 1 psi less than the vapor pressure of stabilized crude oil as defined in the latest version of ANSI/API RP3000.

C. New York Petition

On December 1, 2015, the New York State Office of the Attorney General (NYSOAG) submitted a petition for rulemaking (P–1669) requesting PHMSA establish a vapor pressure standard for crude oil shipped by rail [PHMSA–2015–0253–0001 (Dec. 3, 2015)]. Although PHMSA codified several additional safety requirements in the HM–251 final rule, the NYSOAG petition asserted that the measures implemented by the final rule were insufficient to reduce significantly the risk of high impact fires or explosions because they did not specifically address vapor pressure limits. The NYSOAG petition requested that PHMSA revise § 174.310 to establish a Reid Vapor Pressure (RVP) limit that is less than 9.0 psi for crude oil transported by rail. The NYSOAG petition asserted that limiting the product's vapor pressure would reduce the risk of death or damage from fire or explosion in the event of an accident. While the NYSOAG petition did not provide any specific cost data, the petitioner cited increasing numbers of shipments of Bakken crude oil by rail, past train explosions involving shipments of Bakken crude oil, Bakken crude oil volatility and flammability, and the presence of existing technology to reduce the volatility of crude oil as justification for the requested revisions to the Hazardous Material Regulations (HMR; Parts 171–180).

D. Advance Notice of Proposed Rulemaking

On January 18, 2017, PHMSA published an ANPRM [HM–251D; 82 FR 5499] in response to the NYSOAG petition. The ANPRM solicited public comments on the merits of the petition based on the perceived safety benefits of establishing vapor pressure limits for unrefined petroleum-based products and potentially all Class 3 flammable liquid hazardous materials. PHMSA posed 39 questions requesting specific information regarding the options for, as well as the benefits of, limiting vapor pressure in transportation. PHMSA sought public comment to obtain the views of entities impacted by the NDIC Order, as well as those who were likely to be impacted by the changes requested in the NYSOAG petition, including those likely to benefit from, be adversely affected by, or potentially be subject to additional regulation.

i. Overview of ANPRM Comments

In response to the HM–251D ANPRM, PHMSA received comments from approximately 80 individuals and organizations. The following table categorizes the comments received according to commenters' background.

[1] The Bakken shale formation, a subsurface formation within the Williston Basin (spanning eastern Montana, western North Dakota, South Dakota, and southern Saskatchewan), is one of the top oil-producing regions in the country and in the world. The Bakken shale formation's low permeability (*i.e.,* it is a ''tight'' formation) requires hydraulic fracturing to produce oil (so-called ''tight oil'') at commercial rates.

[2] ASTM D6377 refers to ''ASTM D6377—Standard Test Method for Determination of Vapor Pressure of Crude Oil: VPCRx (Expansion Method).''

COMMENTERS TO THE ANPRM

Commenters' background	Number of comments	Description and examples of category
Non-Government Organizations	10	Environmental groups (2), Advocacy/lobby groups (5), and other non-governmental organizations (3).
Governments	6	Local (2), State (4).
Individuals	54	
Carrier Industry Stakeholders	4	Carrier related trade associations.
Shipper Industry Stakeholders	9	Shippers and petroleum related trade associations.

PHMSA asked specific questions regarding the general benefits, limitations, and impacts of establishing a maximum vapor pressure for crude oil or flammable liquids; the safety implications at play when considering the proposed vapor pressure standard; the merit and methods of measuring vapor pressure for transportation purposes; and general packaging questions. While the NYSOAG petition specifically requested that PHMSA set a vapor pressure standard for crude oil by rail, PHMSA solicited comment in the ANPRM about whether the scope of the safety standard should be broadened to include other Class 3 flammable liquids by different modes of transportation, such as highway. The ANPRM also asked whether risk factors other than vapor pressure should be considered in PHMSA's effort to increase the safety of transporting flammable liquids.

Most comments fit within one of three categories: (1) Generalized support for a maximum vapor pressure limit with expressed concerns about the associated risks of transporting unrefined petroleum-based products in highly populated areas and sensitive environments; (2) not supportive of maximum vapor pressure limits citing to a lack of evidence demonstrating that limiting vapor pressure would reduce risks associated with the transport of unrefined petroleum-based products or other Class 3 materials and suggesting that PHMSA should wait until the completion of a study on crude oil characteristics recently undertaken by Sandia National Laboratories (Sandia) before undertaking any rulemaking; or (3) not supportive of vapor pressure requirements being applied to shipments by highway.

ii. Comments in Support of the Vapor Pressure Standard

Approximately 60 commenters generally supported setting additional safety standards for the transportation of crude oil that would be based on specific measurable metrics, such as vapor pressure. Most commenters who expressed their support for the proposed RVP standard stated that a lower vapor pressure would minimize the severity of fires in the event of a train crash or derailment. Several commenters asserted that there is ample evidence demonstrating that a higher RVP corresponds to more detrimental explosions. However, the comments in support of this claim were ultimately anecdotal, providing little to no data to substantiate any such correlation. Most of the comments supporting the implementation of a vapor pressure standard were submitted by members of the public who were concerned about the effects that an accident in their community would have on the surrounding environment and personal property.

Most of the commenters in favor of vapor pressure limits expressed support for a vapor pressure limitation for crude oil by rail specifically. Many of these commenters referenced the conditioning requirements in the NDIC Order as evidence of the feasibility and necessity of implementing an RVP standard and encouraged PHMSA to follow suit. While many supporters of a vapor pressure standard were in favor of the standard proposed in the NYSOAG petition, some suggested that the standard should be as low as 4.0 psi. These commenters alluded to certain practices and requirements currently in place in the oil production industry that require reducing the volatility of crude, such as pipeline operational standards and degasification requirements in place in Texas. One such commenter recommended setting a standard between 4–8 psi.

Similarly, commenters from David & Associates and the Natural Resources Defense Council (NRDC) pointed to certain national and State vapor pressure limitations that are in place for gasoline as evidence of the merit and feasibility of nationwide vapor pressure restrictions—stating that the restrictions would reduce the consequences of a potential incident by reducing the release of evolved gases from the transported product. However, David & Associates conceded that those restrictions were implemented with the intent of minimizing the pollution associated with volatile organic emissions rather than with the intention of mitigating safety risks during transportation. NRDC further urged PHMSA to set an interim standard until all necessary data is collected, rather than setting a permanent standard without sufficient evidence.

A small number of commenters stated that if a vapor pressure standard is implemented, it should not apply to transportation by highway. One commenter from the Scenic Hudson Group noted that the safety hazards by rail outlined in the NYSOAG petition are also concerns for shipments carried out on waterways, such as the Hudson River. One member of the public was in favor of setting the vapor pressure limit for all modes of transportation.

A commenter from the Department of Environmental Conservation of New York was in support of additional safety measures other than a vapor pressure limit for shipments of crude oil and suggested that direct limits on C1–C4 hydrocarbons would be more effective than restricting vapor pressure.

A comment jointly submitted by the Attorneys General of New York, California, Illinois, Maine, Maryland, and Washington (State AGs) supported a nationwide limit on the vapor pressure of crude oil transported by rail in the United States, noting that PHMSA is not required to determine that vapor pressure is the ''best metric'' to use in decreasing fire and explosion risks before developing a vapor pressure regulation.

iii. Comments Opposed to Vapor Pressure Standards

Twenty-one commenters strongly opposed the proposed vapor pressure limitations on either crude oil or other Class 3 flammable liquids by highway or rail. Some commenters completely rejected the use of vapor pressure as a basis for classification, while others suggested that PHMSA wait until the completion of the Sandia Study after which data regarding the volatility of crude oil would be available. Several commenters noted the lack of empirical data to support the claims in the

petition. PHMSA further categorized the comments received under the following topic areas.

Vapor Pressure

Several commenters rejected the premise of the NYSOAG petition and the concept that the volatility of crude oil is the primary cause of large explosions and uncontrollable fires in train accidents. In their comments, American Fuel & Petrochemical Manufacturers (AFPM), American Petroleum Institute (API), and NDIC similarly assert that vapor pressure is not the primary cause of ignition in crude oil by rail accidents. Instead, these commenters attributed the fires associated with the rail incidents cited in petition P–1669 to the presence of a flammable substance and source of ignition during the accidents. Commenters—such as the International Liquid Terminals Association (ILTA) and API—echoed that reducing the volatility of crude oil prior to shipment would not decrease the expected degree, consequence, or magnitude of a release or the likelihood of a fire during an accident since the magnitude of a combustion event correlates to the flammability, rather than the vapor pressure, of the hazardous liquid released. To further the point, AFPM noted that there are several Class 3 flammable liquids that have low vapor pressures that present similar ignition risks to Bakken or Permian Basin crude oil and other unrefined petroleum-based products. API also expressed its belief that focusing on vapor pressure to mitigate or reduce severity would not achieve the desired results and, that if implemented, the rule would not significantly reduce the primary hazard of crude oil, since it would still be a flammable liquid regardless of the vapor pressure. API further stated that the more volatile compounds would have to be removed from crude oil and transported in pressurized tank cars or pipelines as a separate stream of flammable liquids or gases if a vapor pressure limit is set below current levels.

Several commenters cited the petition's lack of evidence or other scientific basis for its claim that reducing vapor pressure will improve safety. ILTA stated that there was no basis for the assertion that limiting the vapor pressure of crude oil prior to shipment would decrease the expected degree, consequence, or magnitude of a release or the likelihood of a fire during an accident. Similarly, the North Dakota Petroleum Council (NDPC) noted that there are currently no peer reviewed scientific studies supporting the belief that an appropriate level for vapor pressure is already known. API further recommended investing in and improving the methods for transporting crude safely, rather than imposing new unilateral RVP limits that are not based on any scientific evidence.

Other commenters stated that applying a vapor pressure limit to all modes would materially alter the products being transported and could have many unintentional consequences that could potentially disrupt the oil and natural gas supply chain, which would require both the industry and PHMSA to reevaluate the current system to determine whether the packaging specifications were still appropriate for a materially altered product.

All Class 3 Flammable Liquids

Certain commenters specifically opposed the proposal to extend vapor pressure limits to all Class 3 flammable liquids. Dow Chemical stated that establishing a vapor pressure limit to encompass all flammable liquids by any mode of transportation would not improve the safe transportation of chemical products. Their comment reiterated the point made by several other commenters that the HMR already address the risk of flammability based on the material's flashpoint and boiling point. Currently the HMR designate a liquid as ''flammable'' if it has a flash point of not more than 60 °C, regardless of vapor pressure.

API cautioned that imposing a vapor pressure limit for all Class 3 flammable liquids has potential to change fundamentally how all these products are classified and packaged. The American Coatings Associations (ACA) and Railway Supply Institute (RSI) added that crude oil presents unique risks because of its variable chemical properties that do not extend to [are not exhibited with] other Class 3 flammable liquids, such as manufactured goods which undergo strict quality assurance processes to ensure properties and characteristics are within defined parameters.

The Council on Safe Transportation of Hazardous Articles (COSTHA) opposed applying a vapor pressure standard to other Class 3 materials based on investigation and studies regarding crude oil. The ILTA and COSTHA noted that extending this classification criterion to other flammable liquids would have a significant impact on fuels, raw chemical products, consumer products, and even health services. RSI further added that without sound scientific information and data, an expansion of vapor pressure limits to all Class 3 flammable liquids would be an arbitrary change that would impose additional costs. ILTA added that limiting the vapor pressure of Class 3 flammable liquids would also cause conflicts between regulatory agencies and industry. For example, the Environmental Protection Agency (EPA) regulates fuel properties to ensure proper emissions performance, and ASTM International (ASTM) maintains standards for vehicle fuel that include specified limits on the RVP of gasoline, which exceed 9 psi. ILTA and RSI similarly warned that setting a limit conflicts with the vapor pressure limits mandated by one of these other entities would cause numerous commercial and regulatory burdens.

Not by Highway

While the NYSOAG petition requested a vapor pressure limit for shipments made by rail, PHMSA asked in the ANPRM whether the proposed limit should also apply to transportation by highway. Three of the four commenters that responded to this specific question were opposed to a vapor pressure limit by highway.

National Tank Truck Carriers (NTTC) stated that while trucks are the main method for transporting refined petrochemicals from the fuel rack to gas stations, refined fuel risks are inherently different than those associated with transporting crude oil. PHMSA already considered the risks inherent in transporting refined fuels in its combustible fuel rulemaking and found them to be effectively managed under the current HMR. Accordingly, NTTC recommended Federal Motor Carrier Safety Administration (FMCSA) involvement as the agency tasked with regulating all highway transportation of goods in interstate commerce.

NDPC stated that imposing a vapor pressure reduction requirement on highway transportation will force oil and gas producers to conduct unnecessary and extremely burdensome additional sampling at the well site to ensure compliance with the new standard. NDPC expressed that imposing vapor pressure limitations by highway may make oil leases unprofitable.

NDIC further opposed a vapor pressure limit by highway because there have not been any crude oil truck transport Boiling Liquid Expanding Vapor Explosion (BLEVE) events in North Dakota.

Regulatory Authority

Several commenters in opposition to the proposed vapor pressure standard specifically stated that PHMSA did not have the authority to proceed with

setting a vapor pressure limitation due to restrictions from recent executive orders and the Fixing America's Surface Transportation (FAST) Act (FAST Act; Pub. L. 114–94). Similarly, two commenters stated that granting the NYSOAG's petition would conflict with PHMSA's obligation to harmonize the HMR with international regulations.

Signed on January 30, 2017, Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs,'' directs agencies to repeal two regulations for every new regulation they issue. Commenters such as API stated that given the financial burden that this rule would impose, it would be imprudent to move forward with a vapor pressure standard as it would severely limit PHMSA's ability to implement any other regulatory actions. In addition, on March 28, 2017, Executive Order 13783, ''Promoting Energy Independence and Economic Growth,'' obligated PHMSA to identify and revise any regulatory actions that potentially burden domestic energy production. Citing the implementation costs that would be associated with the proposed vapor pressure limits, several commenters alluded to the restrictions imposed on PHMSA by Executive Orders 13771 and 13783. In its comment, NDPC noted that any new regulation that requires ''stabilization'' or sets a vapor pressure threshold for crude oil prior to transportation would impose substantial cost impacts on the oil and gas production and transportation industries. According to AFPM, accepting the petition would force offerors and carriers to treat crude oil or other flammable liquids as Division 2.1 flammable gases, or incur unreasonable pretreatment costs.

According to comments from AFPM, API, and NDPC, the foreseen economic burden would be due not only to the costs of the additional operational infrastructure and equipment that would be required to meet new vapor pressure limits, but also to economic losses caused by resulting conflicts with international standards. Similarly, NDPC further noted that crude oil is more valuable when it is allowed to be sold with all of its constituent hydrocarbons and that crude oils with greater concentrations of light ends can be more valuable because each of the constituents can be refined and sold at the most economically efficient location in the supply chain. NDPC explained that separating the oil prematurely into its individual hydrocarbon constituents earlier in the supply chain to comply with a regulatory vapor pressure standard can reduce the overall value of a given barrel of oil as produced at the wellhead and removing light ends prior to transportation reduces the volume of crude oil that producers are ultimately able to sell to refiners and others in the marketplace.

Several commenters—including Independent Petroleum Association of America (IPAA) and the American Exploration and Production Council (AXPC)—urged PHMSA to reconsider the ANPRM and suggested that setting a vapor pressure standard prior to the completion of the Sandia Study would be premature and incongruous with congressional mandates outlined in the FAST Act. AFPM noted that the FAST Act reflects Congress's judgment that the completion of the Sandia Study should be a condition precedent to any further regulation of the transportation of crude oil. NDIC, NDPC, AFPM, and several other commenters stated that PHMSA should delay any decision regarding a vapor pressure standard for crude oil until the results of the Sandia Study studies are available. To this point, AFPM added that Task 4 (of the Sandia Study) was specifically intended to examine whether tight oils might have an elevated risk of ignition in the event of a rail accident as compared to other crude oils.

Two others commented that implementing a vapor pressure standard would undermine international harmonization efforts and impact trans-border shipments. API stated that, per international agreement, PHMSA is obligated to ensure harmonization with the United Nations (UN) Recommendations on the Transport of Dangerous Goods Model Regulations, which are designed to enhance global trade, economic development, improve safety and compliance-enforcement capability while simplifying training requirements for multi-modal cross regional transport of dangerous goods. API noted that unilateral or arbitrary changes to the HMR domestically that do not align with UN Model Regulations requirements would severely impact trans-border shipments and create significant regulatory uncertainty for shippers and carriers.

HMR Is Sufficient Based on Known Risks

Several commenters stated that the existing regulatory framework of the HMR, which includes the system of hazard classification and packaging requirements, adequately addresses the risks associated with the transportation of hazardous materials. A commenter from Dow Chemical stated that the HMR provides a comprehensive framework to address the risks associated with the transportation of flammable liquids that includes defined criteria for the classification of flammable liquids and specification of appropriate packaging requirements. The commenter further stated that as defined in the HMR, a flammable liquid has a flash point of not more than 60 °C, regardless of vapor pressure. As such, a flammable liquid can ignite and burn regardless of vapor pressure.

In addition to the HMR's basic framework, several commenters opposed the establishment of a vapor pressure limit in consideration of the already completed HM–251 rulemaking. The HM–251 rulemaking adopted the DOT–117 tank car specification and other safety provisions that were found to be protective of human health and the environment, further strengthening the protections provided by the HMR. Commenters such as RSI suggested that given recently adopted measures from the HM–251 final rule, setting additional requirements at this time would be premature and economically burdensome. Specifically, RSI noted that PHMSA does not yet know the full effect of these regulatory efforts, many of which have only been implemented within the last few years or are still in the process of being implemented (*i.e.,* the transition from DOT–111 specification tank cars to DOT–117s and DOT–117Rs). As such, RSI noted it would be premature to implement additional regulations impacting the transportation of crude oil and other flammable liquids by rail prior to full implementation of these regulatory initiatives and before PHMSA can analyze and understand their collective safety impact.

API stated that safety measures like the ones set forth in the HM–251 rulemaking were simply a better option for minimizing safety risks as compared to limiting vapor pressure to minimize safety risks. It further stated that PHMSA should invest in and improve the methods to transport crude oil safely, rather than impose new unilateral RVP limits that may not reduce accidents or casualties and are not based on any scientific evidence. A commenter from AWM Associates noted that the issue appears to be related to shippers failing to properly classify the Bakken crude oil and suggests that PHMSA should increase criminal prosecution of shippers that fail to properly classify their hazardous materials and those who ship the hazardous materials in unauthorized containers.

II. Crude Oil Characterization Research Study (Sandia Study)

In addition to the ANPRM, DOT, the U.S. Department of Energy (DOE), and Transport Canada (TC) have conducted a collaborative research program designed to better understand the risks associated with large volume rail transport of crude oil in general, particularly unconventional (tight) oil. The research was carried out by Sandia, a DOE Federally Funded Research and Development Center. As a Federally Funded Research and Development Center, Sandia draws upon its deep science and engineering experience and serves as an independent, objective advisor to DOE and conducts research to inform the policy debate for decision makers. To carry out the objectives of the Sandia Study, DOE called upon a multidisciplinary team with world-class experts and state-of-the-art facilities, instrumentation, and diagnostic capabilities to perform complex large-scale combustion testing and analysis.

A. Congressional Mandate

Section 7309 of the FAST Act requires the Secretaries of DOE and DOT to submit a report to Congress on the results of the ongoing Sandia study of crude oil characteristics within 180 days of its completion. Now completed, the results of the Sandia Study are summarized in Section B below.

B. Phases of the Sandia Study

i. Initial Phase

DOT and DOE began their effort by commissioning a review of available crude oil chemical and physical property data and literature. This review focused on crude oil's potential for ignition, combustion, and explosion. A partial list of properties surveyed included density (expressed as API gravity), vapor pressure, initial boiling point, boiling point distribution, flash point, gas-oil ratio, and ''light ends'' composition (dissolved gases—including nitrogen, carbon dioxide, hydrogen sulfide, methane, ethane, and propane—and butanes and other volatile liquids). Although the review yielded a large database encompassing a wide variety of crude oils and their properties, it also illustrated the difficulty in using available data as the basis for accurately defining and comparing crude oils due to the wide range in variability, specifically variability in the sample point, sampling methods, and analytical methods.

An important outcome of the first phase of this research was formal recognition of the wide-ranging variability in crude oil sample types, sampling methods, and analytical methods and acknowledgement that these variabilities limit the adequacy of the available crude oil property data set for establishing effective and safe transport guidelines. To address this characterization and classification gap, DOT, DOE, and TC continued their research to improve the understanding of crude oil properties with a particular focus on ''tight'' crude oil. A Sampling, Analysis, and Experiment (SAE) plan was designed to characterize tight and conventional crude oils based on key chemical and physical properties, and identify properties that may contribute to increased likelihood and/or severity of combustion events that could arise during transport incidents. In addition to analytical procedures, this research program included experiment activity protocols such as: Use of acquired chemical and physical property data in the development of computational models for predicting crude oil behavior in rail transport accident scenarios; and execution of experimental activities, including actual pool fires and fireballs, to validate and/or improve predictive models. The Sandia Study, as initially proposed, comprised four separate tasks, with an option to conduct additional Tasks 5 and 6 (proposing full scale combustion studies, and a comprehensive supply chain oil properties survey, respectively) based on the results of Tasks 1 through 4. Below, PHMSA describes Tasks 1 through 3 and the basis for the determination by Study sponsors DOE, DOT, and TC that Tasks 4–6 would no longer be necessary given the definitive results from the completion of the first three tasks, which are more fully described below.

ii. Task 1

Task 1 (Project Administration and Outreach) covered the initial procurement of crude oil samples, testing materials, equipment, and analytical lab contracts. It also included coordination and outreach with sponsors, Steering Committees, technical associations, and subject matter experts. Task 1 was ongoing throughout the study.

iii. Task 2

Task 2 (Sampling and Testing) investigated which commercially available crude oil sampling and analysis methods can accurately and reproducibly collect and analyze crude oils for vapor pressure and composition, including dissolved gases. Results of Task 2 were published on November 1, 2017 as SAND2017–12482. Revision 1—Winter Sampling, published on June 1, 2018 as SAND2018–5909, incorporated additional seasonal data and compositional analysis results that had become available since publication of the initial report. Both reports compared performance of commercially available methods to that of a well-established mobile laboratory system that currently serves as the baseline instrument system for the U.S. Strategic Petroleum Reserve Crude Oil Vapor Pressure Program. The experimental matrix evaluated the performance of selected methods for (i) capturing, transporting, and delivering hydrocarbon fluid samples from the field to the analysis laboratory, coupled with (ii) analyzing for properties related to composition and volatility of the oil, including vapor pressure, gas-oil ratio, and dissolved gases and light hydrocarbons. Several combinations of sampling and testing were observed to perform well in both summer and winter sampling environments, though conditions apply that need to be considered carefully for given applications. Methods that performed well from Task 2 were utilized subsequently in Task 3.

iv. Task 3

The purpose of Task 3 (Pool Fire and Fireball Experiments in Support of the US DOE/DOT/TC Crude Oil Characterization Research Study) was to compare combustion behavior of several crude oil types spanning a measurable range of vapor pressure and light ends content representative of U.S. domestic conventional and tight crude oils. Results of Task 3 were published on August 24, 2019 as SAND2019–9189.[3]

Task 3 consisted of an experimental observation of physical, chemical, and combustion characteristics of selected North American crude oils:

- The objective of the pool fire experiments was to measure parameters necessary for thermal hazard evaluation (namely, burn rate, surface emissive power, flame height, and heat flux to an engulfed object) by a series of 2-meter diameter indoor and 5-meter diameter outdoor experiments.
- The objective of the fireball experiments was to measure parameters required for thermal hazard evaluation (namely, fireball maximum diameter, height at maximum diameter, duration,

[3] *Available at https://www.osti.gov/servlets/purl/1557808.* Task 3 results and conclusions were peer-reviewed by independent fire experts and sampling and characterization subject matter experts. *See id.* at 4. In addition, Task 3 results and conclusions were reviewed by PHMSA, Federal Railroad Administration, DOE, and TC scientists and engineers.

and surface emissive power) using 400-gallons of crude oil per test.

Observed results were then extrapolated in calculating thermal hazard distances resulting from full scale 30,000-gallon pool fires and fireballs. The Sandia Study noted that the methodology described above incorporated steady-state assumptions that would tend to overstate calculated hazard distances.

The crude oil samples used for the experiments were obtained from several U.S. locations, including ''tight'' oils from the Bakken region of North Dakota and Permian region of Texas, and a conventionally produced oil from the U.S. Strategic Petroleum Reserve stockpile. These samples spanned a measurable range of vapor pressure (VPCRx(T)) and light ends content representative of U.S. domestic conventional and tight crude oils.

Task 3 demonstrated that, even though the three crude oils studied had a wide range of vapor pressures, each had very similar calculated thermal hazard distances with respect to pool fire and fireball combustion. Furthermore, those crude oils evaluated in Task 3 were also found to have thermal hazard parameters (surface emissive power, etc.) consistent with the known thermal hazard parameters of a variety of other alkane-based hydrocarbon liquids—some with higher vapor pressures than any observed in the Sandia Study. Based on those data points, the Sandia Study concluded that vapor pressure is not a statistically significant factor in affecting the thermal hazard posed by pool fire and fireball events that might occur during crude oil train derailment scenarios. In sum, the Sandia Study demonstrated that lowering the vapor pressure of crude oil would not reduce the severity of pool fire or fireball scenarios, and concluded that results of the study do not support creating a regulatory distinction for crude oils based on vapor pressure.

v. Sandia Study Completion

The 2015 version of the SAE Plan for the Sandia Study framed the project in terms of six tasks, the first four of which were authorized by its sponsors. Task 4 was conceived as an opportunity to generate a comprehensive data set of vapor pressures for multiple crude oil types to better understand the thermal hazards for pool fires and fireballs. The value of Task 4, therefore, was premised on the faulty assumption that vapor pressure would be a significant factor determining the magnitude of thermal hazards from pool fire and fireball hazards posed by different crude oil types.

However, the relative independence of thermal hazards from vapor pressure observed in Task 3 eliminated the need for additional data that would have been collected in Task 4. Consequently, Sandia included within the Task 3 conclusions a recommendation against proceeding with Task 4.[4] Subsequently, the Sandia Study sponsors (DOT, DOE, and TC) agreed neither to proceed with Task 4 nor optional Tasks 5 and 6.

III. PHMSA's Decision

PHMSA, after examining the results and conclusions of the Sandia Study closely, and in consideration of the public comments to the ANPRM from industry, stakeholders, and other interested parties, has determined that issuing any regulation setting a vapor pressure limit for crude oil transportation by rail is not justified because such a regulation would not improve the safety of transporting crude oil by rail. PHMSA further notes that the Sandia Study's finding that there was no meaningful link between crude oil vapor pressures and thermal hazards militates against the imposition of vapor pressure limits for transportation of crude oil in modes other than rail.

Furthermore, establishing a vapor pressure limit for crude oil by rail would unnecessarily impede rail transportation of crude oil without providing justifiable benefits. As explained by comments submitted in response to the ANPRM, vapor pressure limits on crude oil transported by rail would, *inter alia,* disrupt commodity markets for the dissolved gasses that drive crude oil vapor pressure, require conforming changes to contractual and equipment specifications throughout the value chain, and impose significant compliance costs on crude oil producers and rail transportation. None of those significant burdens, moreover, would be accompanied by a meaningful safety benefit. Thus, this notice of withdrawal provides PHMSA's determination that no regulation setting a vapor pressure limit for rail transportation of crude oil is necessary or appropriate.

PHMSA also has decided, based on its review of comments to the ANPRM and its existing regulations, against imposing vapor pressure limits for other unrefined petroleum-based products and Class 3 flammable liquid hazardous materials by any mode.

The administrative record similarly did not evince a compelling technical basis for imposing vapor pressure limits with respect to transportation by any mode of other unrefined petroleum-based products and Class 3 flammable liquid hazardous materials. As noted above, those comments calling for broader vapor pressure limits were predicated largely on anecdotal correlations or by way of analogy to vapor pressure limits imposed on either chemically distinct hazardous materials (*e.g.,* refined petroleum products such as gasoline), or for reasons not always related to transportation safety (*e.g.,* pollution control). PHMSA is therefore unconvinced those comments demonstrate that regulation of unrefined petroleum-based products and Class 3 hazardous flammable liquid materials on the basis of vapor pressure will result in meaningful safety improvements beyond those provided by existing HMR classification requirements predicated on flammability and initial boiling point. *See* 49 CFR 173.21(a). PHMSA further notes that the significant compliance and opportunity costs identified in comments submitted by diverse industry stakeholders also militate against imposing vapor pressure limits on modal transportation of unrefined petroleum-based products and Class 3 hazardous flammable liquid materials.

Accordingly, PHMSA withdraws the January 18, 2017 ANPRM in its entirety.

IV. Preemption of Non-Federal Laws

PHMSA, in issuing this withdrawal, has affirmatively determined that a national vapor pressure limit for unrefined petroleum-based products is not necessary or appropriate. As explained further below, PHMSA believes that Federal law likely preempts any non-Federal law that attempts to set a vapor pressure limit for these materials. PHMSA is aware of two States that already have laws setting vapor pressure limits in place for crude oil: North Dakota and Washington. PHMSA is also aware of one State legislature that has introduced a similar bill that would regulate vapor pressure for oil or gas.[5] Moreover, six additional States: California, Illinois, Maine, Maryland, New Jersey, and New York have advocated for a vapor pressure limit.[6]

[4] *Id.* at 77–78. The full-scale combustion testing and supply chain analysis contemplated in Tasks 5 and 6 were not pursued for the same reason.

[5] See House Bill 4105, 80th Oregon Legislative Assembly—2020 Regular Session (February 3, 2020), *https://olis.leg.state.or.us/liz/2020R1/Downloads/MeasureDocument/HB4105/Introduced* (last visited Apr. 1, 2020).

[6] In this proceeding, the Attorneys General of California, Illinois, Maine, and Maryland filed joint comments with the Attorneys General of New York and Washington, supporting a national vapor pressure standard. *See* Comments by the Attorneys

Continued

The Federal hazmat law contains express preemption provisions relevant to this proceeding. As amended by Section 1711(b) of the Homeland Security Act of 2002 (Pub. L. 107–296, 116 Stat. 2319), 49 U.S.C. 5125(a) provides that a requirement of a State, political subdivision of a State, or Indian tribe is preempted—unless the non-Federal requirement is authorized by another Federal law or DOT grants a waiver of preemption under section 5125(e)—if (1) complying with the non-Federal requirement and the Federal requirement is not possible; or (2) the non-Federal requirement, as applied and enforced, is an obstacle to accomplishing and carrying out the Federal requirement.

Additionally, subsection (b)(1) of 49 U.S.C. 5125 provides that a non-Federal requirement concerning any of five subjects is preempted when the non-Federal requirement is not ''substantively the same as'' a provision of Federal hazardous material transportation law, a regulation prescribed under that law, or a hazardous materials security regulation or directive issued by the Department of Homeland Security.[7] The ''designation, description, and classification of hazardous material'' is a subject area covered under this authority. 49 U.S.C. 5125(b)(1)(A). To be ''substantively the same,'' the non-Federal requirement must conform ''in every significant respect to the Federal requirement. Editorial and other similar *de minimis* changes are permitted.'' 49 CFR 107.202(d).

The preemption provisions in 49 U.S.C. 5125 reflect Congress's long-standing view that a single body of uniform Federal regulations promotes safety (including security) in the transportation of hazardous materials. Some forty years ago, when considering the Hazardous Materials Transportation Act, the Senate Commerce Committee ''endorse[d] the principle of preemption in order to preclude a multiplicity of State and local regulations and the potential for varying as well as conflicting regulations in the area of hazardous materials transportation.'' S. Rep. No. 1192, 93rd Cong. 2nd Sess. 37 (1974). A United States Court of Appeals has found uniformity was the ''linchpin'' in the design of the Federal laws governing the transportation of hazardous materials.[8]

The current HMR requirements for the classification of unrefined petroleum-based products include proper classification, determination of an appropriate packing group, and selection of a proper shipping name. The HMR contain detailed rules that guide an offeror through each of these steps to ensure proper classification of hazardous materials. Moreover, for unrefined petroleum-based products, such as crude oil, additional requirements were implemented pursuant to a public notice and comment rulemaking proceeding.[9] These Federal requirements for classification of these types of materials do not mandate specific sampling and testing of vapor pressure, nor do they classify hazardous liquids based on vapor pressure. Moreover, there is no current Federal requirement to pre-treat or condition crude oil to meet a vapor pressure standard before it is offered for transportation.

Because the HMR does not designate, describe, or classify unrefined petroleum-based products differently based on vapor pressure, any non-Federal law setting a vapor pressure limit for such materials is likely preempted by 49 U.S.C. 5125(b)(1)(A). Indeed, PHMSA has affirmatively decided in this proceeding that a national vapor pressure limit is not necessary or appropriate, thereby confirming that non-Federal laws setting vapor pressure limits are likely not ''substantively the same'' as Federal law.[10] Such non-Federal laws may also be ''handling'' regulations preempted by 49 U.S.C. 5125(b)(1)(B), and may also be preempted under 49 U.S.C. 5125(a)(2) as obstacles to accomplishing and carrying out Federal law.

A person directly affected by a non-Federal requirement may apply to PHMSA for a determination that the requirement is preempted by 49 U.S.C. 5125. *See* 49 U.S.C. 5125(d); 49 CFR 107.203–107.213. PHMSA is currently considering a preemption application filed by North Dakota and Montana with respect to Washington's vapor pressure limit, and will consider any application filed with respect to other non-Federal vapor pressure limits.

Issued in Washington, DC, on May 11, 2020, under authority delegated in 49 CFR part 1.97.

Howard R. Elliott,

Administrator, Pipeline and Hazardous Materials Safety Administration.

[FR Doc. 2020–10377 Filed 5–19–20; 8:45 am]

BILLING CODE 4910–60–P

General of New York, California, Illinois, Maine, Maryland, & Washington, Document Id: PHMSA–2016–0077–0074. In addition, the Attorneys General of New York, California, Maryland, and New Jersey submitted comments against preemption in a proceeding involving Washington's law. *See* Docket No. PHMSA–2019–0149.

[7] Unless the non-Federal requirement is authorized by another Federal law or DOT grants a waiver of preemption under section 5125(e).

[8] *Colorado Pub. Util. Comm'n* v. *Harmon,* 951 F.2d 1571, 1575 (10th Cir. 1991).

[9] Hazardous Materials: Enhanced Tank Car Standards and Operational Controls for High-Hazard Flammable Trains, 80 FR 26643 (May 8, 2015).

[10] This notice of withdrawal also provides a basis for what courts have referred to as ''negative'' or ''null'' preemption. *See Norfolk & W.R. Co.* v. *Pub. Utils. Comm.,* 926 F.2d 567, 570 (6th Cir. 1991) (''the United States Supreme Court has recognized a form of negative preemption when a federal agency has determined that no regulation is appropriate.'') (citing *Ray* v. *Atlantic Richfield Co.,* 435 U.S. 151, 178 (1978)).

SURFACE TRANSPORTATION BOARD

49 CFR Part 1201

[Docket No. EP 763]

Montana Rail Link, Inc.—Petition for Rulemaking—Classification of Carriers

On February 14, 2020, Montana Rail Link, Inc. (MRL), filed a petition for rulemaking to amend the Board's rail carrier classification regulation set forth at 49 CFR part 1201, General Instructions section 1–1(a), which describes the revenue thresholds for the classes of carriers for the purposes of accounting and reporting.[1] Currently, Class I carriers have annual operating revenues of $489,935,956 or more, Class II carriers have annual operating revenues of less than $489,935,956 and more than $39,194,876, and Class III carriers have annual operating revenues of $39,194,876 or less, all when adjusted for inflation. 49 CFR pt. 1201, General Instructions section 1–1(a) (setting thresholds unadjusted for inflation); *Indexing the Annual Operating Revenues of R.R.s.,* EP 748 (STB served June 14, 2019) (calculating revenue deflator factor and publishing thresholds adjusted for inflation based on 2018 data).[2]

MRL requests that the Board increase the above revenue threshold for Class I carriers to $900 million. (Pet. 1.) In support of its request, MRL contends that it continues to be a regional railroad operationally and economically but may exceed the Class I revenue threshold within two years. (*Id.*) Citing principles drawn from the Interstate Commerce Commission's 1992 rulemaking in which the revenue thresholds were last

[1] The revenue thresholds for each class of carrier are adjusted annually for inflation and published on the Board's website.

[2] ''The railroad revenue deflator formula is based on the Railroad Freight Price Index developed by the Bureau of Labor Statistics. The formula is as follows: Current Year's Revenues × (1991 Average Index/Current Year's Average Index).'' 49 CFR pt. 1201, Note A.

raised,[3] MRL asks that the Board address ''whether a regional carrier such as MRL should be treated as a Class I carrier, taking into account (1) the financial and operational differences between MRL and existing Class I carriers, and (2) the cost-benefit analysis of imposing Class I requirements on MRL.'' (*Id.* at 12.) From an operational standpoint, MRL states that it is clearly differentiated from a typical Class I carrier because of its heavy dependence on a single Class I railroad and because approximately 95% of its mainline track is located in Montana. (*Id.* at 5–6.) From a financial standpoint, MRL also notes, among other things, that the average operating revenue for Class I railroads in 2018 was more than 27 times MRL's total revenue for that year and that the operating revenue for the smallest Class I railroad was about 3.5 times the total revenue of MRL. (*Id.* at 8). Because of its operational and financial characteristics, MRL contends that there would be no offsetting benefit from imposing the cost of Class I reporting requirements on MRL. (*Id.* at 12.) MRL submitted eight letters of support with its petition.[4] No replies to MRL's petition were received.

The Board will open a rulemaking proceeding to consider MRL's petition and consider issues related to the Class I carrier revenue threshold determination. The Board invites comment about whether it should amend 49 CFR part 1201, General Instructions section 1–1(a), to increase the revenue threshold for Class I carriers, and, if so, whether $900 million or another amount would be appropriate.

Any interested stakeholders may file comments regarding potentially amending 49 CFR part 1201, General Instructions section 1–1(a), to increase the revenue threshold for Class I carriers by June 15, 2020. If any comments are filed, replies will be due by July 6, 2020.

List of Subjects in 49 CFR Part 1201

Railroad, Uniform System of Accounts.

It is ordered:

1. MRL's petition to initiate a rulemaking proceeding is granted, as discussed above.

2. Comments are due by June 15, 2020; replies are due by July 6, 2020.

3. This decision will be published in the **Federal Register**.

4. This decision is effective on the date of service.

Decided: May 13, 2020.

By the Board, Board Members Begeman, Fuchs, and Oberman.

Tammy Lowery,

Clearance Clerk.

[FR Doc. 2020–10764 Filed 5–19–20; 8:45 am]

BILLING CODE 4915–01–P

[3] Pet. at 1–2 (citing *Mont. Rail Link, Inc. & Wis. Cent. Ltd., Joint Pet. for Rulemaking with Respect to 49 CFR part 1201,* 8 I.C.C.2d 625 (1992)).

[4] Letters of support were included from the Montana Contractors' Association, Montana Agricultural Business Association, Montana Grain Elevator Association, Montana Petroleum Association, Inc., Montana Taxpayers Association, Montana Chamber of Commerce, Treasure State Resources Association, and Montana Wood Products Association.

Notices

Federal Register
Vol. 85, No. 98
Wednesday, May 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

Forest Service

Collaborative Forest Restoration Program Technical Advisory Panel; Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Collaborative Forest Restoration Program Technical Advisory Panel (Panel) will hold a virtual meeting. The Panel is established consistent with the Federal Advisory Committee Act of 1972 (FACA), and Title VI of the Community Forest Restoration Act (the Act). Additional information concerning the Panel, including the meeting summary/minutes, can be found by visiting the Panel's website at: *https://www.fs.usda.gov/main/r3/working together/grants.*

DATES: The meeting will be held on June 15–19, 2020 (Monday–Friday), with meetings each day from 9:00 a.m. to 5:00 p.m.

All meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

ADDRESSES: The meeting will be held with virtual attendance only. For virtual meeting information, please contact the person listed under the **FOR FURTHER INFORMATION CONTACT.**

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION.** All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at USDA Forest Service Region 3 Regional Office. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Ian Fox, Designated Federal Officer, by phone at 505–842–3425 or via email at *ian.fox@usda.gov.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

(1) Review Panel Bylaws, Charter, and what it means to be a Federal Advisory Committee;

(2) Evaluate and score the 2019 and 2020 CFRP grant applications to determine which applications best meet the program objectives;

(3) Develop prioritized 2019 and 2020 CFRP project funding recommendations for the Secretary;

(4) Develop an agenda and identify members for the 2020 CFRP Sub-Committee for the review of multi-party monitoring reports from completed projects; and

(5) Discuss the proposal review process used by the Panel to identify what went well and what could be improved.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by June 8, 2020, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time to make oral comments must be sent to Ian Fox, Designated Federal Officer, USDA Forest Service, Region 3 Regional Office, 333 Broadway Bouleveard Southwest, Albuqueque, New Mexico 87102; or by email to *ian.fox@usda.gov.*

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case-by-case basis.

Dated: May 14, 2020.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2020–10811 Filed 5–19–20; 8:45 am]

BILLING CODE 3411–15–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Maine Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Maine Advisory Committee (Committee) will hold a meeting on Thursday, June 11, 2020, at 1:00 p.m. (EDT) for the purpose of project planning on digital equity in Maine.

DATES: The meeting will be held on Thursday, June 11, 2020, at 1:00 p.m. EDT.

Public Call Information: Dial: 1–206–800–4892, ID: 908077431#.

FOR FURTHER INFORMATION CONTACT: Evelyn Bohor, at *ero@usccr.gov* or 202–381–8915.

SUPPLEMENTARY INFORMATION: Members of the public can listen to the discussion. This meeting is available to the public through the above listed toll-free number. Any interested member of the public may call this number and listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the

conference call number: 1–206–800–4892 and conference ID number: 908077431#.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to Evelyn Bohor at *ero@usccr.gov.* Persons who desire additional information may contact the Eastern Regional Office at (202) 376–7533.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Maine Advisory Committee link: *https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzl8AAA.* Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Unit Office at the above email or street address.

Agenda

Thursday, June 11, 2020 at 1:00 p.m. (EDT)

- Welcome and Roll Call
- Project Planning
- Other Business
- Public Comment
- Adjournment

Dated: May 15, 2020.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020–10855 Filed 5–19–20; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meetings of the Colorado, Massachusetts, and Vermont Advisory Committees; Corrections

AGENCY: Commission on Civil Rights.

ACTION: Notices.

Colorado: Revision to date and time.

Massachusetts: Revision to calling information.

Vermont: Revision to time.

SUMMARY: Colorado: The Commission on Civil Rights published a notice in the **Federal Register** of Friday, May 22, 2020, concerning a meeting of the Colorado Advisory Committee. The document contained a date and time that is now changed to a new date and time.

FOR FURTHER INFORMATION CONTACT: Evelyn Bohor, (202) 381–8915, *ebohor@usccr.gov.*

Correction: In the **Federal Register** of Friday, May 8, 2020, in FR Doc. 2020–09844, on page 27357–27358, in the second column of 27357 and third column of 27358, correct the date and time to read: Friday, May 22, 2020 at 12:00 p.m. (EDT).

Massachusetts: The Commission on Civil Rights published a notice in the **Federal Register** of Friday, May 8, 2020, concerning a meeting of the Massachusetts Advisory Committee. The document contained incorrect calling numbers.

FOR FURTHER INFORMATION CONTACT: Evelyn Bohor, (202) 381–8915, *ebohor@usccr.gov.*

Correction: In the **Federal Register** of Friday, May 8, 2020, in FR Doc. 2020–09816, on page 27356, second column and first paragraph and third column, first and second paragraphs, correct calling numbers to read: Conference call-in number: 1–800–367–2403 and conference ID: 27356.

Vermont: The Commission on Civil Rights published a notice in the **Federal Register** of Tuesday, May 5, 2020, concerning a meeting of the Vermont Advisory Committee. The document contained a date and time that is now changed to a new time.

FOR FURTHER INFORMATION CONTACT: Evelyn Bohor, (202) 381–8915, *ebohor@usccr.gov.*

Correction: In the **Federal Register** of Tuesday, May 5, 2020, in FR Doc. 2020–09533, in the first and second columns of page 26665, correct the time to read: Thursday, May 21, 2020 at 4:00 p.m. (EDT).

Dated: May 14, 2020.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020–10781 Filed 5–19–20; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–125]

Certain Vertical Shaft Engines Between 99cc and up to 225cc, and Parts Thereof, From the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation

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

DATES: Applicable May 20, 2020.

FOR FURTHER INFORMATION CONTACT: Ajay Menon or Adam Simons, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1993 or (202) 482–6172, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 7, 2020, the Department of Commerce (Commerce) initiated a countervailing duty (CVD) investigation of imports of certain vertical shaft engines between 99cc and up to 225cc, and parts thereof, from the People's Republic of China.[1] Currently, the preliminary determination is due no later than June 11, 2020.

Postponement of Preliminary Determination

Section 703(b)(1) of the Tariff Act of 1930, as amended (the Act), requires Commerce to issue the preliminary determination in a CVD investigation within 65 days after the date on which Commerce initiated the investigation. However, section 703(c)(1) of the Act permits Commerce to postpone the preliminary determination until no later than 130 days after the date on which Commerce initiated the investigation if: (A) The petitioner makes a timely request for a postponement; or (B) Commerce concludes that the parties concerned are cooperating, that the investigation is extraordinarily complicated, and that additional time is necessary to make a preliminary determination. Under 19 CFR 351.205(e), the petitioner must submit a request for postponement 25 days or more before the scheduled date of the preliminary determination and must state the reasons for the request. Commerce will grant the request unless it finds compelling reasons to deny the request.[2]

On May 12, 2020, the petitioner[3] submitted a timely request that Commerce postpone the preliminary CVD determination.[4] The petitioner requests postponement of the preliminary determination because the

[1] *See Certain Vertical Shaft Engines between 99cc and up to 225cc, and Parts Thereof From the People's Republic of China: Initiation of Countervailing Duty Investigation,* 85 FR 20667 (April 14, 2020) (*Initiation Notice*).

[2] *See* 19 CFR 351.205(e).

[3] The petitioner is Briggs and Stratton Corporation.

[4] *See* Petitioner's Letter, ''Certain Vertical Shaft Engines Between 99cc and 225cc, and Parts Thereof, from China: Request to Postpone Preliminary Determination,'' dated May 12, 2020.

current deadline does not provide adequate time for Commerce to receive questionnaire responses and issue deficiency questionnaires, especially in light of the global COVID–19 pandemic. Furthermore, the petitioner stated that additional time will permit interested parties sufficient time to develop the record in this investigation.[5]

In accordance with 19 CFR 351.205(e), the petitioner has stated the reasons for requesting a postponement of the preliminary determination, and Commerce finds no compelling reason to deny the request. Therefore, in accordance with section 703(c)(1)(A) of the Act, Commerce is postponing the deadline for the preliminary determination to August 17, 2020, the next business day after 130 days after the date on which this investigation was initiated.[6] Pursuant to section 705(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determination of this investigation will continue to be 75 days after the date of the preliminary determination.

This notice is issued and published pursuant to section 703(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: May 14, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2020–10901 Filed 5–19–20; 8:45 am]

BILLING CODE 3510–DS–P

[5] *Id.*

[6] Postponing the preliminary determination to 130 days after initiation would place the deadline on Saturday, August 15, 2020. Commerce's practice dictates that where a deadline falls on a weekend or federal holiday, the appropriate deadline is the next business day. *See Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended,* 70 FR 24533 (May 10, 2005).

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Postponement of Trade Missions From April Through August 2020

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The United States Department of Commerce, International Trade Administration, is announcing the postponement of three upcoming trade missions that were previously announced and published in the **Federal Register**.

DATES: The following mission dates and deadlines for submitting applications are postponed until further notice:

- Trade Mission to Hong Kong and Indo-Pacific in conjunction with Trade Winds Indo-Pacific, scheduled from April 20–28, 2020.
- Reconstruction Trade Mission to Southern Africa—June 15–18, 2020.
- Executive-led Trade Mission and Business Development Event in East Africa—August 31, 2020–September 3, 2020.

SUPPLEMENTARY INFORMATION: Notice to postpone the dates and deadlines of certain trade missions originally published at 84 FR 48590 (September 16, 2019) and 85 FR 12259 (March 2, 2020).

Background

The Department of Commerce has decided to indefinitely postpone the dates and submission deadlines of the following ITA planned Trade Missions until new dates can be identified: The Trade Mission to Hong Kong and Indo-Pacific in conjunction with Trade Winds Indo-Pacific, scheduled from April 20–28, 2020; the Reconstruction Trade Mission to Southern Africa—June 15–18, 2020; Executive-led Trade Mission and Business Development Event in East Africa—August 31, 2020–September 3, 2020. The Department has been closely monitoring COVID–19 developments and believes postponing these missions is the best decision for the health, safety and welfare of the participants. When we have determined modified dates and submission deadlines for the events, we will inform the public through an updated **Federal Register** announcement.

Contacts

Trade Mission to Hong Kong and Indo-Pacific in Conjunction With Trade Winds Indo-Pacific

Colleen Fisher, Director of the U.S. Export Assistance Center in Baltimore, MD, *Colleen.Fisher@trade.gov;* Tel: 410–962–3097.

Leandro Solorzano, Director at the U.S. Export Assistance Center in Phoenix, AZ, *Leandro.Solorzano@trade.gov;* Tel: 954–356–6647.

Reconstruction Trade Mission to Southern Africa

Tamarind Murrietta, U.S. Commercial Counselor, U.S. Commercial Service Mozambique, *Tamarind.Murrietta@trade.gov,* +258–2135–5475.

Ashley Bubna, Desk Officer, U.S. Commercial Service Office of Africa, *Ashley.bubna@trade.gov,* +1–202–482–5205.

Executive-Led Trade Mission and Business Development Event in East Africa

Daniel Gaines, Commercial Officer, +254–20–363–6000 ext. 6424, *Daniel.Gaines@trade.gov.*

Diane Jones, Senior Commercial Officer, +254–20–363–6000 ext. 6424, *Diane.Jones@trade.gov.*

Gemal Brangman,

Senior Advisor, Trade Missions, ITA Events Management Task Force.

[FR Doc. 2020–10761 Filed 5–19–20; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

Minority Business Development Agency

President's Advisory Commission on Asian Americans and Pacific Islanders

AGENCY: Minority Business Development Agency, Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: The President's Advisory Commission on Asian Americans and Pacific Islanders (AAPI Commission) will convene an open meeting to discuss issues related to the draft Commission report to the President. This meeting is open to the public and interested persons may listen to the teleconference by using the call-in number and pass code provided below (see **ADDRESSES**).

DATES: This meeting will be held on Wednesday, May 20, 2020, from 4:00 p.m. to 5:30 p.m., Eastern Time (ET).

ADDRESSES: This meeting will be held by teleconference, beginning at 3:45 p.m. (ET) on Wednesday, May 20, 2020. Advance registration is required to access the teleconference. Interested persons may register at *https://www.mymeetings.com/nc/join/* ; conference number: PWXO1256066; audience passcode: 1147620 . Participants can join the event directly at: *https://www.mymeetings.com/nc/join.php?i=PWXW1256066&p=1147620&t=c.*

FOR FURTHER INFORMATION CONTACT: For information regarding the teleconference, please contact Ms. Tina Wei Smith, Executive Director, Office of the White House Initiative on Asian Americans and Pacific Islanders; telephone (202) 482–1375; email: *whiaapi@doc.gov.*

SUPPLEMENTARY INFORMATION:

Background. The President, through Executive Order 13872 (May 13, 2019), re-established the President's Advisory Commission on Asian Americans and

Pacific Islanders to advise the President, through the Secretary of Commerce and the Secretary of Transportation. The AAPI Advisory Commission provides advice to the President on executive branch efforts to broaden access of AAPI communities, families and businesses to economic resources and opportunities that empower AAPIs to improve the quality of their lives, raise the standard of living of their communities and families, and more fully participate in the U.S. economy.

Public Participation. In accordance with Section 10(a)(2) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), this notice is the public announcement of the Commission's intent to hold a teleconference on May 20, 2020. This meeting is open to the public and interested persons may listen to the teleconference by using the call-in number and pass code set forth above (see **ADDRESSES**). Prospective agenda items for the meeting include a deliberation of the draft Commission report to the President, discussion regarding ratification of the report, administrative tasks and such other Commission business as may arise during the meeting. The Commission welcomes interested persons to submit written comments at any time before or after the meeting to the Office of the White House Initiative on Asian Americans and Pacific Islanders (see **FOR FURTHER INFORMATION CONTACT**). To facilitate distribution of written comments to Commission members prior to the meeting, the Commission suggests that comments be submitted by facsimile or by email no later than May 19, 2020. The Commission will reserve a portion of the meeting to receive pertinent oral comments from members of the public.

Copies of the Commission open meeting minutes will be made available to the public.

This announcement might appear in the **Federal Register** less than 15 days prior to the meeting. The Minority Business Development Agency finds that there is an exceptional circumstance in that this advisory committee meeting must be held on May 20, 2020 due scheduling issues related to the public health crisis.

Josephine Arnold,

Chief Counsel, Minority Business Development Agency.

[FR Doc. 2020–10904 Filed 5–19–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Open Meeting of the Information Security and Privacy Advisory Board

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of open meeting; correction.

SUMMARY: The Information Security and Privacy Advisory Board (ISPAB) will meet Wednesday, June 24, 2020 from 9:00 a.m. until 5:00 p.m., Eastern Time, and Thursday, June 25, 2020 from 9:00 a.m. until 4:30 p.m., Eastern Time. All sessions will be open to the public. NIST previously published a notice for this meeting on May 14, 2020, at 85 FR 28932, which contained incorrect links to several websites. This notice repeats the same information contained in the previous notice but contains corrected links.

DATES: The meeting will be held on Wednesday, June 24, 2020, from 9:00 a.m. until 5:00 p.m., Eastern Time, and Thursday, June 25, 2020, from 9:00 a.m. until 4:30 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: Jeff Brewer, Information Technology Laboratory, National Institute of Standards and Technology, Telephone: (301) 975–2489, Email address: *jeffrey.brewer@nist.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App., notice is hereby given that the ISPAB will hold an open meeting Wednesday, June 24, 2020 from 9:00 a.m. until 5:00 p.m., Eastern Time, and Thursday, June 25, 2020 from 9:00 a.m. until 4:30 p.m. Eastern Time. All sessions will be open to the public. The ISPAB is authorized by 15 U.S.C. 278g–4, as amended, and advises the National Institute of Standards and Technology (NIST), the Secretary of Homeland Security, and the Director of the Office of Management and Budget (OMB) on information security and privacy issues pertaining to Federal government information systems, including through review of proposed standards and guidelines developed by NIST. Details regarding the ISPAB's activities are available at *https://csrc.nist.gov/projects/ispab.*

The agenda is expected to include the following items:

—Discussion of the United States Methods of Product Testing and Standards Conformance

—Presentation from the United States Government Testing Programs

—Discussion of International Testing requirements and conformance regimes

—Discussion of Executive Order 13905—Strengthening National Resilience Through Use of Positioning, Navigation, and Timing (PNT) Services

—Discussion on telework cybersecurity and privacy, and potential lessons learned

Note that agenda items may change without notice. The final agenda will be posted on the ISPAB event page at: *https://csrc.nist.gov/Events/2020/ispab-june-meeting.*

Public Participation: Written questions or comments from the public are invited and may be submitted electronically by email to Jeff Brewer at the contact information indicated in the **FOR FURTHER INFORMATION CONTACT** section of this notice by 5 p.m. June 22, 2020.

The ISPAB agenda will include a period, not to exceed thirty minutes, for submitted questions or comments from the public (Wednesday, June 24, 2020, between 4:30 p.m. and 5:00 p.m.). Submitted questions or comments from the public will be selected on a first-come, first-served basis and limited to five minutes per person.

Members of the public who wish to expand upon their submitted statements, those who had wished to submit a question or comment but could not be accommodated on the agenda, and those who were unable to attend the meeting via webinar are invited to submit written statements. In addition, written statements are invited and may be submitted to the ISPAB at any time. All written statements should be directed to the ISPAB Secretariat, Information Technology Laboratory by email to: *jeffrey.brewer@nist.gov*.

Admittance Instructions: All participants will be attending via webinar and must register on ISPAB's event page at: *https://csrc.nist.gov/Events/2020/ispab-june-meeting* by 5 p.m. Eastern Time, June 22, 2020.

Kevin Kimball,

Chief of Staff.

[FR Doc. 2020–10867 Filed 5–19–20; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 200501–0125]

National Cybersecurity Center of Excellence (NCCoE) 5G Cybersecurity: Preparing a Secure Evolution to 5G

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice.

SUMMARY: The National Institute of Standards and Technology (NIST) invites organizations to provide products and technical expertise to support and demonstrate security platforms for the 5G Cybersecurity: Preparing a Secure Evolution to 5G project. This notice is the initial step for the National Cybersecurity Center of Excellence (NCCoE) in collaborating with technology companies to address cybersecurity challenges identified under the 5G Cybersecurity: Preparing a Secure Evolution to 5G project. Participation in the building block is open to all interested organizations.

DATES: Collaborative activities will commence as soon as enough completed and signed letters of interest have been returned to address all the necessary components and capabilities, but no earlier than June 19, 2020.

ADDRESSES: The NCCoE is located at 9700 Great Seneca Highway, Rockville, MD 20850. Letters of interest must be submitted to *5g-security@nist.gov* or via hardcopy to National Institute of Standards and Technology, NCCoE; 9700 Great Seneca Highway, Rockville, MD 20850. Organizations whose letters of interest are accepted in accordance with the process set forth in the **SUPPLEMENTARY INFORMATION** section of this notice will be asked to sign a consortium Cooperative Research and Development Agreement (CRADA) with NIST. An NCCoE consortium CRADA template can be found at: *https://nccoe.nist.gov/node/138.*

FOR FURTHER INFORMATION CONTACT: Jeff Cichonski via email to *5g-security@nist.gov;* by telephone 301–975–0200 or by mail to National Institute of Standards and Technology, NCCoE; 9700 Great Seneca Highway, Rockville, MD 20850. Additional details about the 5G Cybersecurity: Preparing a Secure Evolution to 5G project are available at *https://www.nccoe.nist.gov/projects/building-blocks/5g-secure-evolution.*

SUPPLEMENTARY INFORMATION: Interested parties must contact NIST to request a letter of interest template to be completed and submitted to NIST. Letters of interest will be accepted on a first come, first served basis. When the building block has been completed, NIST will post a notice on the NCCoE 5G Cybersecurity: Preparing a Secure Evolution to 5G project website at *https://www.nccoe.nist.gov/projects/building-blocks/5g-secure-evolution* announcing the completion of the building block and informing the public that it will no longer accept letters of interest for this building block.

Background: The NCCoE, part of NIST, is a public-private collaboration for accelerating the widespread adoption of integrated cybersecurity tools and technologies. The NCCoE brings together experts from industry, government, and academia under one roof to develop practical, interoperable cybersecurity approaches that address the real-world needs of complex Information Technology (IT) systems. By accelerating dissemination and use of these integrated tools and technologies for protecting IT assets, the NCCoE will enhance trust in U.S. IT communications, data, and storage systems; reduce risk for companies and individuals using IT systems; and encourage development of innovative, job-creating cybersecurity products and services.

Process: NIST is soliciting responses from all sources of relevant security capabilities (see below) to enter into a Cooperative Research and Development Agreement (CRADA) to provide products and technical expertise to support and demonstrate security platforms for the 5G Cybersecurity: Preparing a Secure Evolution to 5G project. The full building block can be viewed at: *https://www.nccoe.nist.gov/projects/building-blocks/5g-secure-evolution.*

Interested parties should contact NIST using the information provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice. NIST will then provide each interested party with a letter of interest template, which the party must complete, certify that it is accurate, and submit to NIST. NIST will contact interested parties if there are questions regarding the responsiveness of the letters of interest to the building block objective or requirements identified below. NIST will select participants who have submitted complete letters of interest on a first come, first served basis within each category of product components or capabilities listed below up to the number of participants in each category necessary to carry out this building block. However, there may be continuing opportunity to participate even after initial activity commences. Selected participants will be required to enter into a consortium CRADA with NIST (for reference, see **ADDRESSES** section above). NIST published a notice in the **Federal Register** on October 19, 2012 (77 FR 64314) inviting U.S. companies to enter into National Cybersecurity Excellence Partnerships (NCEPs) in furtherance of the NCCoE. For this demonstration project, NCEP partners will not be given priority for participation.

Building Block Objective: This project will demonstrate how the components of the 5G architecture can provide security capabilities to mitigate identified risks and meet industry sectors' compliance requirements. The proposed proof-of-concept solution will integrate commercial and open source products that leverage cybersecurity standards and recommended practices to demonstrate the use case scenarios and showcase 5G's robust security features. This project will result in a publicly available NIST Cybersecurity Practice Guide as a Special Publication 1800 series, a detailed implementation guide describing the practical steps needed to implement a cybersecurity reference implementation. The publication can assist organizations that are considering adopting and deploying 5G technology with the design, acquisition process (including Request for Information [RFI] and Request for Proposal [RFP] development and response), integration, and operation of 5G-based networks. The findings from this work can be used by NIST and the industry collaborators to prioritize their contributions in standards developing organizations. A detailed description of the 5G Cybersecurity: Preparing a Secure Evolution to 5G is available at: *https://www.nccoe.nist.gov/projects/building-blocks/5g-secure-evolution.*

Requirements: Each responding organization's letter of interest should identify which security platform component(s) or capability(ies) it is offering. Letters of interest should not include company proprietary information, and all components and capabilities must be commercially available. Components are listed in section 3 of the 5G Cybersecurity: Preparing a Secure Evolution to 5G project description (for reference, please see the link in the Process section above) and include, but are not limited to:

- Commodity hardware with trust measurement capability
- Local and network storage
- Switches and routers
- Security gateways (SEGs), firewalls (*e.g.,* roaming General Packet Radio

Service [GPRS] Tunneling Protocol [GTP] control [GTP–C]/GTP user data tunneling [GTP–U] FW, SGi/N6 interface FW)
- Virtualization software
- Security and policy enforcement software, governance, risk, & compliance (GRC)/security information and event management (SIEM)/dashboard
- Virtualized LTE EPC components
- Home Subscriber Server (HSS)
- LTE eNodeB
- 5G NR gNodeB
- 5G NR UE/consumer IoT (CIoT) device
- Universal Integrated Circuit Card (UICC) components
- False base station detection capability
- Simulation equipment
- Network and telecommunication test tools

Each responding organization's letter of interest should identify how their products help address one or more of the following desired security characteristics and properties in section 3 of the 5G Cybersecurity: Preparing a Secure Evolution to 5G project (for reference, please see the link in the PROCESS section above):

1. Trusted Hardware—The computing hardware will provide the capability to measure platform components and store the measurements in a hardware root of trust for later attestation. Custom values can be provisioned to the computing hardware root of trust, known as asset tags, which can also be used for future attestation.

2. Isolation and Policy Enforcement—Once trust is established in the infrastructure, workloads can be restricted to run only on trusted hardware that meets specific asset policies. The platform trust measurement and asset tagging can also be used as part of the data protection policy of the workloads.

3. Visibility and Compliance—Technical mechanisms will be continuously enforced and assessed to secure the environment over the lifecycle of the platform and workloads. These mechanisms enable the organization to manage risks and meet the compliance requirements by documenting and monitoring configuration changes.

4. EPC-Based Security Feature Enablement—The EPC in the NSA deployment can be configured in accordance with recommended practices, including enabling standards-based security features and configuring parameters in accordance with relevant guidelines.

5. False Base Station Protections—Utilizing commercial solutions to provide protections from false base stations that are not provided by the 3GPP standards.

6. Prevent Downgrade to Legacy Technology by Disabling UE's 2G Radio by use of standards based configurable parameters or commercial solutions.

Responding organizations need to understand and, in their letters of interest, commit to provide:

1. Access for all participants' project teams to component interfaces and the organization's experts necessary to make functional connections among security platform components.

2. Support for development and demonstration of the 5G Cybersecurity: Preparing a Secure Evolution to 5G project phase 1 for multiple sectors in NCCoE facilities which will be conducted in a manner consistent with the following standards and guidance: FIPS 200, FIPS 201, SP 800–53, SP 800–147B, SP 800–155 and SP 800–161. Additional details about the 5G Cybersecurity: Preparing a Secure Evolution to 5G project are available at *https://www.nccoe.nist.gov/projects/building-blocks/5g-secure-evolution.*

NIST cannot guarantee that all of the products proposed by respondents will be used in the demonstration. Each prospective participant will be expected to work collaboratively with NIST staff and other project participants under the terms of the consortium CRADA in the development of the 5G Cybersecurity: Preparing a Secure Evolution to 5G project. Prospective participants' contribution to the collaborative effort will include assistance in establishing the necessary interface functionality, connection and set-up capabilities and procedures, demonstration harnesses, environmental and safety conditions for use, integrated platform user instructions, and demonstration plans and scripts necessary to demonstrate the desired capabilities. Each participant will train NIST personnel, as necessary, to operate its product in capability demonstrations. Following successful demonstrations, NIST will publish a description of the security platform and its performance characteristics sufficient to permit other organizations to develop and deploy security platforms that meet the security objectives of the 5G Cybersecurity: Preparing a Secure Evolution to 5G project. These descriptions will be public information.

Under the terms of the consortium CRADA, NIST will support development of interfaces among participants' products by providing IT infrastructure, laboratory facilities, office facilities, collaboration facilities, and staff support to component composition, security platform documentation, and demonstration activities.

The dates of the demonstration of the 5G Cybersecurity: Preparing a Secure Evolution to 5G project capability will be announced on the NCCoE website at least two weeks in advance at *https://nccoe.nist.gov/.* The expected outcome will demonstrate how the components of the 5G architecture can provide security capabilities to mitigate identified risks and meet industry sectors' compliance requirements. Participating organizations will gain from the knowledge that their products are interoperable with other participants' offerings.

For additional information on the NCCoE governance, business processes, and NCCoE operational structure, visit the NCCoE website *https://nccoe.nist.gov/.*

Kevin A. Kimball,

Chief of Staff.

[FR Doc. 2020–10866 Filed 5–19–20; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA194]

Caribbean Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Caribbean Fishery Management Council's (Council) Ecosystem-Based Fishery Management Technical Advisory Panel (EBFM TAP) will hold a two-day virtual meeting to address the items on the tentative agenda included in the **SUPPLEMENTARY INFORMATION.**

DATES: The virtual meetings will be held on Monday, June 1, 2020, from 9 a.m. to 5 p.m., and Tuesday, June 2, 2020, from 9 a.m. to 5 p.m. All meetings will be at Eastern Standard Time.

ADDRESSES: You may join the EBFM TAP virtual meetings (via GoToMeeting) from a computer, tablet or smartphone by entering the following address:

Please join the meeting from your computer, tablet or smartphone. *https://global.gotomeeting.com/join/985065749.*

You can also dial in using your phone. United States: +1 (571) 317–3122, Access Code: 985–065–749. Join from a video-conferencing room or

system. Dial in or type: 67.217.95.2 or *inroomlink.goto.com,* Meeting ID: 985 065 749, or dial directly: 985065749@67.217.95.2 or 67.217.95.2##985065749.

You may download the GoToMeeting app now to be ready when the meeting starts: *https://global.gotomeeting.com/install/985065749.*

FOR FURTHER INFORMATION CONTACT: Graciela García-Moliner, Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico 00918–1903; telephone: (787) 403–8337.

SUPPLEMENTARY INFORMATION: The following items included in the tentative agenda will be discussed:

June 1, 2020, 9 a.m.–10 a.m.

—Call to Order
—Roll Call
—Adoption of the Agenda
—Review of Minutes from Virtual Meeting (February 20, 2020)

10 a.m.–10:15 a.m.

—Break

10:15 a.m.–11:30 a.m.

—Development of the Caribbean Fishery Ecosystem Plan
—Introduction/Background—Bill Arnold
—Development of the FEP
1. Purpose and Need/Goals and Objectives

11:30 a.m.–1 p.m.

—Lunch Break

1 p.m.–1:30 p.m.

2. Management/Legal Background—Jocelyn D'Ambrosio, SERO

1:30 p.m.–3 p.m.

3. Update—Ecosystem-Based Efforts: What is Going on?
a. Lenfest—JJ Cruz Motta, Tarsila Seara, Stacey Williams
b. Update EBFM TAP—Orian Tzadik
c. Status of the Ecosystem (ESR)—Kelly Montenero, SEFSC
d. SSC Report—Richard Appeldoorn, SSC Chair
e. DAPs CMs
f. OEAP Stakeholder Strategy—Alida Ortiz
g. Relationship and Synergy Among All Points Above and IBFMPs
h. Others

3 p.m.–3:15 p.m.

—Break

3:15 p.m.–5 p.m.

4. Island-Based Considerations Update—María López, SERO
a. U.S. Virgin Islands
i. St. Croix
ii. St. Thomas/St. John
b. Puerto Rico
5. U.S. Caribbean Considerations
a. SERO/NOAA Restoration Center
b. NMFS/SERO Habitat Conservation Division
6. Caribbean Basin Considerations
7. Regional/Global Considerations
8. Management Within an Ecosystem Context
9. Research Needs

June 2, 2020, 9 a.m.–10 a.m.

—Continue Discussion from Previous Day

10 a.m.–10:15 a.m.

—Break

10:15 a.m.–12 p.m.

—Draft List of FEP Components:
—Risk Analysis
—Ecosystem Status Report
—Integrated Ecosystem Report
—Conceptual and Quantitative Models
—Socio-Economics
—Strategies for 'Population' Status Assessments (How Are Assessments Conducted Within an Ecosystem Context, Species/Species Group/Management Group Level, etc.)
—Other Components

12 p.m.–1 p.m.

—Lunch Break

1 p.m.–2:30 p.m.

—Continue Discussion of FEP Components

2:30 p.m.–2:45 p.m.

—Break

2:45 p.m.–5 p.m.

—Recommendations to the CFMC
—Other Business

The order of business may be adjusted as necessary to accommodate the completion of agenda items. The meetings will begin on June 1, 2020, at 9 a.m. EST, and will end on June 2, 2020, at 5 p.m. EST. Other than the start time, interested parties should be aware that discussions may start earlier or later than indicated, at the discretion of the Chair.

Special Accommodations

For any additional information on this virtual meetings, please contact Dr. Graciela García-Moliner, Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico, 00918–1903, telephone: (787) 403–8337.

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

Dated: May 15, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–10908 Filed 5–19–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA184]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting via webinar.

SUMMARY: The New England Fishery Management Council's is convening its Scientific and Statistical Committee (SSC) via webinar to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This webinar will be held on Thursday, June 4, 2020 at 10 a.m. Webinar registration URL information: *https://attendee.gotowebinar.com/register/5051464688120671246.* Call in information: +1 (415) 655–0060, Access Code: 374–434–055.

ADDRESSES: *Council address:* New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Scientific and Statistical Committee will meet to discuss Council research priorities. They will receive a presentation on the peer review of the Atlantic Cod Stock Structure Working Group's report. They will also receive an update on the SSC-subpanel review of the Groundfish Catch Share Review report. Other business will be discussed as necessary.

Although non-emergency issues not contained on the agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any

issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: May 15, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–10851 Filed 5–19–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RTID 0648–XU010

Meeting of the Columbia Basin Partnership Task Force of the Marine Fisheries Advisory Committee

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

ACTION: Notice of open public meeting.

SUMMARY: This notice sets forth the proposed schedule and agenda of a forthcoming meeting of the Marine Fisheries Advisory Committee's (MAFAC's) Columbia Basin Partnership Task Force (CBP Task Force). The CBP Task Force will discuss the issues outlined in the **SUPPLEMENTARY INFORMATION** below.

DATES: The meeting will be June 2 and June 3, 2020, 9 a.m.–3 p.m., Pacific Time (PT).

ADDRESSES: Meeting is by conference call and webinar.

FOR FURTHER INFORMATION CONTACT: Katherine Cheney; NFMS West Coast Region; 503–231–6730; email: *Katherine.Cheney@noaa.gov*.

SUPPLEMENTARY INFORMATION: Notice is hereby given of a meeting of MAFAC's CBP Task Force. The MAFAC was established by the Secretary of Commerce (Secretary) and, since 1971, advises the Secretary on all living marine resource matters that are the responsibility of the Department of Commerce. The MAFAC charter is located online at *https://www.fisheries.noaa.gov/topic/partners#marine-fisheries-advisory-committee-*. The CBP Task Force reports to MAFAC and is being convened to develop recommendations for long-term goals to meet Columbia Basin salmon recovery, conservation needs, and harvest opportunities, in the context of habitat capacity and other factors that affect salmon mortality. More information is available at the CBP Task Force web page: *http://www.westcoast.fisheries.noaa.gov/columbia_river/index.html*.

Matters To Be Considered

The meeting time and agenda are subject to change. Meeting topics include discussion of scenarios for achieving Columbia Basin salmon and steelhead goals; social, cultural, economic, and ecosystem considerations; options for future collaboration; and content of the Phase 2 report.

Time and Date

The meeting is scheduled for June 2 and June 3, 2020, 9 a.m.–3 p.m., PT by conference call and webinar. Access information for the public will be posted by May 26, 2020 at *https://www.fisheries.noaa.gov/event/columbia-basin-partnership-task-force-meeting-materials-and-summaries*.

Jennifer L. Lukens,

Federal Program Officer, Marine Fisheries Advisory Committee, National Marine Fisheries Service.

[FR Doc. 2020–10889 Filed 5–15–20; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA178]

Caribbean Fishery Management Council; Public Meeting; Correction

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

ACTION: Notice of a correction to a public meeting.

SUMMARY: The Caribbean Fishery Management Council's (Council) Outreach and Education Advisory Panel (OEAP) will hold a two-day public virtual meeting to address the items contained in the tentative agenda included in the **SUPPLEMENTARY INFORMATION**.

DATES: The OEAP public virtual meeting will be held on June 3, 2020, from 12 p.m. to 2 p.m., and June 4, 2020, from 12 p.m. to 2 p.m. All meetings will be at Eastern Day Time.

ADDRESSES: You may join the OEAP public virtual meeting (via GoToMeeting) from a computer, tablet or smartphone by entering the following address:

Wednesday, June 3, 2020, 12 p.m.–2 p.m.

Please join my meeting from your computer, tablet or smartphone. *https://global.gotomeeting.com/join/598123173.* You can also dial in using your phone. United States: +1 (571) 317–3122, Access Code: 598–123–173. You may download the GoToMeeting app to be ready when the meeting starts: *https://global.gotomeeting.com/install/598123173.*

Thursday, June 4, 2020 12 p.m.–2 p.m.

Please join my meeting from your computer, tablet or smartphone. *https://global.gotomeeting.com/join/292561749.* You can also dial in using your phone. United States: +1 (646) 749–3122, Access Code: 292–561–749. You may download the GoToMeeting app to be ready when the meeting starts: *https://global.gotomeeting.com/install/292561749.*

FOR FURTHER INFORMATION CONTACT: Miguel Rolón, Executive Director, Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico 00918–1903; telephone: (787) 398–3717.

SUPPLEMENTARY INFORMATION: The original notice published in the **Federal Register** on May 15, 2020 (85 FR 29406). This notice makes changes to the meeting links.

The following items included in the tentative agenda will be discussed:

June 3, 2020, 12 p.m.–1 p.m.

—Call to Order
—Adoption of Agenda
—OEAP Chairperson's Report
  —CFMC Arrangements for Virtual Meetings
  —Fishers' Initiatives to Cope With Pandemic Scenario
  —USVI Activities
  —Fishery Ecosystem Based Management Plan (FEBMP)
  —EBFMTAP
  —Outreach & Education Initiatives for Fishers and Consumers

June 3, 2020, 1:10 p.m.–2 p.m.

—Responsible Seafood Consumption Campaign

June 4, 2020, 12 p.m.–1 p.m.

—Update on Five-Year Strategic Plan—Michelle Duval
—Island-Based Fisheries Management Plans (IBFMPs)
—2021 Calendar

June 4, 2020, 1:10 p.m.–2 p.m.

—CFMC Facebook and Instagram Communications with Stakeholders
—PEPCO
—Other Business

The order of business may be adjusted as necessary to accommodate the completion of agenda items. The meeting will begin on June 3, 2020, at 12 p.m. EDT, and will end on June 4, 2020, at 2 p.m. EDT. Other than the start time, interested parties should be aware that discussions may start earlier or later than indicated, at the discretion of the Chair. In addition, the meeting may be completed prior to the date established in this notice.

Special Accommodations

For any additional information on this public virtual meeting, please contact Diana Martino, Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico 00918–1903, telephone: (787) 226–8849.

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

Dated: May 15, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–10850 Filed 5–19–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA174]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council will host a webinar meeting for all of its Advisory Panels, including the Mackerel, Squid, and Butterfish Advisory Panel; the Summer Flounder, Scup, and Black Sea Bass Advisory Panel; the Bluefish Advisory Panel; the Spiny Dogfish Advisory Panel; the Surfclam and Ocean Quahog Advisory Panel; the Tilefish Advisory Panel; the Ecosystem and Ocean Planning Advisory Panel; and the River Herring and Shad Advisory Panel.

DATES: The meeting will be held on Friday, June 5, 2020, from 9:30 a.m. until 11 a.m.

ADDRESSES: The meeting will be held via webinar, which can be accessed at: *http://mafmc.adobeconnect.com/ap5june2020/.* Meeting audio can be accessed by following the prompts which appear after logging into the webinar, or via telephone by dialing 1–800–832–0736 and entering room number 5068871.

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The Mid-Atlantic Fishery Management Council will host a webinar for all eight of its Advisory Panels (*i.e.,* the Mackerel, Squid, and Butterfish Advisory Panel; the Summer Flounder, Scup, and Black Sea Bass Advisory Panel; the Bluefish Advisory Panel; the Spiny Dogfish Advisory Panel; the Surfclam and Ocean Quahog Advisory Panel; the Tilefish Advisory Panel; the Ecosystem and Ocean Planning Advisory Panel; and the River Herring and Shad Advisory Panel). The purpose of this meeting is for AP members to develop recommendations on how the fisheries they participate in could be displayed on the Mid-Atlantic Data Portal and the Northeast Ocean Data Portal. The data portals are used for a number of purposes, including planning, analysis, and outreach related to fisheries management, aquaculture, dredging, offshore energy development, and research. AP input provided during this webinar will support a joint project between the Northeast Regional Ocean Council (NROC), the Mid-Atlantic Regional Council on the Ocean (MARCO), and the Responsible Offshore Development Alliance (RODA) to update and improve the data portals. Mid-Atlantic Fishery Management Council staff will host this meeting and NROC, MARCO, and RODA staff will present and facilitate the discussion.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

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

Dated: May 15, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–10849 Filed 5–19–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF EDUCATION

Extension of the Application Deadline Date; Applications for New Awards; American Indian Vocational Rehabilitation Services

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

ACTION: Notice.

SUMMARY: On March 9, 2020, the Department of Education (Department) published in the **Federal Register** a notice inviting applications (NIA) for the fiscal year (FY) 2020 American Indian Vocational Rehabilitation Services competition, Catalog of Federal Domestic Assistance (CFDA) number 84.250N. The NIA established a deadline date of May 26, 2020, for the transmittal of applications. This notice extends the deadline date for transmittal of applications until June 26, 2020 at 11:59 p.m.

DATES: *Deadline for Transmittal of Applications:* June 26, 2020.

FOR FURTHER INFORMATION CONTACT: August Martin, U.S. Department of Education, 400 Maryland Avenue SW, Room 5064A, Potomac Center Plaza, Washington, DC 20202–2800. Telephone: (202) 245–7410. Email: *August.Martin@ed.gov.*

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

SUPPLEMENTARY INFORMATION: On March 9, 2020, we published the NIA for the FY 2020 American Indian Vocational Rehabilitation Services competition in the **Federal Register** (85 FR 13636) (*https://www.federalregister.gov/documents/2020/03/09/2020-04757/applications-for-new-awards-american-indian-vocational-rehabilitation-services*). We are extending the deadline for transmittal of applications in order to allow applicants more time to prepare and submit their applications. This extension reflects consideration of the

adverse effect the COVID–19 pandemic has had on potential applicants.

Note: All information in the NIA for this competition remains the same, except for the deadline for the transmittal of applications.

Note: *Grants.gov* has relaxed the requirement for applicants to have an active registration in the System for Award Management (SAM) in order to apply for funding during the COVID–19 pandemic. An applicant that does not have an active SAM registration can still register with *Grants.gov,* but must contact the *Grants.gov* Support Desk, toll-free, at 1–800–518–4726, in order to take advantage of this flexibility.

Program Authority: 29 U.S.C. 741.

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.

Mark Schultz,

Commissioner, Rehabilitation Services Administration. Delegated the authority to perform the functions and duties of the Assistant Secretary for the Office of Special Education and Rehabilitative Services.

[FR Doc. 2020–10822 Filed 5–19–20; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Effectiveness of Exempt Wholesale Generator and Foreign Utility Company Status

Blythe Solar III, LLC	EG20–74–000
Blythe Solar VI, LLC	EG20–75–000
ENGIE Long Draw Solar LLC	EG20–76–000
FirstEnergy Nuclear Generation, LLC	EG20–77–000
Cambria Wind, LLC	EG20–78–000
Thunderhead Wind Energy LLC	EG20–79–000
Great Bay Solar II, LLC	EG20–80–000
Pegasus Wind A, LLC	EG20–81–000
Cove Mountain Solar, LLC	EG20–82–000
Cove Mountain Solar 2, LLC	EG20–83–000
SR Terrell, LLC	EG20–84–000
Diamond Leaf Energy, LLC	EG20–85–000
Tejas Power Generation, LLC	EG20–86–000
Peetz Table Wind, LLC	EG20–87–000
Blauracke GmbH	FC20–3–000
Energy Center Caguas LLC	FC20–4–000

Take notice that during the month of April 2020, the status of the above-captioned entities as Exempt Wholesale Generators or Foreign Utility Companies became effective by operation of the Commission's regulations. 18 CFR 366.7(a) (2019).

Dated: May 14, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–10847 Filed 5–19–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL20–46–000]

Complaint of Michael Mabee Related to Critical Infrastructure Protection Reliability Standards; Notice of Complaint

Take notice that on May 12, 2020, pursuant to section 215(d) of the Federal Power Act, 16 U.S.C. 824o(d) and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206 (2019), Michael Mabee, (Complainant) filed a formal complaint alleging that Critical Infrastructure Protection Reliability Standard (CIP–013–1) (Cyber Security Supply Chain Risk Management) does not comport with Presidential Executive Order 13920: Securing the United States Bulk-Power System; and does not fully address the National Institute of Standards and Technology Cybersecurity Framework, as more fully explained in the complaint.

Complainant certifies that copies of the complaint were served on the contacts as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. All interventions, or protests must be filed on or before the comment date.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended

access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov,* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Comment Date: 5:00 Eastern Time on June 11, 2020.

Dated: May 14, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–10841 Filed 5–19–20; 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 No.	File date	Presenter or requester
Prohibited		
NONE.		
Exempt		
P–12726–002	5–7–2020	FERC Staff [1]

Dated: May 14, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–10848 Filed 5–19–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG20–162–000.
Applicants: Maverick Solar, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Maverick Solar, LLC.
Filed Date: 5/13/20.
Accession Number: 20200513–5186.
Comments Due: 5 p.m. ET 6/3/20.

Docket Numbers: EG20–163–000.
Applicants: Maverick Solar 4, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Maverick Solar 4, LLC.
Filed Date: 5/13/20.
Accession Number: 20200513–5187.
Comments Due: 5 p.m. ET 6/3/20.

Docket Numbers: EG20–164–000.
Applicants: Gray County Wind, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Gray County Wind, LLC.
Filed Date: 5/14/20.
Accession Number: 20200514–5043.
Comments Due: 5 p.m. ET 6/4/20.

Docket Numbers: EG20–165–000.
Applicants: Oliver Wind I, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Oliver Wind I, LLC.
Filed Date: 5/14/20.
Accession Number: 20200514–5044.
Comments Due: 5 p.m. ET 6/4/20.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER20–1814–000.

[1] Email memo regarding the 4/21/2020 communication with Nick Josten of GeoSense.

Applicants: New England Power Company.

Description: Tariff Cancellation: Notice of Cancellation of System Upgrade Reimbursement Agmt with Deerfield Wind to be effective 7/13/2020.

Filed Date: 5/13/20.

Accession Number: 20200513–5247.

Comments Due: 5 p.m. ET 6/3/20.

Docket Numbers: ER20–1815–000.

Applicants: Public Service Company of New Mexico.

Description: § 205(d) Rate Filing: Modification to Contract P0695 between PNM and Western to be effective 4/15/2020.

Filed Date: 5/14/20.

Accession Number: 20200514–5002.

Comments Due: 5 p.m. ET 6/4/20.

Docket Numbers: ER20–1816–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original ISA, SA No. 5594; Queue No. AC1–214 to be effective 4/14/2020.

Filed Date: 5/14/20.

Accession Number: 20200514–5045.

Comments Due: 5 p.m. ET 6/4/20.

Docket Numbers: ER20–1817–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to ISA, SA No. 3831; Queue No. Z1–072 (amend) to be effective 6/14/2016.

Filed Date: 5/14/20.

Accession Number: 20200514–5047.

Comments Due: 5 p.m. ET 6/4/20.

Docket Numbers: ER20–1818–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: Tariff Cancellation: Notice of Cancellation of Service Agreement No. 817 to be effective 5/31/2020.

Filed Date: 5/14/20.

Accession Number: 20200514–5051.

Comments Due: 5 p.m. ET 6/4/20.

Docket Numbers: ER20–1819–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to ISA, SA No. 5068; Queue No. AB1–081 (amend) to be effective 4/13/2018.

Filed Date: 5/14/20.

Accession Number: 20200514–5066.

Comments Due: 5 p.m. ET 6/4/20.

Docket Numbers: ER20–1820–000.

Applicants: Hickory Run Energy, LLC.

Description: Compliance filing: Hickory Run Energy Compliance Filing to be effective 5/12/2020.

Filed Date: 5/14/20.

Accession Number: 20200514–5079.

Comments Due: 5 p.m. ET 6/4/20.

Docket Numbers: ER20–1821–000.

Applicants: Georgia Power Company.

Description: § 205(d) Rate Filing: Dominion Energy South Carolina Affected System Agreement Filing to be effective 7/8/2020.

Filed Date: 5/14/20.

Accession Number: 20200514–5097.

Comments Due: 5 p.m. ET 6/4/20.

Docket Numbers: ER20–1822–000.

Applicants: Pavant Solar LLC.

Description: § 205(d) Rate Filing: Amendment to Market Based Rate Tariff to be effective 7/13/2020.

Filed Date: 5/14/20.

Accession Number: 20200514–5100.

Comments Due: 5 p.m. ET 6/4/20.

Docket Numbers: ER20–1824–000.

Applicants: ISO New England Inc.

Description: ISO New England Inc. submits First Quarter 2020 Capital Budget Report.

Filed Date: 5/14/20.

Accession Number: 20200514–5158.

Comments Due: 5 p.m. ET 6/4/20.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 14, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–10845 Filed 5–19–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 4451–024]

Green Mountain Power Corporation, City of Somersworth, New Hampshire; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests and Establishing Procedural Schedule for Relicensing and a Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Subsequent Minor License.

b. *Project No.:* P–4451–024.

c. *Date filed:* April 30, 2020.

d. *Applicant:* Green Mountain Power and the City of Somersworth, New Hampshire.

e. *Name of Project:* Lower Great Falls Hydroelectric Project.

f. *Location:* On the Salmon Falls River in Strafford County, New Hampshire, and York County, Maine. No federal lands are occupied by the project works or located within the project boundary.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. John Greenan, Green Mountain Power Corporation, 1252 Post Road, Rutland, VT 05701; Phone at (802) 770–2195, or email at *john.greenan@greenmountainpower.com.*

i. *FERC Contact:* Amanda Gill at (202) 502–6773, or *amanda.gill@ferc.gov.*

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See* 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 70 days from the date of filing of the application, and

serve a copy of the request on the applicant.

l. *Deadline for filing additional study requests and requests for cooperating agency status:* July 9, 2020.

The Commission strongly encourages electronic filing. Please file additional study requests and requests for cooperating agency status using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY).

m. The application is not ready for environmental analysis at this time.

n. *Project Description:* The existing Lower Great Falls Hydroelectric Project consists of: (1) A 297-foot-long, 32-foot-high stone masonry and concrete dam that includes the following sections: (a) A 176-foot-long spillway section with a crest elevation of 102.37 feet National Geodetic Vertical Datum of 1929 (NGVD) and 4-foot-high flashboards at an elevation of 106.37 feet NGVD at the top of the flashboards; (b) a 50-foot-long left abutment section; and (c) a 71-foot-long right abutment section; (2) a 32-acre impoundment with a normal elevation of 106.37 feet NGVD; (3) a 40.5-foot-wide, 20-foot-high intake structure with four 5-foot-wide, 10.5-foot-high steel frame gates and a trashrack with 2-inch bar spacing; (4) two steel penstocks that include: (a) An 8.5-foot-diameter, 120-foot-long left penstock that bifurcates into a 5.3-foot-diameter, 85-foot-long section and a 7.6-foot-diameter, 85-foot-long section; and (b) an 8.5-foot-diameter, 140-foot-long right penstock that bifurcates into a 7-foot-diameter, 85-foot-long section and a 7.6-foot-diameter, 85-foot-long section; (5) a 46-foot-long, 30-foot-wide concrete and brick powerhouse with four Francis turbine-generator units with a total capacity of 1.28 megawatt (MW); (6) a 55-foot-long, 30-foot-wide tailrace; (7) a 260-foot-long underground transmission line that delivers power to a 4.16-kilovolt distribution line; and (8) appurtenant facilities. The project creates a 250-foot-long bypassed reach of the Salmon Falls River between the dam and the downstream end of the tailrace.

The project operates as a run-of-river (ROR) facility with no storage or flood control capacity. The project impoundment is maintained at a flashboard crest elevation of 106.37 feet NGVD. The current license requires the project to maintain a continuous minimum flow of 6.05 cubic feet per second (cfs) or inflow, whichever is less, to the bypassed reach for the purpose of protecting and enhancing aquatic resources in the Salmon Falls River. The average annual generation production of the project was 3,916,825 kilowatt-hours from 2005 through 2018.

The applicant proposes to: (1) Continue operating the project in a ROR mode; (2) provide a minimum flow of 30 cfs or inflow, whichever is less, to the bypassed reach; (3) install an eel ramp for upstream eel passage at the project; (4) implement targeted nighttime turbine shutdowns to protect eels during downstream passage; (5) install a downstream fish passage structure for eels and other fish species.

o. In addition to publishing the full text of this notice in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this notice, as well as other documents in the proceeding (*e.g.,* license application) via the internet through the Commission's Home Page (*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 (P–4451). At this time, the Commission has suspended access to the Commission's Public Reference Room due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19) issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or (202) 502–8659 (TTY).

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. *Procedural schedule and final amendments:* The application will be processed according to the following preliminary schedule. Revisions to the schedule will be made as appropriate.

Issue Deficiency Letter (if necessary)—July 2020
Request Additional Information—July 2020
Issue Acceptance Letter—October 2020
Issue Scoping Document 1 for comments—November 2020
Request Additional Information (if necessary)—January 2021
Issue Scoping Document 2—February 2021
Issue Notice of Ready for Environmental Analysis—February 2021
Commission issues Environmental Assessment—August 2021

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–10842 Filed 5–19–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 3472–024]

Aspinook Hydro, LLC; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests and Establishing Procedural Schedule for Relicensing and a Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* P–3472–024.

c. *Date filed:* April 30, 2020.

d. *Applicant:* Aspinook Hydro, LLC.

e. *Name of Project:* Wyre Wynd Hydroelectric Project.

f. *Location:* On the Quinebaug River in New London and Windham Counties, Connecticut. No federal lands are occupied by the project works or located within the project boundary.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mark Boumansour, Chief Operating Officer, Gravity Renewables, Inc., 1401 Walnut Street, Boulder, CO 80302; Phone at (303) 440–3378, or email at *mark@gravityrenewables.com.*

i. *FERC Contact:* Dr. Nicholas Palso at (202) 502–8854, or *nicholas.palso@ferc.gov.*

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See* 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional

scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 70 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for filing additional study requests and requests for cooperating agency status:* July 9, 2020.

The Commission strongly encourages electronic filing. Please file additional study requests and requests for cooperating agency status using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY).

m. The application is not ready for environmental analysis at this time.

n. *Project Description:* The existing Wyre Wynd Hydroelectric Project consists of: (1) A concrete-encased masonry dam that includes the following sections: (a) A 473-foot-long, 19-foot-high spillway section with a crest elevation of 95.3 feet National Geodetic Vertical Datum of 1929 (NGVD) and 2-foot-high flashboards at an elevation of 97.3 feet NGVD at the top of the flashboards; (b) a left abutment section; and (c) a right abutment section; (2) a 333-acre impoundment with a normal elevation of 97.3 feet NGVD; (3) a 100-foot-long, 25-foot-wide headgate structure with five 10.5-foot-wide, 11.5-foot-high sluice gates; (4) a 170-foot-long, 50-foot-wide forebay with five 13-foot-high, 9.5-foot-wide flood gates, a 110-foot-long overflow weir, and two 13-foot-high, 9.5-foot-wide low-level outlet gates; (5) a powerhouse intake structure located at the downstream end of the forebay that includes: (a) A 38.2-foot-long, 20- to 21.3- foot-wide trashrack with 2.6-inch clear-bar spacing; (b) a 16-foot-long, 12-foot-diameter steel penstock that provides flow to a 2.7-megawatt (MW) S-type Kaplan turbine-generator unit located inside of a 75-foot-long, 30-foot-wide concrete powerhouse; and (c) a 450-foot-long, 60-foot-wide tailrace; (6) a minimum flow unit intake structure that branches off of the right side of forebay approximately 35 feet downstream of the headgate structure, and that includes: (a) A 20-foot-long, 9-foot-wide trashrack with 1.5-inch clear-bar spacing; (b) a 40-foot-long, 4-foot-diameter steel penstock that provides flow to a 0.08-megawatt (MW) propeller-type turbine-generator unit located outside; and (c) a 10-foot-long, 30-foot-wide tailrace; (7) two generator leads connecting the turbine-generator units to the local electric distribution system; and (8) appurtenant facilities. The project creates an approximately 400-foot-long bypassed reach of the Quinebaug River.

The current license requires an instantaneous minimum flow of 120 cubic feet per second (cfs), or the inflow, whichever is less, downstream of the dam to protect fish and wildlife resources in the Quinebaug River.

The project had an average annual generation production of approximately 11,000,000 kilowatt-hours from 2003 through 2015.

Aspinook proposes to: (1) Operate the project in run-of-river mode; (2) provide an 84-cfs minimum flow to the bypassed reach; and (3) provide upstream and downstream fish passage.

o. In addition to publishing the full text of this notice in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this notice, as well as other documents in the proceeding (*e.g.,* license application) via the internet through the Commission's Home Page (*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 (P–3472). At this time, the Commission has suspended access to the Commission's Public Reference Room due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or (202) 502–8659 (TTY).

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. *Procedural schedule and final amendments:* The application will be processed according to the following preliminary schedule. Revisions to the schedule will be made as appropriate.

Issue Deficiency Letter (if necessary)—July 2020
Request Additional Information—July 2020
Issue Acceptance Letter—October 2020
Issue Scoping Document 1 for comments—November 2020
Request Additional Information (if necessary)—January 2021
Issue Scoping Document 2—February 2021
Issue Notice of Ready for Environmental Analysis—February 2021
Commission issues Environmental Assessment—August 2021

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: May 14, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–10843 Filed 5–19–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP20–844–000.
Applicants: Natural Gas Pipeline Company of America.
Description: § 4(d) Rate Filing: Amendment to a Negotiated Rate Agreement-Corpus Christi Liquefaction, LLC to be effective 5/1/2020.
Filed Date: 5/1/20.
Accession Number: 20200501–5001.
Comments Due: 5 p.m. ET 5/18/20.

Docket Number: PR20–57–000.
Applicants: Louisville Gas and Electric Company.
Description: Tariff filing per 284.123(b),(e)/: Revised Statement of Operating Conditions eff 5–1–2020 to be effective 5/1/2020.
Filed Date: 5/11/2020.
Accession Number: 202005115056.
Comments/Protests Due: 5 p.m. ET 6/1/2020.

Docket Number: PR20–58–000.
Applicants: Black Hills/Kansas Gas Utility Company, LLC.
Description: Tariff filing per 284.123(b),(e)/: Black Hills/Kansas Gas Utility Company LLC SOC Filing CP19–483 to be effective 8/1/2019.
Filed Date: 5/11/2020.
Accession Number: 202005115080.
Comments/Protests Due: 5 p.m. ET 6/1/2020.

Docket Number: PR20–59–000.
Applicants: Columbia Gas of Maryland, Inc.
Description: Tariff filing per 284.123(b),(e)/: CMD Rates effective May 1 2020 to be effective 5/1/2020.
Filed Date: 5/13/2020.
Accession Number: 202005135043.
Comments/Protests Due: 5 p.m. ET 6/3/2020.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified date(s). Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 14, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–10846 Filed 5–19–20; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2020–0262; FRL–10008–21]

Agency Information Collection Activities; Proposed Renewal of an Existing Collection (EPA ICR No. 1246.14 and OMB Control No. 2070–0072); Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this document announces that EPA is planning to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB). The ICR, entitled: ''Reporting and Recordkeeping for Asbestos Abatement Worker Protection'' and identified by EPA ICR No. 1246.14 and OMB Control No. 2070–0072, represents the renewal of an existing ICR that is scheduled to expire on December 31, 2020. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection that is summarized in this document. The ICR and accompanying material are available in the docket for public review and comment.

DATES: Comments must be received on or before July 20, 2020.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OPPT–2020–0262, using the Federal eRulemaking Portal at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Please note that due to the public health emergency the EPA Docket Center (EPA/DC) and Reading Room was closed to public visitors on March 31, 2020. There is also a temporary suspension of mail delivery to EPA and no hand deliveries are currently accepted. Our EPA/DC staff will continue to provide customer service via email, phone, and webform. For further information on EPA/DC services, docket contact information and the current status of the EPA/DC and Reading Room, please visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Sarah Cox, National Program Chemicals Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–3961; email address: *cox.sarah@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What information is EPA particularly interested in?

Pursuant to PRA section 3506(c)(2)(A) (44 U.S.C. 3506(c)(2)(A)), EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.

2. Evaluate the accuracy of the Agency's estimates of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

3. Enhance the quality, utility, and clarity of the information to be collected.

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

II. What information collection activity or ICR does this action apply to?

Title: Reporting and Recordkeeping for Asbestos Abatement Worker Protection.

EPA ICR number: EPA ICR No. 1246.14.

OMB control number: OMB Control No. 2070–0072.

ICR status: This ICR is currently approved through December 31, 2020. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA regulations in title 40 of the Code of Federal Regulations (CFR) are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: This ICR covers reporting and recordkeeping requirements associated with EPA's Asbestos Worker Protection Rule (WPR) (40 CFR part 763, subpart G), which establishes workplace standards for the protection of state and local government employees who work with asbestos and who are not covered by a state plan approved by the Occupational Safety and Health Administration (OSHA). Currently, state and local government employees in 24 states, the District of Columbia (DC), and three additional U.S. territories (DC and the territories are counted as one ''state equivalent'') who perform construction work, including building construction, renovation, demolition, and maintenance activities, and employees who perform brake and clutch repair work, are covered by EPA's WPR. The WPR requires state and local government employers to use engineering controls and appropriate work practices to control the release of asbestos fibers. Covered employers must also monitor employee exposure to asbestos and provide employees with personal protective equipment, training, and medical surveillance to reduce the risk of asbestos exposure. Exposure monitoring records must be maintained for 30 years, medical surveillance records for the duration of employment of the affected employees plus 30 years, and training records for the duration of employment plus one year. Employers must also establish written respiratory protection programs and maintain procedures and records of respirator fit tests for one year.

The ICR, which is available in the docket along with other related materials, provides a detailed explanation of the collection activities and the burden estimate that is only briefly summarized here:

Respondents/affected entities: States and local government employers in the 24 states, DC, and the U.S. territories of American Samoa, Guam, and the Northern Mariana Islands that have employees engaged in asbestos-related construction, custodial, and brake and clutch repair activities without OSHA-approved state plans.

Estimated total number of potential respondents: 25,312.

Frequency of response: On occasion.

Estimated total annual burden: 372,969 hours. Burden is defined at 5 CFR 1320.3(b).

Estimated total annual burden costs: $16,894,178, includes no annualized capital investment or maintenance and operational costs.

III. Are there changes in the estimates from the last approval?

There was no change from the burden hours from the last approval. Estimated annual burden hour costs showed an increase of $1,00,000 due to increasing wage rates.

IV. What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** document pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: May 8, 2020.

Alexandra Dapolito Dunn,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2020–10898 Filed 5–19–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA R9–2019–13; FRL–10008–81–Region 9]

Notice of Proposed Administrative Settlement Agreement and Order on Consent With De Minimis Parties at the Omega Chemical Corporation Superfund Site in Los Angeles County, California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement; request for public comment.

SUMMARY: In accordance with the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (''CERCLA''), notice is hereby given that the Environmental Protection Agency (''EPA''), has entered into a proposed settlement, embodied in an Administrative Settlement Agreement and Order on Consent (''Settlement Agreement''), with one hundred and forty-five parties (the ''Settling De Minimis Parties'') that sent between one and three tons of waste to a solvent and refrigerant recyling facility that operated between 1976 and 1991 in Whittier, California, called the Omega Chemical Corporation. Under the Settlement Agreement, the Settling De Minimis Parties agree to pay EPA $6,521,025.19 to resolve their liability for both past and future costs associated with the cleanup of the Omega Chemical Corporation Superfund Site (''Omega Site'') in Los Angeles County California.

DATES: Comments must be received on or before June 19, 2020.

ADDRESSES: Please contact Keith Olinger at *olinger.keith@epa.gov* or (415) 972–3125 to request a copy of the Settlement Agreement. Comments on the Settlement Agreement should be submitted in writing to Mr. Olinger at *olinger.keith@epa.gov.* Comments should reference the Omega Site and the EPA Docket Number for the Settlement Agreement, EPA R9–2019–13. If for any reason you are not able to submit a comment by email, please contact Mr. Olinger at (415) 972–3125 to make alternative arrangements for submitting your comment. EPA will post its response to comments at *https://cumulis.epa.gov/supercpad/cursites/csitinfo.cfm?id=0903349,* EPA's web page for the Omega Site.

FOR FURTHER INFORMATION CONTACT: Keith Olinger, Enforcement Officer (SFD–7–5), Superfund Division, U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105; email: *olinger.keith@epa.gov;* Phone (415) 972–3125.

SUPPLEMENTARY INFORMATION: Notice of this proposed Settlement Agreement is made in accordance with the Section 122(i) of CERCLA, 42 U.S.C. 9622(i). The Settlement Agreement is a de minimis settlement agreement pursuant to Section 122(g) of CERCLA, 42 U.S.C. 9622(g), whereby the Settling De Minimis Parties, which are identified below, collectively agree to pay EPA $6,521,025.19. The Settlement Agreement resolves the Settling De Minimis Parties' liability for both past and future response costs at the Omega Site and provides the Settling De Minimis Parties with a site-wide covenant not to sue pursuant to Section 122(g)(2) of CERCLA, 42 U.S.C. 9622(g)(2). Groundwater contamination extends approximately four-and-one-half miles south, southwest from the former Omega Chemical Corporation facility, where the Settling De Minimis Parties sent hazardous waste. Much of the plume of groundwater contamination at the Omega Site lies beneath a large commercial/industrial area where chemicals released at other facilities have commingled with the contamination originating at the former Omega Chemical facility. Pursuant to a Consent Decree entered on March 31, 2017, Docket No. 2:16–cv–02696 (Central District, California), between the United States and other potentially responsible parties (''PRPs'') at the Omega Site, EPA is obligated to share seventy percent of the money collected under this Settlement Agreement with certain PRPs that have incurred significant costs cleaning up contamination at the Omega Site and will continue to incur cleanup costs in the future. As of December 31, 2019, EPA had incurred more than $43 million in costs related to the Omega Site. After accounting for the transfer of a portion of the proceeds from this Settlement Agreement to certain PRPs at the Omega Site pursuant to the terms of the 2017 Consent Decree, EPA will have recovered more than $28 million of its costs.

EPA will consider all comments received on the Settlement Agreement in accordance with the **DATES** and **ADDRESSES** sections of this Notice and may modify or withdraw its consent to the Settlement Agreement if comments received disclose facts or considerations that indicate that the settlement is inappropriate, improper, or inadequate.

Parties to the Proposed Settlement

ACD Holdings, LLC; Aerojet Rocketdyne, Inc.; Albertsons Companies

Inc. (for Vons Milk Plant); Alhambra Unified School District; Alinabal Holdings Corporation, as successor to Lamsco West, Inc.; Allfast Fastening Systems, LLC; Alltech Associates, Inc.; Amvac Chemical Corporation; Anacomp, Inc.; Anheuser-Busch, LLC; Antelope Valley Union High School District; Armtec Defense Products Co.; B. Braun Medical Inc., for American McGaw Laboratories; Barber Group, Inc.; Barnett Tool & Engineering; BP Lubricants USA, Inc.; Burbank Steel Treating, Inc.; Burbank-Glendale-Pasadena Airport Authority; California Institute of the Arts; California State University (Fullerton); California State University (Pomona); California State University (San Diego); California Steel Industries, Inc.; Calstrip Steel Corporation; Centinela Hospital Medical Center; Cerritos College; CIPCO, Inc. (f/k/a, California Industrial Products, Inc.); Circor Instrumentation Technologies, Inc.; City of Beverly Hills; City of Burbank; City of Glendale; City of Inglewood; City of Palm Desert; City of Tustin; Climet Instruments Company; Closet Maid LLC; Conopco, Inc., successor to Lever Brothers Company; Consolidated Communications of California Company; County of San Diego; County of Ventura; Courtesy Chevrolet Center; Crossfield Products Corp.; Daikin Applied Americas, Inc.; Dasol, Inc. (f/k/a, Coronet Manufacturing Company, Inc.); DCH (Oxnard) Inc.; Desert Healthcare Foundation; Diamond Perforating Metal; Dick Browning, Inc.; Dignity Health d/b/a St. John Regional Medical Center; Dow-Key Microwave Corp.; Ducommun Labarge Technologies, Inc.; E.M.E., Inc.; Eagle Packaging, Inc.; Earnhardts Auto Center; Elliott Company, as successor to Ebara International Corporation; Eubanks Engineering Co.; Exhibitree, Inc.; Finishmaster, Inc.; Flextronics International USA, Inc.; Fontana Unified School District; Garden Grove Unified School District; Garner Glass Company; Gehr Industries; General Electric; Griswold Industries; Halbert Brothers, Inc.; Hardinge, Inc.; Hawker Pacific Aerospace; Heitman Properties; Hercules Hydrocarbon Holdings, Inc., as successor to Betz Energy Chemicals; Hoffmaster Group, Inc., as successor to Duni Corporation (West); Hogg & Davis, Inc.; Hyster-Yale Group, Inc.; Hyundai Translead, as successor to Hyundai Steel Industries; Industrial Truck Bodies & Equipment, Inc.; J.H. McCormick, Inc. d/b/a McCormick Construction Co.; J.R. Simplot Company; JMB Realty Corporation (for JMB Property Management); Jostens Inc.; Kaiser Foundation Health Plan, Inc.; Kemp Ford; Kennametal Stellite, LP; Long Beach City College; Los Feliz Ford, Inc.; Los Robles Regional Medical Center; Martin E–Z Stick Labels; Mazda Motor of America, Inc.; MemorialCare Health System, for Long Beach Memorial Medical Center; Mercedes Benz USA, LLC; Mitsubishi Cement Corporation; Moss Motors, Ltd.; Motion Picture and Television Fund; North Orange County Community College District; Ogner Motorcars, Inc.; Orcutt Union School District; P. H. Glatfelter Company; Pasadena City College; Peter Pepper Products, Inc.; Plasma Coating Corporation; Plasma Technology, Inc.; PMC Specialties Group, Inc.; Port of West Sacramento PRC-Desoto International, Inc.; Providence Health System—Southern California; QSC, LLC, as successor to QSC Audio Products, Inc.; R & K Metal Finishing; Ralphs Grocery Company; Randall/McAnany Company; Resident Group Services, Inc.; Rio Hondo College; Rockwell Automation, Inc.; Santa Barbara Unified School District; Scientific-Atlanta, LLC; Sensient Imaging Technologies, Inc.; SGL Technic LLC; Siemens Industry, Inc., as successor to Safetran Systems Corporation; Skov Auto Parts, Inc.; South Bay Cable Corp.; Space Systems; Space Systems/Loral, LLC (for Ford Aerospace); Spirol West, Inc.; Spring Street Towers; State of California Department of Developmental Services (for Fairview State Hospital); State of California Department of Developmental Services (for State of California (LSHDC); State of California Department of General Services; Sunnyvale Ford; Systron-Donner Corporation; T S Spray; Taiyo Yuden (U.S.A.) Inc.; Tanabe Research Laboratories USA, Inc.; Tap Plastics, Inc.; The ML Lawrence Trust; Tnemec Company, Inc; Toshiba America Information Systems, Inc.; Unifirst Corporation; Universal Oil Products Company; Vertiv Corporation (as successor to Liebert Clean Room Systems); Wavell Huber Wood Products, Inc.; Western Pacific Fleet Service, Inc.; Weyerhaeuser Company; Wildwood Express: Windowmaster Products, Inc.; Young Touchstone Company, for Arrowsmith Power Systems, Inc.; Zeneca Inc.; Zieman Manufacturing Company.

Dated: May 13, 2020.

Enrique Manzanilla,

Director, Superfund Division, EPA Region 9.

[FR Doc. 2020–10836 Filed 5–19–20; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0850 and OMB 3060–0896; FRS 16753]

Information Collections Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it can further reduce the information collection burden for small business concerns with fewer than 25 employees.

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before June 19, 2020.

ADDRESSES: Comments should be sent to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Your comment must be submitted into *www.reginfo.gov* per the above instructions for it to be considered. In addition to submitting in *www.reginfo.gov* also send a copy of your comment on the proposed information collection to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the

right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: 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.

As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

OMB Control No.: 3060–0850.

Title: Quick-Form Application for Authorization in the Ship, Aircraft, Amateur, Restricted and Commercial Operator, and General Mobile Radio Services, FCC Form 605.

Form No.: FCC Form 605.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households; business or other for-profit; not-for-profit institutions; state, local or tribal government.

Number of Respondents/Responses: 130,000 respondents; 130,000 responses.

Estimated Time per Response: 0.17 hours–0.44 hours.

Frequency of Response: On occasion reporting requirement; third party disclosure requirement, recordkeeping and other (5 and 10 years).

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 CFR 1.913(a)(4).

Total Annual Burden: 57,218 hours.

Total Respondent Cost: $2,676,700.

Privacy Act Impact Assessment: Yes.

Nature and Extent of Confidentiality: In general, there is no need for confidentiality. The Commission is required to withhold from disclosure certain information about the individual such as date of birth or telephone number.

Needs and Uses: FCC Form 605 application is a consolidated application form for Ship, Aircraft, Amateur, Restricted and Commercial Radio Operators, and General Mobile Radio Services and is used to collect licensing data for the Universal Licensing System. The Commission is requesting OMB approval for an extension (no change in the reporting, recordkeeping and/or third-party disclosure requirements). The Commission is making minor clarifications to the instructions on the main form and schedule B as well as a clarification to Item 3 on the main form.

The data collected on this form includes the Date of Birth for Commercial Operator licensees however this information will be redacted from public view.

The FCC uses the information in FCC Form 605 to determine whether the applicant is legally, technically, and financially qualified to obtain a license. Without such information, the Commission cannot determine whether to issue the licenses to the applicants that provide telecommunication services to the public, and therefore, to fulfill its statutory responsibilities in accordance with the C communications Act of 1934, as amended. Information provided on this form will also be used to update the database and to provide for proper use of the frequency spectrum as well as enforcement purposes.

OMB Approval Number: 3060–0896.

Title: Broadcast Auction Form Exhibits.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other-for profit entities, not-for-profit institutions, State, local or tribal government.

Number of Respondents and Responses: 2,000 respondents and 5,350 responses.

Estimated Hours per Response: 0.5 hours–2 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 154(i) and 309 of the Communications Act of 1934, as amended.

Annual Hour Burden: 6,663 hours.

Annual Cost Burden: $12,332,500.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment(s): No impact(s).

Needs and Uses: The Commission's rules require that broadcast auction participants submit exhibits disclosing ownership, bidding agreements, bidding credit eligibility and engineering data. These data are used by Commission staff to ensure that applicants are qualified to participate in Commission auctions and to ensure that license winners are entitled to receive the new entrant bidding credit, if applicable. Exhibits regarding joint bidding agreements are designed to prevent collusion. Submission of engineering exhibits for non-table services enables the Commission to determine which applications are mutually exclusive.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2020–10532 Filed 5–19–20; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0849, FR No. 16769]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the

information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

DATES: Written comments should be submitted on or before July 20, 2020. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

As part of its continuing effort to reduce paperwork burdens, and as required by the PRA of 1995 (44 U.S.C. 3501–3520), the FCC invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–0849.

Title: Commercial Availability of Navigation Devices.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 962 respondents; 65,252 responses.

Estimated Time per Response: 0.00278 hours–40 hours.

Frequency of Response: Recordkeeping requirement; Third party disclosure requirement; On occasion reporting requirement; Annual reporting requirement; Semi-annual reporting requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority is contained in Sections 4(i), 303(r) and 629 of the Communications Act of 1934, as amended.

Total Annual Burden: 15,921 hours.

Total Annual Cost: $2,990.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: The information collection requirements contained in the collection are as follows: 47 CFR 15.123(c)(3) states subsequent to the testing of its initial unidirectional digital cable product model, a manufacturer or importer is not required to have other models of unidirectional digital cable products tested at a qualified test facility for compliance with the procedures of Uni–Dir–PICS–I01–030903: ''Uni-Directional Receiving Device: Conformance Checklist: PICS Proforma'' (incorporated by reference, see § 15.38) unless the first model tested was not a television, in which event the first television shall be tested as provided in § 15.123(c)(1). The manufacturer or importer shall ensure that all subsequent models of unidirectional digital cable products comply with the procedures in the Uni–Dir–PICS–I01–030903: ''Uni-Directional Receiving Device: Conformance Checklist: PICS Proforma'' (incorporated by reference, see § 15.38) and all other applicable rules and standards. The manufacturer or importer shall maintain records indicating such compliance in accordance with the verification procedure requirements in part 2, subpart J of this chapter. The manufacturer or importer shall further submit documentation verifying compliance with the procedures in the Uni–Dir–PICS–I01–030903: ''Uni-Directional Receiving Device: Conformance Checklist: PICS Proforma'' (incorporated by reference, see § 15.38) to the testing laboratory representing cable television system operators serving a majority of the cable television subscribers in the United States.

47 CFR 15.123(c)(5)(iii) states subsequent to the successful testing of its initial M–UDCP, a manufacturer or importer is not required to have other M–UDCP models tested at a qualified test facility for compliance with M-Host UNI–DIR–PICS–IOI–061101 (incorporated by reference, see § 15.38) unless the first model tested was not a television, in which event the first television shall be tested as provided in § 15.123(c)(5)(i). The manufacturer or importer shall ensure that all subsequent models of M–UDCPs comply with M-Host UNI–DIR–PICS–IOI–061101 (incorporated by reference, see § 15.38) and all other applicable rules and standards. The manufacturer or importer shall maintain records indicating such compliance in accordance with the verification procedure requirements in part 2, subpart J of this chapter. For each M–UDCP model, the manufacturer or importer shall further submit documentation verifying compliance with M-Host UNI–DIR–PICS–IOI–061101 to the testing laboratory representing cable television system operators serving a majority of the cable television subscribers in the United States.

47 CFR 76.1203 provides that a multichannel video programming distributor may restrict the attachment or use of navigation devices with its system in those circumstances where electronic or physical harm would be caused by the attachment or operation of such devices or such devices that assist or are intended or designed to assist in the unauthorized receipt of service. Such restrictions may be accomplished by publishing and providing to subscribers standards and descriptions of devices that may not be used with or attached to its system. Such standards shall foreclose the attachment or use only of such devices as raise reasonable and legitimate concerns of electronic or physical harm or theft of service.

47 CFR 76.1205(a) states that technical information concerning interface parameters which are needed to permit navigation devices to operate with multichannel video programming systems shall be provided by the system operator upon request.

47 CFR 76.1205(b)(1) states a multichannel video programming provider that is subject to the requirements of Section 76.1204(a)(1) must provide the means to allow subscribers to self-install the CableCARD in a CableCARD-reliant device purchased at retail and inform a subscriber of this option when the subscriber requests a CableCARD. This requirement shall be effective August 1, 2011, if the MVPD allows its subscribers to self-install any cable modems or

operator-leased set-top boxes and November 1, 2011 if the MVPD does not allow its subscribers to self-install any cable modems or operator-leased set-top boxes.

47 CFR 76.1205(b)(1)(A) states that this requirement shall not apply to cases in which neither the manufacturer nor the vendor of the CableCARD-reliant device furnishes to purchasers appropriate instructions for self-installation of a CableCARD, and a manned toll-free telephone number to answer consumer questions regarding CableCARD installation but only for so long as such instructions are not furnished and the call center is not offered.

The requirements contained in Section 76.1205 are intended to ensure that consumers are able to install CableCARDs in the devices they purchase because we have determined this is essential to a functioning retail market.

47 CFR 76.1205(b)(2) states effective August 1, 2011, provide multi-stream CableCARDs to subscribers, unless the subscriber requests a single-stream CableCARD. This requirement will ensure that consumers have access to CableCARDs that are compatible with their retail devices, and can request such devices from their cable operators.

47 CFR 76.1205(b)(5) requires to separately disclose to consumers in a conspicuous manner with written information provided to customers in accordance with Section 76.1602, with written or oral information at consumer request, and on websites or billing inserts. This requirement is intended to ensure that consumers understand that retail options are available and that cable operators are not subsidizing their own devices with service fees in violation of Section 629 of the Act.

47 CFR 76.1207 states that the Commission may waive a regulation related to Subpart P (''Competitive Availability of Navigation Devices'') for a limited time, upon an appropriate showing by a provider of multichannel video programming and other services offered over multichannel video programming systems, or an equipment provider that such a waiver is necessary to assist the development or introduction of a new or improved multichannel video programming or other service offered over multichannel video programming systems, technology, or products. Such waiver requests are to be made pursuant to 47 CFR 76.7.

47 CFR 76.1208 states that any interested party may file a petition to the Commission for a determination to provide for a sunset of the navigation devices regulations on the basis that (1) the market for multichannel video distributors is fully competitive; (2) the market for converter boxes, and interactive communications equipment, used in conjunction with that service is fully competitive; and (3) elimination of the regulations would promote competition and the public interest.

47 CFR 15.118(a) and 47 CFR 15.19(d) (label and information disclosure)—The U.S. Bureau of the Census reports that, at the end of 2002, there were 571 U.S. establishments that manufacture audio and visual equipment. These manufacturers already have in place mechanisms for labeling equipment and including consumer disclosures in the form of owners' manuals and brochures in equipment packaging. The Commission estimate that manufacturers who voluntarily decide to label their equipment will need no more than 5 hours to develop a label or to develop wording for a consumer disclosure for owners' manuals/brochures to be included with the device. Once developed, we do not anticipate any ongoing burden associated with the revision/modification of the label, if used, or the disclosure.

Status Reports—Periodic reports are required from large cable multiple system operators detailing CableCARD deployment/support for navigation devices. (This requirement is specified in FCC 05–76, CS Docket No. 97–80).

Federal Communications Commission.

Cecilia Sigmund,

Federal Register Liaison Officer.

[FR Doc. 2020–10886 Filed 5–19–20; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1199; FRS 16778]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before July 20, 2020. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1199.

Title: Section 15.407(j), U–NII Operator Filing Requirement.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit.

Number of Respondents and Responses: 9 respondents; 9 responses.

Estimated Time per Response: 32 hours.

Frequency of Response: On occasion, one-time reporting requirement, recordkeeping and third-party disclosure requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this Information collection is contained in 47 U.S.C. Sections 154(i), 302, 303, 303(r), and 307.

Total Annual Burden: 288 hours.

Total Annual Cost: No cost.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: The Commission will submit this information collection to the Office of Management and Budget (OMB) after this 60-day comment period in order to obtain the full year three-year clearance from them.

The Commission's Rules to Permit Unlicensed National Information Infrastructure (U–NII) in the 5 GHz Band, Section 15.407(j) of the rules established filing requirements for U–NII operators that deploy a collection of more than one thousand outdoor access points with the 5.15–5.25 GHz band, parties must submit a letter to the Commission acknowledging that, should harmful interference to licensed services in this band occur, they will be required to take corrective action. Corrective actions may include reducing power, turning off devices, changing frequency bands, and/or further reducing power radiated in the vertical direction. This material shall be submitted to Laboratory Division, Office of Engineering and Technology, Federal Communications Commission, 7435 Oakland Mills Road, Columbia, MD 21046 Attn: U–NII Coordination, or via website at *https://www.fcc.gov/labhelp* with the SUBJECT LINE: ''U–NII–1 Filing''.

Federal Communications Commission.

Cecilia Sigmund,

Federal Register Liaison Officer.

[FR Doc. 2020–10885 Filed 5–19–20; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–XXXX, FRS 16764]

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 can further reduce the information collection burden for small business concerns with fewer than 25 employees.

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before June 19, 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: 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.

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–XXXX.

Title: Application for the Uniendo a Puerto Rico Fund and the Connect USVI Fund Stage 2 Fixed Support.

Form Number: FCC Form 5634.

Type of Review: New information collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 20 unique respondents; 30 responses.

Estimated Time per Response: 2–80 hours.

Frequency of Response: One-time and annual reporting requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 151–154, 214, and 254.

Total Annual Burden: 1,620 hours.

Total Annual Cost: No Cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: Although some information collected in FCC Form 5634 will be made available for routine public inspection, the Commission will withhold certain information collected in FCC Form 5634 from routine public inspection. Specifically, the Commission will treat certain financial and technical information submitted in FCC Form 5634 as confidential. 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. To the extent that an applicant seeks to have other information collected in FCC Form 5634 or during the post-selection review process withheld from public inspection, the applicant may request confidential treatment pursuant to 47 CFR 0.459.

Needs and Uses: The Commission is requesting the Office of Management and Budget (OMB) approval for this new information collection. In the *Uniendo a Puerto Rico Fund and Connect USVI Fund Order,* the Commission comprehensively reformed the high-cost program within the universal service fund to focus support on networks capable of providing advanced, hardened voice and broadband services in Puerto Rico and the U.S. Virgin Islands (collectively, the Territories). *Uniendo a Puerto Rico Fund and the Connect USVI Fund,* WC Dockets Nos. 18–143 et al., Report and Order and Order on Reconsideration, 34 FCC Rcd 9109 (*PR–USVI Order*). As part of the *PR–USVI Order,* the Commission adopted a single-round competitive proposal process to award Stage 2 support for fixed telecommunications networks in the Territories (Stage 2 Competition).

For the Stage 2 Competition, service providers will compete to receive high-cost support of up to $504.7 million in Puerto Rico and $186.5 million in the U.S. Virgin Islands over 10 years to offer fixed voice and broadband services to all locations in the Territories in accordance with the framework adopted in the *PR–USVI Order.* The information collection requirements reported under this new collection are the result of the competitive proposal process adopted by the *PR–USVI Order* to award support to winning applicants. The Commission adopted various rules regarding the eligibility of service providers and the term of support. In addition, the Commission adopted rules to govern the competitive proposal process, which includes information to be submitted by parties as part of their competitive proposals and information that must be submitted by winning bidders seeking to become authorized to receive Stage 2 fixed support. The Commission concluded, based on its experience with awarding high-cost support and consistent with the record, that this single-stage competitive proposal process balances the need to collect information essential to awarding support and authorizing Stage 2 fixed support with administrative efficiency.

The Commission estimates that approximately 20 parties will apply and approximately 10 will be selected as winning applicants. The Commission is therefore seeking approval from the OMB for the collection on FCC Form 5634 of the information, disclosures, and certifications adopted by the Commission. This information collection addresses the burdens associated with these requirements.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2020–10531 Filed 5–19–20; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments, relevant information, or documents regarding the agreements to the Secretary by email at *Secretary@fmc.gov,* or by mail, Federal Maritime Commission, Washington, DC 20573. Comments will be most helpful to the Commission if received within 12 days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's website (*www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 201234–004.

Agreement Name: Agreement by Ocean Carriers to Participate on the Exchange Board.

Parties: CMA CGM S.A.; COSCO SHIPPING Co., Ltd.; COSCO SHIPPING Lines Co., Ltd.; Hapag-Lloyd AG; Hyundai Merchant Marine Co., Ltd.; Maersk A/S; and Ocean Network Express Pte. Ltd.

Filing Party: Ashley Craig; Venable LLP.

Synopsis: The amendment removes Pacific International Lines (Pte) Ltd as a party pursuant to Article 7 of the Agreement and updates the name and address of the Maersk entity that is a party to the Agreement.

Proposed Effective Date: 6/26/2020.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/Agreement History/2064.

Agreement No.: 201235–004.

Agreement Name: Agreement by Ocean Common Carriers to Use Standard Service Contract Terms.

Parties: CMA CGM S.A.; COSCO SHIPPING Co., Ltd.; COSCO SHIPPING Lines Co., Ltd.; Hapag-Lloyd AG; Hyundai Merchant Marine Co., Ltd.; Maersk A/S; Orient Overseas Container Line Limited; OOCL (Europe) Limited; and Ocean Network Express Pte. Ltd.

Filing Party: Ashley Craig; Venable LLP.

Synopsis: The amendment removes Pacific International Lines (Pte) Ltd as a party pursuant to Article 7 of the Agreement and updates the name and address of the Maersk entity that is a party to the Agreement.

Proposed Effective Date: 6/26/2020.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/Agreement History/2065.

Dated: May 15, 2020.

Rachel Dickon,

Secretary.

[FR Doc. 2020–10857 Filed 5–19–20; 8:45 am]

BILLING CODE 6730–02–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than June 19, 2020.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Piper Holdings, Inc., Covington, Indiana;* to acquire SBB Bancshares, Inc., and thereby indirectly acquire State Bank of Burnettsville, both of Burnettsville, Indiana.

Board of Governors of the Federal Reserve System, May 15, 2020.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2020–10878 Filed 5–19–20; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than June 3, 2020.

A. Federal Reserve Bank of Philadelphia (William Spaniel, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105–1521. Comments can also be sent electronically to *Comments.applications@phil.frb.org:*

1. *Patriot Financial Partners, GP II, L.P., Patriot Financial Partners II, L.P., Patriot Financial Partners Parallel II, L.P., Patriot Financial Partners, GP II, LLC, Patriot Financial Manager, L.P., Patriot Financial Manager, LLC, and W. Kirk Wycoff, James J. Lynch, and Ira M. Lubert (each of whom own the previously listed entities), all of Radnor, Pennsylvania;* as members of a group acting in concert to acquire voting shares of Avidbank Holdings, Inc. and thereby indirectly acquire voting shares of Avidbank, both of San Jose, California.

Board of Governors of the Federal Reserve System, May 14, 2020.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2020–10796 Filed 5–19–20; 8:45 am]

BILLING CODE P

FEDERAL TRADE COMMISSION

Granting of Requests for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination—on the dates indicated—of the waiting period provided by law and the premerger notification rules. The listing for each transaction includes the transaction number and the parties to the transaction. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

EARLY TERMINATIONS GRANTED APRIL 1, 2020 THRU APRIL 30, 2020

04/01/2020		
20200717	G	Harsco Corporation; Stericycle, Inc.; Harsco Corporation.
20200760	G	BorgWarner Inc.; Delphi Technologies PLC; BorgWarner Inc.
20200837	G	ITC Rumba, LLC; Robert Camerlinck; ITC Rumba, LLC.
20200853	G	TPG Partners VIII, L.P.; TA XI L.P.; TPG Partners VIII, L.P.
04/02/2020		
20200859	G	Franklin Resources, Inc.; Legg Mason, Inc.; Franklin Resources, Inc.
20200860	G	Thompson Street Capital Partners V, L.P.; Novacap Technologies III, L.P.; Thompson Street Capital Partners V, L.P.
20200864	G	WP GG Investments Holdings Cooperatief U.A.; FPCI MED I; WP GG Investments Holdings Cooperatief U.A.
20200869	G	AEA Investors Fund VII LP; Oaktree Power Opportunties Fund IV, L.P.; AEA Investors Fund VII LP.
04/03/2020		
20200874	G	Biogen, Inc.; Sangamo Therapeutics, Inc.; Biogen, Inc.
20200875	G	Vertical Topco S.a.r.l.; thyssenkrupp AG; Vertical Topco S.a.r.l.
20200878	G	Cornell Capital Partners, LP; Cal-Tex Protective Coatings, Incorporated; Cornell Capital Partners, LP.
20200879	G	Temasek Holdings (Private) Limited; Flywire Corporation; Temasek Holdings (Private) Limited.
20200880	G	Blackstone Capital Partners VII L.P.; HealthEdge Software, Inc.; Blackstone Capital Partners VII L.P.
04/06/2020		
20200873	G	Owl Creek Overseas Fund, Ltd.; Anterix Inc.; Owl Creek Overseas Fund, Ltd.
20200881	G	Insight Venture Partners (Cayman) VII, L.P.; Udemy, Inc.; Insight Venture Partners (Cayman) VII, L.P.
20200884	G	Trust 463; NW Synergy Holdings, LLC; Trust 463.
20200886	G	Compass Diversified Holdings; Marucci Sports, LLC; Compass Diversified Holdings.
20200887	G	Charles and Randi Wax; John Miller; Charles and Randi Wax.
20200888	G	David and Sharon Wax; John Miller; David and Sharon Wax.
20200889	G	John Miller; Charles and Randi Wax; John Miller.
20200890	G	John Miller; David and Sharon Wax; John Miller.

EARLY TERMINATIONS GRANTED APRIL 1, 2020 THRU APRIL 30, 2020—Continued

20200927	G	US Foods Holding Corp.; AP IX First Street Holdings, L.P.; US Foods Holding Corp.
04/07/2020		
20200894	G	Markel Corporation; J. Christopher Lansing; Markel Corporation.
20200895	G	Stockbridge Fund, L.P.; TransDigm Group Incorporated; Stockbridge Fund, L.P.
20200896	G	Berkshire Fund VIII–A, L.P.; TransDigm Group Incorporated; Berkshire Fund VIII–A, L.P.
20200897	G	Markel Corporation; Dunes Point Capital Investment Partners I–B, LLC; Markel Corporation.
20200900	G	Berkshire Fund VIII, L.P.; TransDigm Group Incorporated; Berkshire Fund VIII, L.P.
20200901	G	Berkshire Fund IX–A, L.P.; TransDigm Group Incorporated; Berkshire Fund IX–A, L.P.
20200902	G	Berkshire Fund IX, L.P.; TransDigm Group Incorporated; Berkshire Fund IX, L.P.
04/08/2020		
20200892	G	Mitchell Topco Holdings, Inc.; CVS Health Corporation; Mitchell Topco Holdings, Inc.
20200898	G	Stockbridge Fund, L.P.; Advanced Drainage Systems, Inc.; Stockbridge Fund, L.P.
20200899	G	KKR Banff Aggregator L.P.; Compuware Software Group, LLC; KKR Banff Aggregator L.P.
20200903	G	Energy Capital Partners IV–D, LP; CenterPoint Energy, Inc.; Energy Capital Partners IV–D, LP.
20200904	G	VectoIQ Acquisition Corp.; Nikola Corporation; VectoIQ Acquisition Corp.
20200913	G	Mr. Dmitry A. Mazepin; PJSC Uralkali; Mr. Dmitry A. Mazepin.
04/09/2020		
20200919	G	Fox Corporation; Tubi, Inc.; Fox Corporation
20200920	G	Donald M. Berman; Ally Financial Inc.; Donald M. Berman.
20200921	G	Ally Financial Inc.; Donald M. Berman; Ally Financial Inc.
20200922	G	HDC Hyundai Development Company; Asiana Airlines, Inc.; HDC Hyundai Development Company.
20200926	G	Firmenich International SA; Ardian LBO Fund VI B S.L.P.; Firmenich International SA.
04/10/2020		
20200933	G	San Vicente Holdings LLC; Beijing Kunlun Tech Co., Ltd.; San Vicente Holdings LLC.
20200935	G	The Veritas Capital Fund VII, L.P.; DXC Technology Company; The Veritas Capital Fund VII, L.P.
20200938	G	Colliers International Group Inc.; Maser Consulting, Inc.; Colliers International Group Inc.
20200940	G	Neste Oyj; The Ruth A. Mahoney Irrevocable Gift Trust; Neste Oyj.
20200962	G	Air Products and Chemicals, Inc.; PBF Energy Inc.; Air Products and Chemicals, Inc.
04/13/2020		
20200937	G	Temasek Holdings (Private) Limited; Impossible Foods Inc.; Temasek Holdings (Private) Limited.
20200942	G	Hellman & Friedman Capital Partners IX, LP.; Checkmarx Ltd.; Hellman & Friedman Capital Partners IX, LP.
20200944	G	Giovanni Agnelli B.V.; Via Transportation, Inc.; Giovanni Agnelli B.V.
20200945	G	ProSiebenSat.1 Media SE; The Meet Group, Inc.; ProSiebenSat.1 Media SE.
20200946	G	CarePathRx Holding Company, LLC; BioPlus Specialty Pharmacy Services Holdings, Inc.; CarePathRx Holding Company, LLC.
04/14/2020		
20200948	G	Institutional Venture Partners XVI, L.P.; HashiCorp, Inc.; Institutional Venture Partners XVI, L.P.
20200949	G	Mining Parent Holdco, Inc.; Murray Energy Holdings Co.; Mining Parent Holdco, Inc.
20200951	G	LS Power Equity Partners III, L.P.; Public Service Enterprise Group Inc.; LS Power Equity Partners III, L.P.
20200954	G	Palo Alto Networks, Inc.; CloudGenix, Inc.; Palo Alto Networks, Inc.
20200955	G	Schneider Electric SE; RIB Software; Schneider Electric SE.
04/15/2020		
20200961	G	U.S. Bancorp; State Farm Mutual Automobile Ins. Co.; U.S. Bancorp.
20200963	G	Madison Dearborn Capital Partners VI–A, L.P.; EVO Payments, Inc.; Madison Dearborn Capital Partners VI–A, L.P.
20200964	G	Dr. William Fung; Li & Fung Limited; Dr. William Fung.
20200965	G	Victor Trust; Li & Fung Limited; Victor Trust.
20200966	G	WaterBridge Equity Finance LLC; Centennial Resource Development, Inc.; WaterBridge Equity Finance LLC.
20200967	G	The Rise Fund (A), L.P.; RefleXion Medical, Inc.; The Rise Fund (A), L.P.
04/20/2020		
20200969	G	ES Parent, L.P.; Holdings LLC; ES Parent, L.P.
20200971	G	OfferUp Inc.; Naspers Limited; OfferUp Inc.
20200972	G	Naspers Limited; OfferUp Inc.; Naspers Limited.
20200981	G	MH Parent, LLC; New Millennium Holdco, Inc.; MH Parent, LLC.
20200982	G	Social Finance, Inc.; Thomas Clayton and Marie Peterson Wilkes; Social Finance, Inc.
20200983	G	Thomas Clayton and Marie Peterson Wilkes; Social Finance, Inc.; Thomas Clayton and Marie Peterson Wilkes.
04/21/2020		
20200984	G	MaxLinear, Inc.; Intel Corporation; MaxLinear, Inc.

EARLY TERMINATIONS GRANTED APRIL 1, 2020 THRU APRIL 30, 2020—Continued

04/22/2020		
20200814	G	AIPCF VI Stone Cayman AIV, LP; GATX Corporation; AIPCF VI Stone Cayman AIV, LP.
20200976	G	GlaxoSmithKline plc; Vir Biotechnology, Inc.; GlaxoSmithKline plc.
20200995	G	Pfizer Inc.; ATHOS KG; Pfizer Inc.
04/23/2020		
20200970	G	Charlesbank Equity Fund IX, Limited Partnership; News Corporation; Charlesbank Equity Fund IX, Limited Partnership.
04/27/2020		
20200987	G	INTL FCStone Inc.; GAIN Capital Holdings, Inc.; INTL FCStone Inc.
20200991	G	Verizon Communications Inc.; Blue Jeans Network, Inc.; Verizon Communications Inc.
20200996	G	Roark Capital Partners V (T) LP; The Cheesecake Factory Incorporated; Roark Capital Partners V (T) LP.
04/29/2020		
20200784	G	Leidos Holdings, Inc.; L3Harris Technologies, Inc.; Leidos Holdings, Inc.

FOR FURTHER INFORMATION CONTACT: Theresa Kingsberry (202–326–3100), Program Support Specialist, Federal Trade Commission Premerger Notification Office, Bureau of Competition, Room CC–5301, Washington, DC 20024.

By direction of the Commission.

April J. Tabor,

Acting Secretary.

[FR Doc. 2020–10883 Filed 5–19–20; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

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, and the Determination of the Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, CDC, pursuant to Public Law 92–463. 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: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—RFA–CE–20–002, Grants to Support New Investigators in Conducting Research Related to Preventing Interpersonal Violence Impacting Children and Youth.

Date: June 10–11, 2020.

Time: 8:30 a.m.–5:30 p.m., EDT.

Place: Zoom Video Conference/Teleconference.

*Agenda:*To review and evaluate grant applications.

For Further Information Contact: Mikel Walters, Ph.D., Scientific Review Official, National Center for Injury Prevention and Control, CDC, 4770 Buford Highway NE, Building 106, MS S106–9, Atlanta, Georgia 30341, Telephone (404) 639–0913, *MWalters@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. 2020–10890 Filed 5–19–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Statement of Organization, Functions, and Delegations of Authority

Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 84 FR 65981, dated December 2, 2019) is amended to reflect the reorganization of the National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention. The reorganization is needed to become more responsive to the changing mining industry and stakeholder priorities, as well as align and integrate regional activities of the NIOSH mining program's core business and research functions.

I. Under Part C, Section C–B, Organization and Functions, the following organizational units are deleted in their entirety:

- Health Communication, Surveillance and Research Support Branch (CCRB)
- Ground Control Branch (CCRC)
- Dust, Ventilation and Toxic Substances Branch (CCRD)
- Human Factors Branch (CCRE)
- Electrical and Mechanical Systems Safety Branch (CCRF)
- Fires and Explosions Branch (CCRG)
- Workplace Health Branch (CCRH)

II. Under Part C, Section C–B, Organization and Functions, make the following changes:

- Update functional statement for the Pittsburgh Mining Research Division (CCR)
- Create the Health Hazards Prevention Branch (CCRJ)
- Create the Mining Systems Safety Branch (CCRK)
- Create the Human Systems Integration Branch (CCRL)
- Update the functional statement for the Spokane Research Division (CCS)

- Create the Miner Health Branch (CCSB)
- Create the Miner Safety Branch (CCSC)

III. Under Part C, Section C–B, Organization and Functions, insert the following:

• Pittsburgh Mining Research Division (CCR). Provides leadership and guidance for the prevention of work-related illness, injury, and fatalities of mine workers through research and prevention activities of the Pittsburgh Mining Research Division through three subordinate Branches. Specifically: (1) Conducts field studies to identify emerging hazards, to understand the underlying causes of mine safety and health problems, and to evaluate the effectiveness of interventions; (2) develops engineering and behavioral-based interventions, including training programs, to improve safety and health in the mines; (3) performs research, development, and testing of new technologies, equipment, and practices to enhance mine safety and health; (4) develops best practices guidance for interventions; (5) transfers mining research and prevention products into practice; and (6) collaborates with the Spokane Mining Research Division and other NIOSH divisions engaged in research and prevention activities relevant to mine worker health and safety.

• Health Hazards Prevention Branch (CCRJ). The Health Hazards Prevention Branch function is to reduce illnesses and injuries to mine workers through assessment and control of respiratory and physical hazards. The branch: (1) Assesses mine worker exposure to respiratory hazards, through a comprehensive characterization of the exposures and the evaluation and development of monitoring methods and technologies; (2) conducts research on and evaluates the performance and technical feasibility of engineering control strategies, novel approaches, and the application of new or emerging technologies for underground and surface mine dust and respiratory hazard control systems; (3) conducts research related to occupational hearing loss in the mining sector, including causative effects, noise controls, hearing protection devices and impulse noise; (4) demonstrates and evaluates the technical and economic feasibility of noise reduction controls; (5) conducts research related to ergonomic hazards, including developing engineering controls in the laboratory and evaluating their effectiveness in the workplace to prevent workplace musculoskeletal disorders, slips-trips-falls accidents, and materials handling injuries; and (6) conducts research related to the assessment and control of diesel particulate matter (DPM) in both surface and underground mines.

• Mining Systems Safety Branch (CCRK). The Mining Systems Safety Branch function is to reduce accidents and injuries arising from changing geological conditions and mine system technologies and to prevent mine explosions, mine fires, and gas and water inundations, particularly in underground coal mines. The branch: (1) Conducts experiments through laboratory and field investigations to prevent catastrophic events such as cataclysmic structural or ground failures, mine explosions, mine fires, and gas and water inundations to better understand cause and effect relationships that initiate such events; (2) utilizes monitoring and advanced numerical modeling techniques to better understand and visualize ground behavior and support response, leading to improved design criteria for mine layouts and support design to mitigate ground control failures; (3) develops, tests, and demonstrates sensors, predictive models, and engineering control technologies to reduce miners' risk for injury or death; (4) conducts laboratory and field research on communication systems, tracking systems, lighting systems, sensor technologies, refuge alternatives, and monitoring systems to ensure their viability and safety during routine mining operations as well as post-disaster conditions; (5) assesses and develops new or improved strategies and technologies to reduce the risks associated with fires and explosions in mining operations to mitigate the impact of mine disasters; (6) assesses methodologies and designs to enhance and improve underground mine ventilation system design and application to prevent disasters and ensure safe and healthy conditions for underground miners; and (7) identifies and evaluates emerging health and safety issues as mining operations move into more challenging and dangerous geologic conditions.

• Human Systems Integration Branch (CCRL). The Human Systems Integration Branch function is to reduce fatalities and injuries through interventions and engineering controls solutions developed through a human systems integration framework. The branch: (1) Conducts research with an overarching focus on the human component in the mining workplace system and in the mine emergency response system; (2) conducts human factors research related to worker perceptions, judgment and decision-making, hazard recognition, and human behavior; (3) provides effective training and workplace organization techniques and strategies for mining; (4) conducts intervention and evaluation effectiveness research for integration and use of technologies and interventions including engineering controls, organizational administrative and process changes and individual leadership and worker practices in mining; (5) systematically studies risk at the intersections of technical, human and environmental elements which occur at the levels of the individual, tasks, tools and technology, physical environment and organizational process and design in order to improve risk management systems; and (6) conducts research on effective training methods that develops organizational techniques and strategies to promote a positive safety culture in mining.

• Spokane Mining Research Division (CCS). Provides leadership and guidance in the prevention of work-related illness, injury, and fatalities in the mining industries through research and prevention activities of the Spokane Mining Research Division, with an emphasis on the special needs of surface and underground mines in the western United States. Specifically: (1) Developing numerical models and conducting laboratory and field research and investigations to better understand the causes of catastrophic failures that may lead to multiple injuries and fatalities; (2) developing new design practices and tools, control technologies, and work practices to reduce the risk of global and local ground failures in mines; (3) assessing and mitigating risks associated with emerging technologies such as automated mining equipment and new sensor technologies, and through researching, identifying or developing new technologies that have potential benefits to mining health and safety; (4) developing improved design approaches, monitoring devices, and engineering controls to reduce the concentration of toxic substances in the mine air; (5) developing and promoting health and safety strategies through research that protect mine workers from occupational hazards and advance life-time worker wellbeing through the implementation of a miner health program; (6) conducting laboratory and field studies to leverage and support the Institute's mining research program; and (7) collaborates with the Pittsburgh Mining Research Division and other NIOSH divisions engaged in research and prevention activities relevant to mine worker health and safety.

• Miner Safety Branch (CCSB). The Miner Safety Branch function is to identify and eliminate safety issues arising from changing mine conditions and technologies. State-of-the-art technologies are used to conduct fundamental and applied research aimed at eliminating injuries and fatalities in mining with a particular focus on geomechanical instabilities, localized ground falls, machine safety, and worker interaction with automated systems and other emerging technologies. Researchers specialized in the fields of geology, geophysics, seismology, electronic instrumentation, numerical modeling, geotechnical engineering, safety engineering, data science, and mining engineering utilize state-of-the-art, emerging, and novel technologies to identify and solve mine safety challenges. The branch: (1) Develops, implements, and improves geophysical methods, geotechnical instrumentation, and laboratory techniques through applied research to quantify rock mass properties and characterize mining-induced ground response; (2) utilizes advanced numerical modeling techniques to better understand and visualize ground behavior and support response; (3) identifies new technologies to monitor and improve ground support; (4) conducts research through laboratory and field assessments of the performance of engineered support systems to provide quantifiable design criteria; (5) develops recommendations for the design of equipment and techniques to reduce risks associated with the installation of ground support; (6) utilizes experimental and empirical methods developed through research to quantify the reliability of alternative mining methods and design practices; (7) applies advanced informatics, data analyses, and visualization techniques to automated and semi-automated mining systems to provide increased situational awareness for mine workers; (8) assesses, develops and deploys research-based mine-wide seismic systems for quantifying and evaluating seismic hazards and mitigation strategies for underground and surface mines; and (9) addresses health and safety issues that may develop after the introduction of automated mining systems and other emerging technologies in mining.

• Miner Health Branch (CCSC). The Miner Health Branch function is to assess and track miner health and hazard exposures; and develop and promote health solutions that maximize worker protection, minimize exposures and prevent disease, while improving functional health for the entire mining population. Research is pursued through an interdisciplinary approach involving the fields of epidemiology, industrial hygiene, occupational medicine, organizational psychology, chemistry, as well as mechanical, electrical, and industrial engineering. The branch: (1) Incorporates novel and relevant health surveillance methods for the systematic assessment of health and exposure potential of the miner as it pertains to dynamic mining environments; (2) conducts research on the identification and prioritization of adverse health outcomes and exposures, and their associated risk factors; (3) quantitatively and qualitatively measures risk through research, experimental, and real-world data collection; (4) conducts research on the development and evaluation of workplace practices and technologies aimed at preventing injury and illness that improve long-term functionality for all miners and benefit employers, families, and communities; (5) develops technologies and methods to monitor and eliminate exposures; and (6) engages and collaborates across NIOSH and with industry to effectively communicate tangible health solutions and control strategies.

IV. *Delegations of Authority:* All delegations and redelegations of authority made to officials and employees of affected organizational components will continue with them or their successors pending further redelegation, provided they are consistent with this reorganization.

(Authority: 44 U.S.C. 3101)

Dated: April 29, 2020.

Alex M. Azar, II,

Secretary.

[FR Doc. 2020–10797 Filed 5–19–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket No. CDC–2020–0052; NIOSH–337]

Advisory Board on Radiation and Worker Health, Subcommittee on Dose Reconstruction Review (SDRR) Meeting

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting and request for comment.

SUMMARY: In accordance with the Federal Advisory Committee Act, the CDC announces the following meeting for the Subcommittee for Dose Reconstruction Reviews (SDRR) of the Advisory Board on Radiation and Worker Health (ABRWH). This meeting is open to the public, but without an oral public comment period. The public is welcome to submit written comments in advance of the meeting, per the instructions provided in the address section below. Written comments received in advance of the meeting will be included in the official record of the meeting. The public is also welcome to listen to the meeting by joining the audio conference (information below). The audio conference line has 150 ports for callers.

DATES: The meeting will be held on July 29, 2020, 10:30 a.m. to 4:00 p.m., EDT.

Written comments must be received on or before July 24, 2020.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2020–0052; NIOSH–337; NIOSH by any of the following methods:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.

• *Mail:* National Institute for Occupational Safety and Health, NIOSH Docket Office, 1090 Tusculum Avenue, MS C–34, Cincinnati, Ohio 45226–1998.

Instructions: All information received in response to this notice must include the agency name and docket number [CDC–2020–0052; NIOSH–337]. All relevant comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. *Instructions:* All submissions received must include the Agency name and Docket Number. All relevant comments received in conformance with the *https://www.regulations.gov* suitability policy will be posted without change to *https://www.regulations.gov,* including any personal information provided. For access to the docket to read background documents or comments received, go to *https://www.regulations.gov.*

Meeting Information: Audio Conference Call via FTS Conferencing. The USA toll-free dial-in number is 1–866–659–0537; the pass code is 9933701.

FOR FURTHER INFORMATION CONTACT: Rashaun Roberts, Ph.D., Designated Federal Officer, NIOSH, CDC, 1090 Tusculum Avenue, Mailstop C–24, Cincinnati, Ohio 45226, Telephone (513) 533–6800, Toll Free 1(800)CDC–INFO, Email *ocas@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Advisory Board was established under the Energy Employees Occupational Illness Compensation Program Act of 2000 to advise the President on a variety of policy and technical functions required to implement and effectively manage the new compensation program. Key functions of the Advisory Board include providing advice on the development of probability of causation guidelines that have been promulgated by the Department of Health and Human Services (HHS) as a final rule; advice on methods of dose reconstruction, which have also been promulgated by HHS as a final rule; advice on the scientific validity and quality of dose estimation and reconstruction efforts being performed for purposes of the compensation program; and advice on petitions to add classes of workers to the Special Exposure Cohort (SEC).

In December 2000, the President delegated responsibility for funding, staffing, and operating the Advisory Board to HHS, which subsequently delegated this authority to CDC. NIOSH implements this responsibility for CDC. The charter was issued on August 3, 2001, renewed at appropriate intervals, and rechartered under Executive Order 13889 on March 22, 2020, and will terminate on March 22, 2022.

Purpose: The Advisory Board is charged with (a) providing advice to the Secretary, HHS, on the development of guidelines under Executive Order 13179; (b) providing advice to the Secretary, HHS, on the scientific validity and quality of dose reconstruction efforts performed for this program; and (c) upon request by the Secretary, HHS, advise the Secretary on whether there is a class of employees at any Department of Energy facility who were exposed to radiation but for whom it is not feasible to estimate their radiation dose, and on whether there is reasonable likelihood that such radiation doses may have endangered the health of members of this class. SDRR was established to aid the Advisory Board in carrying out its duty to advise the Secretary, HHS, on dose reconstruction.

Matters to be Considered: The agenda will include discussions on the following dose reconstruction program quality management and assurance activities: Dose reconstruction cases under review from Set 27, possibly including cases involving, Amchitka Island Nuclear Explosion Site, Argonne National Laboratory, Fee Materials Production Centers (''Fernald Plant''), General Electric—Vallecitos, Hanford, Idaho National Laboratory, Lawrence Berkeley National Laboratory, Lawrence Livermore National Laboratory, Nevada Test Site, Oak Ridge Gaseous Diffusion Plant (''K–25''), Office of Science and Technology Information (''OSTI''), Paducah Gaseous Diffusion Plant, Portsmouth Gaseous Diffusion Plant, Savannah River Site, Y–12, and potentially other Department of Energy and Atomic Weapons Employers facilities. 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. 2020–10892 Filed 5–19–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Center for Injury Prevention and Control

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 (BSC), National Center for Injury Prevention and Control (NCIPC). This meeting is open to the public, limited only by the ports available. There will be 2,000 telephone ports available. There will be 40 minutes allotted for oral public comments at the end of the open session from 12:20 p.m. to 1:00 p.m. on July 22, 2020.

The public is encouraged to register to participate by telephone and/or provide oral public comment using the registration form available at the link provided: *https://www.surveymonkey.com/r/NVV9XM2.*

Individuals registered to provide oral public comment will be called upon to speak based on the order of registration. After persons who have registered have spoken, any remaining time in the oral public comment period will be used for members of the public who have not registered to speak but wish to offer comment. Individuals making oral public comment during the meeting will have a 2-minute speaking limit to allow for as many comments as possible.

DATES: The meeting will be held on July 22, 2020, 10:00 a.m. to 1:00 p.m., EDT (OPEN) and July 22, 2020, 1:45 p.m. to 4:15 p.m., EDT (CLOSED).

ADDRESSES: Teleconference 1–800–369–3110; Participant Code 7563795.

FOR FURTHER INFORMATION CONTACT: Gwendolyn H. Cattledge, Ph.D., M.S.E.H., Deputy Associate Director for Science, NCIPC, CDC, 4770 Buford Highway NE, Mailstop S106–9, Atlanta, GA 30341, Telephone (770) 488–3953, Email address: *NCIPCBSC@cdc.gov.*

SUPPLEMENTARY INFORMATION: Portions of the meeting as designated above will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, CDC pursuant to Public Law 92–463.

Purpose: The Board will: (1) Conduct, encourage, cooperate with, and assist other appropriate public health authorities, scientific institutions, and scientists in the conduct of research, investigations, experiments, demonstrations, and studies relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases, and other impairments; (2) assist States and their political subdivisions in preventing and suppressing communicable and non-communicable diseases and other preventable conditions and in promoting health and well-being; and (3) conduct and assist in research and control activities related to injury. The BSC, NCIPC makes recommendations regarding policies, strategies, objectives, and priorities; reviews progress toward injury prevention goals; and provides evidence in injury prevention-related research and programs. The Board also provides advice on the appropriate balance of intramural and extramural research, as well as the structure, progress and performance of intramural programs. The Board is designed to provide guidance on extramural scientific program matters, including the: (1) Review of extramural research concepts for funding opportunity announcements; (2) conduct of Secondary Peer Review of extramural research grants, cooperative agreements, and contracts applications received in response to the funding opportunity announcements as they relate to the

Center's programmatic balance and mission; (3) submission of secondary review recommendations to the Center Director of applications to be considered for funding support; (4) review of research portfolios; and (5) review of program proposals.

Matters To Be Considered: The open portion of the agenda will include an update on the formation of the BSC, NCIPC Opioid Workgroup, a presentation focused on opportunities for stakeholder engagement on management of acute and chronic pain, and an update on the CDC Opioid Prescribing Estimates Project. All presentations will be followed by discussion by the BSC. The closed portion of the agenda will focus on the secondary peer review of extramural research grant applications received in response to two (2) Notice of Funding Opportunities (NOFOs): RFA–CE20–001—''Evaluating Practice-Based Programs, Policies, and Practices from CDC's Rape Prevention and Education (RPE) Program: Expanding the Evidence to Prevent Sexual Violence''; and RFA–CE20–003—''Research Grants for Preventing Violence and Violence-Related Injury'' (R01). Agenda items are subject to change as priorities dictate.

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, CDC, 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. 2020–10891 Filed 5–19–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Center for States Evaluation Ancillary Data Collection (0970–0501)

AGENCY: Children's Bureau, Administration on Children, Youth and Families, Administration for Children and Families, HHS.

ACTION: Request for public comment.

SUMMARY: The Administration for Children and Families (ACF) is requesting a 3-year extension of the collection of information under the Center for States Evaluation Ancillary Data Collection (OMB #0970–0501, expiration date 8/31/2020) without changes.

DATES: *Comments due within 60 days of publication.* In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, ACF is soliciting public comment on the specific aspects of the information collection described above.

ADDRESSES: Copies of the proposed collection of information can be obtained and comments may be forwarded by emailing *infocollection@acf.hhs.gov.* Alternatively, copies can also be obtained by writing to the Administration for Children and Families, Office of Planning, Research, and Evaluation (OPRE), 330 C Street SW, Washington, DC 20201, Attn: ACF Reports Clearance Officer. All requests, emailed or written, should be identified by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: The Evaluation of the Child Welfare Capacity Building Collaborative, Center for States is sponsored by the Children's Bureau (CB), ACF. The purpose of this evaluation is to respond to a set of cross-cutting evaluation questions posed by CB. This existing information collection is an ancillary part of a larger data collection effort being conducted for the evaluation of the Child Welfare Capacity Building Collaborative (0970–0484 and 0970–0494). This notice details a group of instruments that are specific only to the Center for States. The instruments focus on (1) evaluating an innovative approach to engaging professionals in networking and professional development through virtual conferences, (2) understanding fidelity to and effectiveness of the Center for States' Capacity Building Model, and (3) capturing consistent information during the updated annual assessment process focused on related contextual issues impacting potential service delivery such as implementation of new legislation.

Respondents: Respondents of these data collection instruments will include child welfare agency staff and stakeholders who directly receive services.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Total number of responses per respondent	Average burden hours per response	Total burden hours	Annual burden hours
Child Welfare Virtual Conference:					
Child Welfare Virtual Conference Session Surveys	450	6	.08	216	72
Child Welfare Virtual Conference Focus Group Guide	30	1	1	30	10
Child Welfare Virtual Conference Interview Guide	20	1	.5	10	3
Child Welfare Virtual Conference Registration Form	1000	1	.03	30	10
Child Welfare Virtual Conference Exit Survey	225	1	.16	36	12
Tailored Services Capacity Building Approach:					
Tailored Services Practice Model Survey	130	1	.12	15.6	5
Assessment Observation— Group Debrief	50	1	.25	12.5	4
Service Delivery and Tracking and Adjustment Observation—Group Debrief	80	1	.25	20	7
Assessment and Service Delivery State Lead Interviews—Supplemental Questions	30	1	.5	15	5
Assessment questions:					
Annual Assessment Update (8 systematic questions)	54	1	.08	4.32	1
Total					130

Comments: The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Authority: Section 203 of Section II: Adoption Opportunities of the Child Abuse Prevention and Treatment Act (CAPTA) (42 U.S.C. 5113).

Molly B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2020–10906 Filed 5–19–20; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–1155]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Food Labeling Regulations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by June 19, 2020.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://www.reginfo.gov/public/do/PRAMain*. Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. All comments should be identified with the OMB control number 0910–0381. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Food Labeling Regulations

OMB Control Number 0910–0381—Revision

This information collection supports our food labeling regulations and associated Agency guidance. Under the authority of sections 4, 5, and 6 of the Fair Packaging and Labeling Act (FPLA) (15 U.S.C. 1453, 1454, and 1455) and sections 201, 301, 402, 403, 409, 411, 701, and 721 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 321, 331, 342, 343, 348, 350, 371, and 379e), we have issued regulations regarding the labeling of food. The regulations are codified in parts 101, 102, 104, and 105 (21 CFR parts 101, 102, 104, and 105) and implement statutory provisions that a food product shall be deemed to be misbranded if, among other things, its label or labeling fails to bear certain required information concerning the food product, is false or misleading in any particular, or bears certain types of unauthorized claims. While part 101 sets forth general food labeling provisions, requirements pertaining to the common or usual name for nonstandardized foods; guidelines for nutritional quality to prescribe the minimum level or range of nutrient composition appropriate for a given class of food; and requirements for foods for special dietary use are found in parts 102, 104, and 105, respectively.

The disclosure requirements, along with the reporting and recordkeeping provisions, are necessary to ensure the safety of food products produced or sold in the United States and enable consumers to be knowledgeable about the foods they purchase. Nutrition labeling provides information for use by consumers in selecting a nutritious diet. Other information enables consumers to comparison shop. Ingredient information also enables consumers to avoid substances to which they may be sensitive. Petitions or other requests submitted to us provide the basis for us to permit new labeling statements or to grant exemptions from certain labeling requirements. Recordkeeping requirements enable us to monitor the basis upon which certain label statements are made for food products and whether those statements are in compliance with the requirements of the FD&C Act or the FPLA.

Specifically, the regulations set forth the general content and format requirements for food packaging, including nutrition and ingredient information. Additional regulations provide for nutrient content claims. To assist respondents in this regard, we developed the document entitled ''Guidance for Industry: Notification of a Health Claim or Nutrient Content Claim Based on an Authoritative Statement of a Scientific Body.'' The guidance is available from our website at: *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/guidance-industry-notification-health-claim-or-nutrient-content-claim-based-authoritative-statement*. The guidance communicates our recommendations regarding food labeling claims associated with regulations found in §§ 101.13, 101.14, 101.54, 101.69, and 101.70. It was developed to assist respondents in satisfying criteria found or discussed in these regulations regarding the submission of notifications for certain health claims and identifies information to include and information we will evaluate in determining compliance with statutory requirements (*e.g.,* supporting literature; discussion of analytical methodology or methodologies used in support of a particular claim).

The regulations also include provisions applicable to the labeling of dietary supplements. To assist respondents in this regard and in understanding provisions under the Dietary Supplement and Nonprescription Drug Consumer Protection Act (Pub. L. 109–462), we developed the guidance entitled ''Questions and Answers: Labeling of Dietary Supplements as Required by the Dietary Supplement and Nonprescription Drug Consumer Protection Act.'' The guidance is available from our website at: *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/guidance-industry-questions-and-answers-regarding-labeling-dietary-supplements-required-dietary*. The guidance communicates the following information: (1) What ''domestic address'' means for purposes of the dietary supplement labeling requirements in section 403(y) of the FD&C Act; (2) FDA's recommendation for the use of an introductory statement

before the domestic address or phone number that is required to appear on the product label under section 403(y); and (3) when FDA intends to begin enforcing the labeling requirements of section 403(y).

The guidance entitled ''Substantiation for Dietary Supplement Claims Made Under Section 403(r)(6) of the Federal Food, Drug, and Cosmetic Act'' has also been developed to assist respondents to the information collection. The guidance is available from our website at: *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/guidance-industry-substantiation-dietary-supplement-claims-made-under-section-403r-6-federal-food*. The guidance discusses the requirement that a manufacturer of a dietary supplement making a nutritional deficiency, structure/function, or general well-being claim have substantiation that the claim is truthful and not misleading. The guidance is intended to describe the amount, type, and quality of evidence FDA recommends that a manufacturer have to substantiate a claim under section 403(r)(6) of the FD&C Act.

Finally, we are revising the information collection by consolidating elements associated with revised Nutrition Facts and Supplement Facts labels regulations. Requirements included among the food labeling regulations found in part 101 govern both format and content of the Nutrition Facts (§ 101.9) and Supplement Facts (§ 101.36) labels. Currently, the information collection associated with food labeling under §§ 101.9 (including petitions filed under 101.9(c)) and 101.36 (disclosures associated with serving size) is approved under OMB control number 0910–0813. These provisions were established by rulemaking (RIN 0910–AF22) and have now been incorporated into the regulations in part 101.

Description of Respondents: Respondents to this information collection are manufacturers, packers, and distributors of food products, as well as certain food retailers, such as supermarkets and restaurants.

In the **Federal Register** of February 5, 2020 (85 FR 6551), we published a notice inviting public comment on the proposed collection of information. One comment was received suggesting FDA consider including labeling requirements pertaining to folic acid, while a second comment was received that was not responsive to the information collection topics solicited. Neither comment suggested we revise our burden estimates, which are as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section; activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
101.9(c)(6)(i); dietary fiber	28	1	28	1	28
101.9(j)(18) and 101.36(h)(2); procedure for small business nutrition labeling exemption notice using Form FDA 3570	10,000	1	10,000	8	80,000
101.12(h); petitions to establish or amend referenced amounts customarily consumed (RACC)	5	1	5	80	400
101.69; petitions for nutrient content claims	3	1	3	25	75
101.70; petitions for health claims	5	1	5	80	400
101.108; written proposal for requesting temporary exemptions from certain regulations for the purpose of conducting food labeling experiments	1	1	1	40	40
Total			10,042		80,943

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR section; activity	Number of record-keepers	Number of records per record-keeper	Total annual records	Average burden per recordkeeping	Total hours
101.9(c)(6)(iii) [2]; added sugars	31,283	1	31,283	1	31,283
101.9(c)(6)(i) [2]; dietary fiber	31,283	1	31,283	1	31,283
101.9(c)(6)(i)(A) [2]; soluble fiber	31,283	1	31,283	1	31,283
101.9(c)(6)(i)(B) [2]; insoluble fiber	31,283	1	31,283	1	31,283
101.9(c)(8) [3]; vitamin E	31,283	1	31,283	1	31,283
101.9(c)(8) [3]; folate/folic acid	31,283	1	31,283	1	31,283
New products	216	1	216	1	216
101.12(e); recordkeeping to document the basis for density-adjusted RACC	25	1	25	1	25
101.13(q)(5); recordkeeping to document the basis for nutrient content claims	300,000	1.5	450,000	0.75 (45 minutes)	337,500
101.14(d)(2); recordkeeping to document nutrition information related to health claims for food products.	300,000	1.5	450,000	0.75 (45 minutes)	337,500
101.22(i)(4); recordkeeping to document supplier certifications for flavors designated as containing no artificial flavors.	25	1	25	1	25
101.100(d)(2); recordkeeping pertaining to agreements that form the basis for an exemption from the labeling requirements of section 403(c), (e), (g)–(i), (k), and (q) of the FD&C Act.	1,000	1	1,000	1	1,000
101.7(t); recordkeeping pertaining to disclosure requirements for food not accurately labeled for quality of contents.	100	1	100	1	100
Total			1,089,064		864,064

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

[2] These estimates are likely to be large overestimates, as not all manufacturers will need to keep records for added sugars, dietary fiber, and soluble and insoluble fiber. Manufacturers will only need to keep records for products with both added and naturally occurring sugars, added sugars that undergo fermentation in certain fermented foods, and products with non-digestible carbohydrates (soluble or insoluble) that do and do not meet the definition of dietary fiber.

[3] These estimates are likely to be large overestimates, as not all manufacturers will need to keep records for vitamin E and folate/folic acid. The declaration of vitamin E and folate/folic acid is not mandatory unless a health or nutrient content claim is being made or these nutrients are directly added to the food for enrichment purposes.

TABLE 3—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

21 CFR section; activity	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
101.3, 101.22, parts 102 and 104; statement of identity labeling requirements	25,000	1.03	25,750	0.5 (30 minutes)	12,875
101.4, 101.22, 101.100, parts 102, 104 and 105; ingredient labeling requirements	25,000	1.03	25,750	1	25,750
101.5; requirement to specify the name and place of business of the manufacturer, packer, or distributor and, if the food producer is not the manufacturer of the food product, its connection with the food product.	25,000	1.03	25,750	0.25 (15 minutes)	6,438
101.9, 101.13(n), 101.14(d)(3), 101.62, and part 104; labeling requirements for disclosure of nutrition information.	25,000	1.03	25,750	4	103,000
101.9(g)(9) and 101.36(f)(2); alternative means of compliance permitted	12	1	12	4	48
101.10; requirements for nutrition labeling of restaurant foods	300,000	1.5	450,000	0.25 (15 minutes)	112,500
101.12(b); RACC for baking powder, baking soda, and pectin	29	2.3	67	1	67
101.12(e); adjustment to the RACC of an aerated food permitted	25	1	25	1	25
101.12(g); requirement to disclose the serving size that is the basis for a claim made for the product if the serving size on which the claim is based differs from the RACC.	5,000	1	5,000	1	5,000
101.13(d)(1) and 101.67; requirements to disclose nutrition information for any food product for which a nutrient content claim is made.	200	1	200	1	200
101.13(j)(2) and (k), 101.54, 101.56, 101.60, 101.61, and 101.62; additional disclosure required if the nutrient content claim compares the level of a nutrient in one food with the level of the same nutrient in another food.	5,000	1	5,000	1	5,000
101.13(q)(5); requirement that restaurants disclose the basis for nutrient content claims made for their food.	300,000	1.5	450,000	0.75 (45 minutes)	337,500
101.14(d)(2); general requirements for disclosure of nutrition information related to health claims for food products.	300,000	1.5	450,000	0.75 (45 minutes)	337,500
101.15; requirements pertaining to prominence of required statements and use of foreign language.	160	10	1,600	8	12,800
101.22(i)(4); supplier certifications for flavors designated as containing no artificial flavors.	25	1	25	1	25
101.30 and 102.33; labeling requirements for fruit or vegetable juice beverages	1,500	5	7,500	1	7,500
101.36; nutrition labeling of dietary supplements	300	40	12,000	4.025	48,300
101.42 and 101.45; nutrition labeling of raw fruits, vegetables, and fish	1,000	1	1,000	0.5 (30 minutes)	500
101.45(c); databases of nutrient values for raw fruits, vegetables, and fish	5	4	20	4	80
101.79(c)(2)(i)(D); disclosure requirements for food labels that contain a folate/neural tube defect health claim.	1,000	1	1,000	0.25 (15 minutes)	250
101.79(c)(2)(iv); disclosure of amount of folate for food labels that contain a folate/neural tube defect health claim.	100	1	100	0.25 (15 minutes)	25
101.100(d); disclosure of agreements that form the basis for exemption from the labeling requirements of section 403(c), (e), (g)–(i), (k), and (q) of the FD&C Act.	1,000	1	1,000	1	1,000
101.7 and 101.100(h); disclosure requirements for food not accurately labeled for quantity of contents and for claiming certain labeling exemptions.	25,000	1.03	25,750	0.5 (30 minutes)	12,875
Nutritional labeling for new products	500	1	500	2	1,000
Total			1,513,799		1,030,258

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Because of the consolidation of OMB control number 0910–0813, our estimate reflects an annual increase of 188,442 responses and 188,282 hours. These estimates are based on our experience with food labeling, related submissions of petitions, and informal communications with industry.

Dated: May 7, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–10824 Filed 5–19–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0118]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Prior Notice of Imported Food

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by June 19, 2020.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. The OMB control number for this information collection is 0910–0520. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA

has submitted the following proposed collection of information to OMB for review and clearance.

Prior Notice of Imported Food—21 CFR 1.278 to 1.285

OMB Control Number 0910–0520—Extension

The Public Health Security and Bioterrorism Preparedness and Response Act of 2002 added section 801(m) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 381(m)), which requires that FDA receive prior notice for food, including food for animals, that is imported or offered for import into the United States. Sections 1.278 through 1.282 of FDA regulations (21 CFR 1.278 through 1.282) set forth the requirements for submitting prior notice, §§ 1.283(d) and 1.285(j) (21 CFR 1.283(d) and 1.285(j)) set forth the procedure for requesting Agency review after FDA has refused admission of an article of food under section 801(m)(1) of the FD&C Act or placed an article of food under hold under section 801(l) of the FD&C Act, and § 1.285(i) sets forth the procedure for post-hold submissions.

Section 304 of the FDA Food Safety Modernization Act (Pub. L. 111–353) amended section 801(m) of the FD&C Act to require a person submitting prior notice of imported food, including food for animals, to report, in addition to other information already required, ''any country to which the article has been refused entry.'' Advance notice of imported food allows FDA, with the support of the U.S. Customs and Border Protection (CBP), to target import inspections more effectively and help protect the nation's food supply against terrorist acts and other public health emergencies. By requiring that a prior notice contain specific information that indicates prior refusals by any country and identifies the country or countries, the Agency may better identify imported food shipments that may pose safety and security risks to U.S. consumers.

This information collection enables FDA to make better informed decisions in managing the potential risks of imported food shipments into the United States. Any person with knowledge of the required information may submit prior notice for an article of food. Thus, the respondents to this information collection may include importers, owners, ultimate consignees, shippers, and carriers.

FDA regulations require that prior notice of imported food be submitted electronically using CBP's Automated Broker Interface of the Automated Commercial System (ABI/ACS) (§ 1.280(a)(1)) or the FDA Prior Notice System Interface (PNSI) (Form FDA 3540) (§ 1.280(a)(2)). PNSI is an electronic submission system available on the FDA Industry Systems page at *https://www.access.fda.gov.* Information the Agency collects in the prior notice submission includes: (1) The submitter and transmitter (if different from the submitter); (2) entry type and CBP identifier; (3) the article of food, including complete FDA product code; (4) the manufacturer, for an article of food no longer in its natural state; (5) the grower, if known, for an article of food that is in its natural state; (6) the FDA Country of Production; (7) the name of any country that has refused entry of the article of food; (8) the shipper, except for food imported by international mail; (9) the country from which the article of food is shipped or, if the food is imported by international mail, the anticipated date of mailing and country from which the food is mailed; (10) the anticipated arrival information or, if the food is imported by international mail, the U.S. recipient; (11) the importer, owner, and ultimate consignee, except for food imported by international mail or transshipped through the United States; (12) the carrier and mode of transportation, except for food imported by international mail; and (13) planned shipment information, except for food imported by international mail (§ 1.281).

Much of the information collected for prior notice is identical to the information collected for FDA importer's entry notice, which has been approved under OMB control number 0910–0046. The information in an importer's entry notice is collected electronically via CBP's ABI/ACS at the same time the respondent files an entry for import with CBP. To avoid double counting the burden hours already counted in the importer's entry notice information collection, the burden hour analysis in table 1 reflects FDA's estimate of the reduced burden for prior notice submitted through ABI/ACS in column 6 entitled ''Average Burden per Response.''

In addition to submitting a prior notice, a submitter should cancel a prior notice and must resubmit the information to FDA if information changes after the Agency has confirmed a prior notice submission for review (*e.g.,* if the identity of the manufacturer changes) (§ 1.282). However, changes in the estimated quantity, anticipated arrival information, or planned shipment information do not require resubmission of prior notice after the Agency has confirmed a prior notice submission for review (§ 1.282(a)(1)(i) to (iii)). In the event that FDA refuses admission to an article of food under section 801(m)(1) or the Agency places it under hold under section 801(l) of the FD&C Act, §§ 1.283(d) and 1.285(j) set forth the procedure for requesting FDA's review and the information required in a request for review. In the event that the Agency places an article of food under hold under section 801(l) of the FD&C Act, § 1.285(i) sets forth the procedure for, and the information to be included in, a post-hold submission.

In the **Federal Register** of February 6, 2020 (85 FR 6955), we published a 60-day notice requesting public comment on the proposed collection of information. One comment was received but was not responsive to the four information collection topics solicited and therefore is not addressed.

We estimate the burden of the information collection as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section	FDA Form No.	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Prior Notice Submissions: Through ABI/ACS						
1.280 through 1.281	N/A	1,700	7,647	12,999,900	0.167 (10 minutes)	[2] 2,170,983
Through PNSI						
1.280 through 1.281	[3] 3540	27,000	70	1,890,000	0.384 (23 minutes)	725,760

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]—Continued

21 CFR section	FDA Form No.	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Subtotal						2,896,743
Cancellations: Through ABI/ACS						
1.282	3540	7,040	1	7,040	0.25 (15 minutes)	1,760
Through PNSI						
1.282 and 1.283(a)(5)	3540	35,208	1	35,208	0.25 (15 minutes)	8,802
Subtotal						10,562
Requests for Review and Post-hold Submissions						
1.283(d) and 1.285(j),	N/A	1	1	1	8	8
1.285(i)	N/A	263	1	263	1	263
Subtotal						271
Total				14,932,412		2,907,576

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] To avoid double counting, an estimated 396,416 burden hours already accounted for in the importer's entry notice information collection approved under OMB control number 0910–0046 are not included in this total.
[3] The term "Form FDA 3540" refers to the electronic submission system known as PNSI, which is available at *https://www.access.fda.gov.*

Based on our experience and the average number of prior notice submissions, cancellations, and requests for review received in the past 3 years, we have made no adjustments in our burden estimate for the information collection. We estimate that 1,700 users of ABI/ACS will submit an average of 7,647 prior notices annually, for a total of 12,999,900 prior notices received through ABI/ACS. We assume the reporting burden for a prior notice submitted through ABI/ACS to be 10 minutes, or 0.167 hour, per notice, for a total annual burden of 2,170,983 hours. This estimate takes into consideration the burden hours already counted in the information collection approval for FDA importer's entry notice (OMB control number 0910–0046), as previously discussed.

We estimate that 27,000 registered users of PNSI will submit an average of 70 prior notices annually, for a total of 1,890,000 prior notices received annually. We assume the reporting burden for a prior notice submitted through PNSI to be 23 minutes, or 0.384 hour, per notice, for a total burden of 725,760 hours.

We estimate that 7,040 users of ABI/ACS will submit an average of 1 cancellation annually, for a total of 7,040 cancellations received annually through ABI/ACS. We assume the reporting burden for a cancellation submitted through ABI/ACS to be 15 minutes, or 0.25 hour, per cancellation, for a total burden of 1,760 hours.

We estimate that 35,208 registered users of PNSI will submit an average of 1 cancellation annually, for a total of 35,208 cancellations received annually. We assume the reporting burden for a cancellation submitted through PNSI to be 15 minutes, or 0.25 hour, per cancellation, for a total burden of 8,802 hours.

We estimate that one or fewer requests for review under § 1.283(d) or § 1.285(j) will be submitted annually. We assume that it will take respondents 8 hours to prepare the factual and legal information necessary to prepare a request for review. Thus, we estimate a total reporting burden of 8 hours.

We estimate that 263 post-hold submissions under § 1.285(i) will be submitted annually. We assume that it will take about 1 hour to prepare the written notification described in § 1.285(i)(2), for a total reporting burden of 263 hours.

Dated: May 12, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–10825 Filed 5–19–20; 8:45 am]

BILLING CODE 4164–01–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; Research Education on Alzheimer's Disease and Related Dementias.

Date: June 4, 2020.

Time: 2:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Kimberly Firth, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, Gateway Building, 7201 Wisconsin Avenue, Suite 2W200, Bethesda,

MD 20892, (301) 402–7702, *firthkm@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: May 14, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–10792 Filed 5–19–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed 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: Center for Scientific Review Special Emphasis Panel; PAR Panel: Development of the INCLUDE Project Data Coordinating Center.

Date: June 15, 2020.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Janita N. Turchi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda 20892, (301) 402–4005, *turchij@mail.nih.gov.*

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Macromolecular Structure and Function B Study Section.

Date: June 17–18, 2020.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: C-L Albert Wang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4146, MSC 7806, Bethesda, MD 20892, (301) 435–1016, *wangca@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Understanding Alzheimer's Disease.

Date: June 17–18, 2020.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Boris P. Sokolov, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217A, MSC 7846, Bethesda, MD 20892, (301) 408–9115, *bsokolov@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: Tobacco Regulatory Science A (or B).

Date: June 17, 2020.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Sepandarmaz Aschrafi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040D, Bethesda, MD 20892, (301) 451–4251, *Armaz.aschrafi@nih.gov.*

Name of Committee: Bioengineering Sciences & Technologies Integrated Review Group; Biodata Management and Analysis Study Section.

Date: June 18–19, 2020.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Wenchi Liang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3150, MSC 7770, Bethesda, MD 20892, (301) 435–0681, *liangw3@csr.nih.gov.*

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; Social Psychology, Personality and Interpersonal Processes Study Section.

Date: June 18–19, 2020.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Marc Boulay, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3110, MSC 7808, Bethesda, MD 20892, (301) 300–6541, *boulaymg@csr.nih.gov.*

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Myocardial Ischemia and Metabolism Study Section.

Date: June 18–19, 2020.

Time: 9:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Richard D. Schneiderman, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4138, Bethesda, MD 20817, (301) 402–3995, *richard.schneiderman@nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Clinical Neuroplasticity and Neurotransmitters Study Section.

Date: June 18–19, 2020.

Time: 9:30 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Suzan Nadi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217B, MSC 7846, Bethesda, MD 20892, (301) 435–1259, *nadis@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–MH–20–330/331: Novel Imaging Approaches for Detection of Persistent HIV and Neuroimmune Dysfunction Associated with HIV in the Central Nervous System.

Date: June 19, 2020.

Time: 10:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Shinako Takada, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 402–9448, *shinako.takada@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 14, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–10785 Filed 5–19–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational 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 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 Center for Advancing Translational Sciences Special Emphasis Panel; Topic 016 SBIR Phase II contract Review.

Date: June 10, 2020.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Center for Advancing Translational Sciences, National Institutes of Health, 6701 Democracy Boulevard, Room 1078, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Rahat (Rani) Khan, Ph.D., Scientific Review Officer, Office of Scientific Review, National Center for Advancing Translational Sciences, National Institutes of Health, 6701 Democracy Boulevard, Room 1078, Bethesda, MD 20892, 301–594–7319, *khanr2@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.350, B—Cooperative Agreements; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: May 14, 2020.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–10789 Filed 5–19–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational 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: National Center for Advancing Translational Sciences Special Emphasis Panel, CTSA Collaborative Innovation Awards Review Meeting.

Date: June 16, 2020.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Center for Advancing Translational Sciences, National Institutes of Health, 6701 Democracy Boulevard, Room 1073, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: M. Lourdes Ponce, Ph.D., Scientific Review Officer, Office of Scientific Review, National Center for Advancing Translational Sciences, National Institutes of Health, 6701 Democracy Boulevard, Room 1073, Bethesda, MD 20892, 301–435–0810, *lourdes.ponce@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.350, B—Cooperative Agreements; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: May 14, 2020.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–10788 Filed 5–19–20; 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 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 Allergy and Infectious Diseases Special Emphasis Panel; Accelerating Discovery of Efficacious Pre-erythrocytic Stage Malaria Vaccines (U01 Clinical Trial Not Allowed).

Date: June 16–17, 2020.

Time: 8:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3E71, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Ann Marie M. Brighenti, Ph.D., Scientific Review Officer, Program Management & Operations Branch, Division of Extramural Activities, Scientific Review Program, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3E71, Rockville, MD 20852, 301–761–3100, *AnnMarie.Cruz@niaid.nih.gov.*

(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: May 14, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–10900 Filed 5–19–20; 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; ApoE and Alzheimer's Disease.

Date: June 12, 2020.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Video Meeting).

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: May 14, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–10790 Filed 5–19–20; 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; Metformin and Aging.

Date: June 24, 2020.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Anita H. Undale, MD, 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) 827–7428, *anita.undale@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: May 14, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–10793 Filed 5–19–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed 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: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Skeletal Biology Development and Disease Study Section.

Date: June 16–17, 2020.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health Rockledge II 6701 Rockledge Dr. Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Aruna K. Behera, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4211, MSC 7814, Bethesda, MD 20892, 301–435–6809, *beheraak@csr.nih.gov.*

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Language and Communication Study Section.

Date: June 18–19, 2020.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Andrea B. Kelly, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, MSC 7770, Bethesda, MD 20892, (301) 455–1761, *kellya2@csr.nih.gov.*

Name of Committee: Bioengineering Sciences & Technologies Integrated Review Group; Gene and Drug Delivery Systems Study Section.

Date: June 24–25, 2020.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Leslie S. Itsara, Ph.D., Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 402–5174, *leslie.itsara@nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Drug Discovery for the Nervous System Study Section.

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, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Mary Custer, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4148, MSC 7850, Bethesda, MD 20892, (301) 435–1164, *custerm@csr.nih.gov.*

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Cancer Prevention Study Section.

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, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Svetlana Kotliarova, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, Bethesda, MD 20892, 301–594–7945, *kotliars@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Behavioral Neuroscience.

Date: June 25–26, 2020.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Mei Qin, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5213, Bethesda, MD 20892, 301–875–2215, *qinmei@csr.nih.gov.*

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group; Gastrointestinal Mucosal Pathobiology Study Section.

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, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Aiping Zhao, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2188, Bethesda, MD 20892–7818, (301) 435–0682, *zhaoa2@csr.nih.gov.*

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Cancer, Heart, and Sleep Epidemiology A Study Section.

Date: June 25–26, 2020.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Denise Wiesch, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3138, MSC 7770, Bethesda, MD 20892, (301) 437–3478, *wieschd@csr.nih.gov.*

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Oral, Dental and Craniofacial Sciences Study Section.
Date: June 25–26, 2020.
Time: 9:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Yi-Hsin Liu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7814, Bethesda, MD 20892, 301–435–1781, *liuyh@csr.nih.gov*.

Name of Committee: Cell Biology Integrated Review Group; Intercellular Interactions Study Section.
Date: June 25, 2020.
Time: 9:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Thomas Y. Cho, Ph.D., Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 301–402–4179, *thomas.cho@nih.gov*.

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group; Xenobiotic and Nutrient Disposition and Action Study Section.
Date: June 25–26, 2020.
Time: 9:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Jonathan K. Ivins, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2190, MSC 7850, Bethesda, MD 20892, (301) 594–1245, *ivinsj@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR19–367: Maximizing Investigators' Research Award (R35—Clinical Trial Optional).
Date: June 25–26, 2020.
Time: 9:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Baishali Maskeri, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2022, Bethesda, MD 20892, 301–827–2864, *maskerib@mail.nih.gov*.

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Pregnancy and Neonatology Study Section.
Date: June 25–26, 2020.
Time: 10:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Andrew Maxwell Wolfe, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Room 6214, Bethesda, MD 20892, 301.402.3019, *andrew.wolfe@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 14, 2020.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–10786 Filed 5–19–20; 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 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 of Dental and Craniofacial Research Special Emphasis Panel; DSR Member Conflict Panel.
Date: July 7, 2020.
Time: 1:00 p.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, Suite 664, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Jimok Kim, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Dental and Craniofacial Research, National Institutes of Health, 6701 Democracy Boulevard, Suite 664, Bethesda, MD 20892, (301) 402–8559, *jimok.kim@nih.gov*.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; Clinical Studies in the National Dental Practice-Based Research Network.
Date: July 17, 2020.
Time: 1:00 p.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institute of Dental and Craniofacial Research, National Institutes of Health, 6701 Democracy Boulevard, Suite 664, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Jimok Kim, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Dental and Craniofacial Research, National Institutes of Health, 6701 Democracy Boulevard, Suite 664, Bethesda, MD 20892, (301) 402–8559, *jimok.kim@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: May 14, 2020.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–10795 Filed 5–19–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed 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: Vascular and Hematology Integrated Review Group; Atherosclerosis and Inflammation of the Cardiovascular System Study Section.
Date: June 15–16, 2020.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Natalia Komissarova, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5207, MSC 7846, Bethesda, MD 20892, (301) 435–1206, *komissar@mail.nih.gov*.

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Macromolecular Structure and Function A Study Section.

Date: June 15–16, 2020.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).
Contact Person: David R. Jollie, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4166, MSC 7806, Bethesda, MD 20892, (301) 408–9072, *jollieda@csr.nih.gov*.

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Prokaryotic Cell and Molecular Biology Study Section.
Date: June 16, 2020.
Time: 8:00 a.m. to 7:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Luis Dettin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2208, Bethesda, MD 20892, (301) 451 1327, *dettinle@csr.nih.gov*.

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Respiratory Integrative Biology and Translational Research Study Section.
Date: June 18–19, 2020.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Bradley Nuss, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC 7814, Bethesda, MD 20892, (301) 451–8754, *nussb@csr.nih.gov*.

Name of Committee: Interdisciplinary Molecular Sciences and Training Integrated Review Group; Enabling Bioanalytical and Imaging Technologies Study Section.
Date: June 18–19, 2020.
Time: 9:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Kenneth Ryan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3218, MSC 7717, Bethesda, MD 20892, (301) 435–0229, *kenneth.ryan@nih.hhs.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Cellular Aspects of Diabetes and Obesity Study Section.
Date: June 18, 2020.
Time: 9:00 a.m. to 10:30 a.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Elaine Sierra-Rivera, Ph.D., Scientific Review Officer, EMNR IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6182, MSC 7892, Bethesda, MD 20892, (301) 435–2514, *riverase@csr.nih.gov*.

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Developmental Therapeutics Study Section.
Date: June 18–19, 2020.
Time: 9:30 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Nicholas J. Donato, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040, Bethesda, MD 20892, (301) 827–4810, *nick.donato@nih.gov*.

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Mechanisms of Cancer Therapeutics—1 Study Section.
Date: June 18–19, 2020.
Time: 9:30 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Lambratu Rahman Sesay, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, (301) 905–8294, *rahman-sesay@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 14, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–10784 Filed 5–19–20; 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 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 Allergy and Infectious Diseases Special Emphasis Panel; Emergency Awards: Rapid Investigation of Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV–2) and Coronavirus Disease 2019 (COVID–19).
Date: May 29, 2020.
Time: 11:00 a.m. to 4:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G22, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Inka I. Sastalla, 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 3G22, Rockville, MD 20852, 301–761–6431, *inka.sastalla@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 14, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–10899 Filed 5–19–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed 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: Genes, Genomes, and Genetics Integrated Review Group; Molecular Genetics A Study Section.
Date: June 11, 2020.
Time: 9:00 a.m. to 7:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Michael L. Bloom, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6187, MSC 7804, Bethesda, MD 20892, (301) 451–0132, *bloomm2@mail.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Aging Systems and Geriatrics Study Section.
Date: June 15–16, 2020.
Time: 9:00 a.m. to 5:00 a.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Inese Z. Beitins, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6152, MSC 7892, Bethesda, MD 20892, (301) 435–1034, *beitinsi@csr.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Brain Injury and Neurovascular Pathologies Study Section.
Date: June 15–16, 2020.
Time: 10:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Alexander Yakovlev, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5206, MSC 7846, Bethesda, MD 20892, (301) 435–1254, *yakovleva@csr.nih.gov.*

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Genomics, Computational Biology and Technology Study Section.
Date: June 17–18, 2020.
Time: 9:00 a.m. to 6:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Baishali Maskeri, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 827–2864, *maskerib@mail.nih.gov.*

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group; Imaging Technology Development Study Section.
Date: June 18–19, 2020.
Time: 9:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Joonil Seog, SCD, Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20852, (301) 402–9791, *joonil.seog@nih.gov.*

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Clinical and Integrative Cardiovascular Sciences Study Section.
Date: June 18–19, 2020.
Time: 10:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Chee Lim, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4128, Bethesda, MD 20892, (301) 435–1850, *limc4@csr.nih.gov.*

Name of Committee: Cell Biology Integrated Review Group; Nuclear and Cytoplasmic Structure/Function and Dynamics Study Section.
Date: June 18–19, 2020.
Time: 11:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Jessica Smith, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, *jessica.smith6@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 14, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–10783 Filed 5–19–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed 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: Center for Scientific Review Special Emphasis Panel; Fellowships: Learning, Memory, Language, Communication, and Related Neuroscience.
Date: June 18–19, 2020.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Susan Gillmor, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 240–762–3076, *susan.gillmor@nih.gov.*

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Child Psychopathology and Developmental Disabilities Study Section.
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, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Katherine Colona Morasch, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3170, Bethesda, MD 20892, (301) 594–9147, *moraschkc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Orthopedic, Musculoskeletal, Oral, Skin and Rehabilitation Sciences.
Date: June 22–23, 2020.
Time: 8:30 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Aftab A. Ansari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4108, MSC 7814, Bethesda, MD 20892, 301–237–9931, *ansaria@csr.nih.gov.*

Name of Committee: Interdisciplinary Molecular Sciences and Training Integrated Review Group; Cellular and Molecular Technologies Study Section.
Date: June 24–25, 2020.
Time: 9:00 a.m. to 7:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Tatiana V. Cohen, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5213, Bethesda, MD 20892, 301–455–2364, *tatiana.cohen@nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated

Review Group; Neurodifferentiation, Plasticity, Regeneration and Rhythmicity Study Section.

Date: June 24–25, 2020.

Time: 11:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Joanne T. Fujii, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4184, MSC 7850, Bethesda, MD 20892, (301) 435–1178, *fujiij@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Immunology AREA Review.

Date: June 24, 2020.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Liying Guo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4016F, Bethesda, MD 20892, 301–435–0908, *lguo@mail.nih.gov*.

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group; Emerging Imaging Technologies and Applications Study Section.

Date: June 25–26, 2020.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Songtao Liu, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5118, Bethesda, MD 20817, 301–827–6828, *songtao.liu@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Brain Disorders and Related Neurosciences.

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, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Vilen A. Movsesyan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040M, MSC 7806, Bethesda, MD 20892, 301–402–7278, *movsesyanv@csr.nih.gov.*

Name of Committee: Immunology Integrated Review Group; Vaccines Against Microbial Diseases Study Section.

Date: June 25–26, 2020.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jian Wang, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4218, MSC 7812, Bethesda, MD 20892, (301) 435–2778, *wangjia@csr.nih.gov.*

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group; Pathobiology of Kidney Disease Study Section.

Date: June 25–26, 2020.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Atul Sahai, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2188, MSC 7818, Bethesda, MD 20892, 301–435–1198, *sahaia@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Hypersensitivity, Allergies and Mucosal Immunology.

Date: June 25–26, 2020.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Alok Mulky, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4203, Bethesda, MD 20892, (301) 435–3566, *alok.mulky@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Genes, Genomes and Genetics.

Date: June 25–26, 2020.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Lystranne Alysia Maynard Smith, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–402–4809, *lystranne.maynard-smith@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Mechanisms of Emotion, Stress, and Health.

Date: June 25, 2020.

Time: 4:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Unja Hayes, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 301–827–6830, *unja.hayes@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 14, 2020.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–10787 Filed 5–19–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Integrative Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Complementary and Integrative Health Special Emphasis Panel; Exploratory Clinical Trials of Mind and Body Interventions (MB).

Date: June 16, 2020.

Time: 4:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Democracy II, 6707 Democracy Blvd., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Martina Schmidt, Ph.D., Chief, Office of Scientific Review, National Center for Complementary & Integrative Health, NIH, 6707 Democracy Blvd., Suite 401, Bethesda, MD 20892, 301–594–3456, *schmidma@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.213, Research and Training in Complementary and Alternative Medicine, National Institutes of Health, HHS)

Dated: May 15, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–10897 Filed 5–19–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; 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 Arthritis and Musculoskeletal and Skin Diseases Advisory Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the 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 Arthritis and Musculoskeletal and Skin Diseases Advisory Council.

Date: June 9, 2020.

Open: 10:00 a.m. to 1:00 p.m.

Agenda: To discuss program policies and issues.

Place: National Institutes of Health, Building 31, 31/4C32, 31 Center Drive, Bethesda, MD 20892 (Virtual Meeting).

Virtual Access: https://videocast.nih.gov/watch=37507.

Any member of the public may submit written comments no later than 15 days after the meeting.

Closed: 2:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Bethesda, MD (Virtual Meeting).

Contact Person: Melinda Nelson, Director, Office of Extramural Operations, National Institute of Arthritis and Musculoskeletal and Skin Diseases, 45 Center Drive, Natcher Building, Room 5A49, Bethesda, MD 20892, (301) 594–3535, *mn23z@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.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: May 14, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–10794 Filed 5–19–20; 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; Emergency Geriatrics Care.

Date: July 8, 2020.

Time: 11:00 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Video Meeting).

Contact Person: Anita H. Undale, MD, 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) 827–7428, *anita.undale@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: May 14, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–10791 Filed 5–19–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Quality Custom Inspection and Laboratories, Inc. (Pasadena, TX) as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Quality Custom Inspection and Laboratories, Inc. (Pasadena, TX), as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Quality Custom Inspection and Laboratories, Inc. (Pasadena, TX), has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of September 6, 2018.

DATES: Quality Custom Inspection and Laboratories, Inc. (Pasadena, TX) was approved and accredited as a commercial gauger and laboratory as of September 6, 2018. The next triennial inspection date will be scheduled for September 2021.

FOR FURTHER INFORMATION CONTACT: Dr. Eugene Bondoc, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Quality Custom Inspection and Laboratories, Inc., 402 Pasadena Blvd., Pasadena, TX 77506, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13.

Quality Custom Inspection and Laboratories, Inc. (Pasadena, TX) is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API chapters	Title
3	Tank Gauging.
7	Temperature Determination.
8	Sampling.
11	Physical Properties Data.
12	Calculations.
17	Marine Measurement.

Quality Custom Inspection and Laboratories, Inc. (Pasadena, TX) is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27–01	D 287	Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products (Hydrometer Method).
27–03	D 4006	Standard Test Method for Water in Crude Oil by Distillation.
27–04	D 95	Standard Test Method for Water in Petroleum Products and Bituminous Materials by Distillation.
27–06	D 473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27–08	D 86	Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure.
27–11	D 445	Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids (and Calculation of Dynamic Viscosity).
27–14	D 2622	Standard Test Method for Sulfur in Petroleum Products by Wavelength Dispersive X-Ray Fluorescence Spectrometry.
27–46	D5002	Standard Test Method for Density, Relative Density, and API Gravity of Crude Oils by Digital Density Analyzer.
27–48	D 4052	Standard Test Method for Density and Relative Density of Liquids by Digital Density Meter.
27–50	D 93	Standard Test Methods for Flash-Point by Pensky-Martens Closed Cup Tester.
27–53	D 2709	Standard Test Method for Water and Sediment in Middle Distillate Fuels by Centrifuge.
27–58	D 5191	Standard Test Method for Vapor Pressure of Petroleum Products (Mini Method).

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *CBPGaugersLabs@cbp.dhs.gov.* Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories.*

Dated: April 30, 2020.

Larry D. Fluty,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2020–10832 Filed 5–19–20; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Intertek USA, Inc. (Ft. Lauderdale, FL) as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Intertek USA, Inc. (Ft. Lauderdale, FL), as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Intertek USA, Inc. (Ft. Lauderdale, FL), has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of July 24, 2019.

DATES: Intertek USA, Inc. (Ft. Lauderdale, FL) was approved and accredited as a commercial gauger and laboratory as of July 24, 2019. The next triennial inspection date will be scheduled for July 2022.

FOR FURTHER INFORMATION CONTACT: Dr. Eugene Bondoc, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Suite 1500N, Washington, DC 20229, tel. 202–344–3974.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Intertek USA, Inc., 1881 West State Rd. 84, Suite 105, Ft. Lauderdale, FL 33315, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13.

Intertek USA, Inc. (Ft. Lauderdale, FL) is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API chapters	Title
3	Tank Gauging.
7	Temperature Determination.
8	Sampling.
12	Calculations.
17	Marine Measurement.

Intertek USA, Inc. (Ft. Lauderdale, FL) is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27–06	D 473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27–08	D 86	Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure.
27–48	D 4052	Standard Test Method for Density and Relative Density of Liquids by Digital Density Meter.

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border

Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060.

The inquiry may also be sent to *CBPGaugersLabs@cbp.dhs.gov*. Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories.*

Dated: April 30, 2020.

Larry D. Fluty,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2020–10776 Filed 5–19–20; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Intertek USA, Inc. (Bellingham, WA) as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Intertek USA, Inc. (Bellingham, WA), as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Intertek, USA Inc. (Bellingham, WA), has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of August 26, 2019.

DATES: Intertek USA, Inc. (Bellingham, WA) was approved and accredited as a commercial gauger and laboratory as of August 26, 2019. The next triennial inspection date will be scheduled for August 2022.

FOR FURTHER INFORMATION CONTACT: Dr. Eugene Bondoc, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Suite 1500N, Washington, DC 20229, tel. 202–344–3974.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Intertek USA, Inc., 801 W Orchard Dr., Suite 5, Bellingham, WA 98225, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Intertek USA, Inc. (Bellingham, WA) is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API chapters	Title
3	Tank Gauging.
7	Temperature Determination.
8	Sampling.
11	Physical Properties Data.
12	Calculations.
17	Marine Measurement.

Intertek USA, Inc. (Bellingham, WA) is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27–05	D 4928	Standard Test Method for Water in Crude Oils by Coulometric Karl Fischer Titration.
27–06	D 473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27–07	D 4807	Standard Test Method for Sediment in Crude Oil by Membrane Filtration.
27–13	D 4294	Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectrometry.
27–46	D5002	Standard Test Method for Density, Relative Density, and API Gravity of Crude Oils by Digital Density Analyzer.
27–54	D 1796	Standard Test Method for Water and Sediment in Fuel Oils by the Centrifuge Method.

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *CBPGaugersLabs@cbp.dhs.gov*. Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories.*

Dated: April 30, 2020.

Larry D. Fluty,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2020–10775 Filed 5–19–20; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of SGS North America, Inc. (Deer Park, TX), as a Commercial Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of SGS North America, Inc., as a commercial laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that SGS North America, Inc. (Deer Park, TX), has been accredited to test petroleum and petroleum products for customs purposes for the next three years as of September 17, 2019.

DATES: SGS North America, Inc., was accredited as a commercial laboratory as of September 17, 2019. The next triennial inspection date will be scheduled for September 2022.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Cassata, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12, that SGS North America, Inc., 1201 West 8th St., Deer Park, TX 77536, has been accredited to test petroleum and petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12. SGS North America, Inc., is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	Methods	Title
27–01	ASTM D 287	Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products (Hydrometer Method).
27–03	ASTM D 4006	Standard Test Method for Water in Crude Oil by Distillation.
27–04	ASTM D 95	Standard test method for water in petroleum products and bituminous materials by distillation.
27–05	ASTM D 4928	Standard Test Method for Water in Crude Oils by Coulometric Karl Fischer Titration.
27–06	ASTM D 473	Standard test method for sediment in crude oils and fuel oils by the extraction method.
27–08	ASTM D 86	Standard Test Method for Distillation of Petroleum Products.
27–11	ASTM D 445	Standard test method for kinematic viscosity of transparent and opaque liquids (and calculations of dynamic viscosity).
27–13	ASTM D 4294	Standard test method for sulfur in petroleum and petroleum products by energy-dispersive x-ray fluorescence spectrometry.
27–14	ASTM D 2622	Standard Test Method for Sulfur in Petroleum Products by Wavelength Dispersive X-Ray Fluorescence Spectrometry.
27–46	ASTM D 5002	Standard Test Method for Density, Relative Density, and API Gravity of Crude Oils by Digital Density Analyzer.
27–48	ASTM D 4052	Standard test method for density and relative density of liquids by digital density meter.
27–50	ASTM D 93	Standard Test Methods for Flash-Point by Pensky-Martens Closed Cup Tester.
27–54	ASTM D 1796	Standard test method for water and sediment in fuel oils by the centrifuge method (Laboratory procedure).
27–57	ASTM D 7039	Standard Test Method for Sulfur in Gasoline and Diesel Fuel by Monochromatic Wavelength Dispersive X-Ray Fluorescence Spectrometry.

Anyone wishing to employ this entity to conduct laboratory analyses should request and receive written assurances from the entity that it is accredited by the U.S. Customs and Border Protection to conduct the specific test service requested. Alternatively, inquiries regarding the specific test service this entity is accredited to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbpgaugerslabs@cbp.dhs.gov.*

Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories: *http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories.*

Dated: April 30, 2020.

Larry D. Fluty,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2020–10837 Filed 5–19–20; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Intertek USA, Inc. (St. Louis, MO) as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Intertek USA, Inc. (St. Louis, MO), as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Intertek USA, Inc. (St. Louis, MO), has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of August 13, 2019.

DATES: Intertek USA, Inc. (St. Louis, MO) was approved and accredited as a commercial gauger and laboratory as of August 13, 2019. The next triennial inspection date will be scheduled for August 2022.

FOR FURTHER INFORMATION CONTACT: Dr. Eugene Bondoc, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Suite 1500N, Washington, DC 20229, tel. 202–344–3974.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Intertek USA, Inc., 1211 Belgrove Dr., St. Louis, MO 63137, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13.

Intertek USA, Inc. (St. Louis, MO) is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API chapters	Title
3	Tank Gauging.
7	Temperature Determination.
8	Sampling.
12	Calculations.
17	Marine Measurement.

Intertek USA, Inc. (St. Louis, MO) is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27–03	D 4006	Standard Test Method for Water in Crude Oil by Distillation.
27–04	D 95	Standard Test Method for Water in Petroleum Products and Bituminous Materials by Distillation.

CBPL No.	ASTM	Title
27–05	D 4928	Standard Test Method for Water in Crude Oils by Coulometric Karl Fischer Titration.
27–06	D 473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27–08	D 86	Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure.
27–11	D 445	Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids (and Calculation of Dynamic Viscosity).
27–13	D 4294	Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectrometry.
27–46	D 5002	Standard Test Method for Density, Relative Density, and API Gravity of Crude Oils by Digital Density Analyzer.
27–48	D 4052	Standard Test Method for Density and Relative Density of Liquids by Digital Density Meter.
27–53	D 2709	Standard Test Method for Water and Sediment in Middle Distillate Fuels by Centrifuge.
27–54	D 1796	Standard Test Method for Water and Sediment in Fuel Oils by the Centrifuge Method.
N/A	D 4007	Standard Test Method for Water and Sediment in Crude Oil by the Centrifuge Method (Laboratory Procedure).

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *CBPGaugersLabs@cbp.dhs.gov*. Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories*.

Dated: April 30, 2020.

Larry D. Fluty,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2020–10779 Filed 5–19–20; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of SGS North America, Inc. (Houston, TX), as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of SGS North America, Inc., as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that SGS North America, Inc. (Houston, TX), has been approved to gauge and accredited to test petroleum and petroleum products for customs purposes for the next three years as of July 11, 2019.

DATES: SGS North America, Inc., was accredited and approved as a commercial gauger and laboratory as of July 11, 2019. The next triennial inspection date will be scheduled for July 2022.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Cassata, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that SGS North America, Inc., 15602 Jacintoport Blvd., Houston, TX 77015, has been approved to gauge and accredited to test petroleum and petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. SGS North America, Inc., is approved for the following gauging procedures for petroleum and certain petroleum products set forth by the American Petroleum Institute (API):

API chapters	Title
3	Tank gauging.
7	Temperature Determination.
8	Sampling.
12	Calculations.
14	Natural Gas Fluids Measurement.
17	Maritime Measurements.

SGS North America, Inc., is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	Method	Title
27–11	ASTM D 445	Standard test method for kinematic viscosity of transparent and opaque liquids (and calculations of dynamic viscosity).
27–48	ASTM D 4052	Standard test method for density and relative density of liquids by digital density meter.
27–50	ASTM D 93	Standard test method for flash point by Penske-Martens Closed Cup Tester.
N/A	ASTM D 92	Standard Test Method for Flash and Fire Points by Cleveland Open Cup Tester.

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbpgaugerslabs@cbp.dhs.gov*. Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories: *http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories.*

Dated: April 30, 2020.

Larry D. Fluty,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2020–10839 Filed 5–19–20; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of SGS North America, Inc. (Fort Lauderdale, FL), as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of SGS North America, Inc., as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that SGS North America, Inc. (Fort Lauderdale, FL), has been approved to gauge and accredited to test petroleum and petroleum products for customs purposes for the next three years as of July 25, 2019.

DATES: SGS North America, Inc., was accredited and approved as a commercial gauger and laboratory as of July 25, 2019. The next triennial inspection date will be scheduled for July 2022.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Cassata, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that SGS North America, Inc., 1100 SE 24th St., Fort Lauderdale, FL 33316, has been approved to gauge and accredited to test petroleum and petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. SGS North America, Inc., is approved for the following gauging procedures for petroleum and certain petroleum products set forth by the American Petroleum Institute (API):

API chapters	Title
3	Tank gauging.
7	Temperature Determination.
8	Sampling.
9	Density Determination.
12	Calculations.
17	Maritime Measurements.

SGS North America, Inc., is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	Methods	Title
27–04	ASTM D 95	Standard test method for water in petroleum products and bituminous materials by distillation.
27–06	ASTM D 473	Standard test method for sediment in crude oils and fuel oils by the extraction method.
27–08	ASTM D 86	Standard Test Method for Distillation of Petroleum Products.
27–11	ASTM D 445	Standard test method for kinematic viscosity of transparent and opaque liquids (and calculations of dynamic viscosity).
27–13	ASTM D 4294	Standard test method for sulfur in petroleum and petroleum products by energy-dispersive x-ray fluorescence spectrometry.
27–48	ASTM D 4052	Standard test method for density and relative density of liquids by digital density meter.
27–54	ASTM D 1796	Standard test method for water and sediment in fuel oils by the centrifuge method (Laboratory procedure).
27–58	ASTM D 5191	Standard Test Method For Vapor Pressure of Petroleum Products (Mini Method).

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbpgaugerslabs@cbp.dhs.gov.* Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories: *http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories.*

Dated: April 30, 2020.

Larry D. Fluty,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2020–10838 Filed 5–19–20; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Intertek USA, Inc. (Deer Park, TX) as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Intertek USA, Inc. (Deer Park, TX), as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Intertek USA, Inc. (Deer Park, TX), has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of September 12, 2019.

DATES: Intertek USA, Inc. (Deer Park, TX) was approved and accredited as a commercial gauger and laboratory as of September 12, 2019. The next triennial inspection date will be scheduled for September 2022.

FOR FURTHER INFORMATION CONTACT: Dr. Eugene Bondoc, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Suite 1500N, Washington, DC 20229, tel. 202–344–3974.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Intertek USA, Inc., 1114 Seaco Avenue, Deer Park, TX 77536, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13.

Intertek USA, Inc. (Deer Park, TX) is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API chapters	Title
3	Tank Gauging.
7	Temperature Determination.
8	Sampling.
12	Calculations.
17	Marine Measurement.

Intertek USA, Inc. (Deer Park, TX) is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27–01	D 287	Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products (Hydrometer Method).
27–02	D 1298	Standard Test Method for Density, Relative Density (Specific Gravity), or API Gravity of Crude Petroleum and Liquid Petroleum Products by Hydrometer Method.
27–03	D 4006	Standard Test Method for Water in Crude Oil by Distillation.
27–04	D 95	Standard Test Method for Water in Petroleum Products and Bituminous Materials by Distillation.
27–05	D 4928	Standard Test Method for Water in Crude Oils by Coulometric Karl Fischer Titration.
27–06	D 473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27–07	D 4807	Standard Test Method for Sediment in Crude Oil by Membrane Filtration.
27–08	D 86	Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure.
27–11	D 445	Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids (and Calculation of Dynamic Viscosity).
27–13	D 4294	Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectrometry.
27–46	D 5002	Standard Test Method for Density, Relative Density, and API Gravity of Crude Oils by Digital Density Analyzer.
27–48	D 4052	Standard Test Method for Density and Relative Density of Liquids by Digital Density Meter.
27–50	D 93	Standard Test Methods for Flash-Point by Pensky-Martens Closed Cup Tester.
27–54	D 1796	Standard Test Method for Water and Sediment in Fuel Oils by the Centrifuge Method.

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *CBPGaugersLabs@cbp.dhs.gov*. Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories*.

Dated: April 30, 2020.

Larry D. Fluty,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2020–10777 Filed 5–19–20; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation of Intertek USA, Inc. (St. James, LA), as a Commercial Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation of Intertek USA, Inc. (St. James, LA), as a commercial laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Intertek USA, Inc. (St. James, LA), has been accredited to test petroleum and certain petroleum products for customs purposes as of December 18, 2019.

DATES: Intertek USA, Inc. (St. James, LA) was accredited, as a commercial laboratory as of December 18, 2019. The next triennial inspection date will be scheduled for December 2022.

FOR FURTHER INFORMATION CONTACT: Dr. Eugene Bondoc, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12, that Intertek USA, Inc., 7069 Highway 18, St. James, LA 70086 has been accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12.

Intertek USA, Inc. is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27–05	ASTM D 4928	Standard Test Method for Water in Crude Oils by Coulometric Karl Fischer Titration.
27–13	ASTM D 4294	Standard test method for sulfur in petroleum and petroleum products by energy-dispersive x-ray fluorescence spectrometry.
27–46	ASTM D 5002	Standard Test Method for Density, Relative Density, and API Gravity of Crude Oils by Digital Density Analyzer.

Anyone wishing to employ this entity to conduct laboratory analyses should request and receive written assurances from the entity that it is accredited by the U.S. Customs and Border Protection to conduct the specific test requested. Alternatively, inquiries regarding the specific test this entity is accredited to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *CBPGaugersLabs@cbp.dhs.gov*. Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories*.

Dated: April 30, 2020.

Larry D. Fluty,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2020–10778 Filed 5–19–20; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2020–0007; OMB No. 1660–0143]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Federal Emergency Management Agency Individual Assistance Customer Satisfaction Surveys

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission will describe the nature of the information collection, the categories of respondents, the estimated burden (*i.e.,* the time, effort and resources used by respondents to respond) and cost, and the actual data collection instruments FEMA will use.

DATES: Comments must be submitted on or before June 19, 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: Requests for additional information or copies of the information collection should be made to Director, Information Management Division, 500 C Street SW, Washington, DC 20472, email address *FEMA-Information-Collections-Management@fema.dhs.gov* or Jessica Guillory, Statistician, Customer Survey & Analysis Section, Recovery Directorate, FEMA at *Jessica.Guillory@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: This proposed information collection previously published in the **Federal Register** on February 11, 2020 at 85 FR 7778 with a 60 day public comment period. No comments were received. The purpose of this notice is to notify the public that FEMA will submit the information collection abstracted below to the Office of Management and Budget for review and clearance.

Collection of Information

Title: Federal Emergency Management Agency Individual Assistance Customer Satisfaction Surveys.

Type of Information Collection: Revision of a currently approved information collection.

OMB Number: 1660–0143.

Form Titles and Numbers: FEMA Form 519–0–36, Initial Survey—Phone, FEMA Form 519–0–37, Initial Survey—Electronic; FEMA Form 519–0–38, Contact Survey—Phone, FEMA Form 519–0–39, Contact Survey—Electronic; FEMA Form 519–0–40, Assessment Survey—Phone, FEMA Form 519–0–41, Assessment Survey—Electronic.

Abstract: Federal agencies are required to survey their customers to determine the kind and quality of services customers want and their level of satisfaction with those services. Analysis from the survey is used to measure FEMA's Strategic Plan's objective 3.1 Streamline the Disaster Survivor Experience.

Affected Public: Individuals or households.

Estimated Number of Respondents: 38,864.

Estimated Number of Responses: 38,864.

Estimated Total Annual Burden Hours: 8,982.

Estimated Total Annual Respondent Cost: $337,274.

Estimated Respondents' Operation and Maintenance Costs: $0.

Estimated Respondents' Capital and Start-Up Costs: $0.

Estimated Total Annual Cost to the Federal Government: $1,785,889.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Maile Arthur,

Acting Records Management Program Chief, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2020–10810 Filed 5–19–20; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–MB–2020–N065; FF07M01000–201–FXMB12310700000; OMB Control Number 1018–0168]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Alaska Native Handicrafts

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act, we, the U.S. Fish and Wildlife Service, are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before June 19, 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 the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: PRB (JAO/3W), 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or by email to *Info_Coll@fws.gov.* Please reference OMB Control Number 1018–0168 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: Madonna L. Baucum, Service Information Collection Clearance Officer, by email at *Info_Coll@fws.gov,* or by telephone at (703) 358–2503. Individuals who are hearing or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance. 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.*), we, the U.S. Fish and Wildlife Service (Service, we), are proposing to reinstate a previously approved information collection with revisions.

In accordance with the PRA and its implementing regulations at 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

On November 14, 2019, we published in the **Federal Register** (84 FR 64912) a notice of our intent to request that OMB approve this information collection. In that notice, we solicited comments for 60 days, ending on January 24, 2019. We received one comment in response to that notice. The commenter did not address the information collection requirements; therefore, no response is required.

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: The Migratory Bird Treaty Act of 1918 (16 U.S.C. 712(1)) authorizes the Secretary of the Interior, in accordance with the treaties with Canada, Mexico, Japan, and Russia, to ''issue such regulations as may be necessary to assure that the taking of migratory birds and the collection of their eggs, by the indigenous inhabitants of the State of Alaska, shall be permitted for their own nutritional and other essential needs, as determined by the Secretary of the Interior, during the Alaska spring and summer migratory bird subsistence harvest seasons so as to provide for the preservation and maintenance of stocks of migratory birds.'' Article II(4)(b) of the Protocol between the United States and Canada amending the 1916 Convention for the Protection of Migratory Birds in Canada and the United States provides a legal basis for Alaska Natives to be able to sell handicrafts that contain the inedible parts of birds taken for food during the Alaska spring and summer migratory bird subsistence harvest. The Protocol also dictates that sales would be allowed in strictly limited situations, pursuant to a regulation by a competent authority in cooperation with management bodies. The Protocol does not authorize the taking of migratory birds for commercial purposes.

In 2017, we issued a final rule (82 FR 34263), developed under a co-management process involving the Alaska Department of Fish and Game and Alaska Native representatives, that amended the permanent migratory bird subsistence harvest regulations at 50 CFR 92.6 to enable Alaska Natives to sell authentic native articles of handicraft or clothing that contain inedible byproducts from migratory birds that were taken for food during the Alaska migratory bird subsistence harvest season. Article II(4)(b) of the Protocol dictates that sales will be under a strictly limited situation. Allowing Alaska Natives to sell a limited number of handicrafts containing inedible migratory bird parts provides a small source of additional income that we conclude is necessary for the ''essential needs'' of Alaska Natives in predominantly rural Alaska. This limited opportunity for sale is consistent with the language of the Protocol and is expressly noted in the Letter of Submittal to be consistent with the customary and traditional uses of Alaska Natives. Allowing this activity by Alaska Natives is also consistent with the preservation and maintenance of migratory bird stocks.

Eligibility will be shown by a Tribal Enrollment Card, Bureau of Indian Affairs card, or membership in the Silver Hand program. The State of Alaska Silver Hand program helps Alaska Native artists promote their work in the marketplace and enables consumers to identify and purchase authentic Alaska Native art. The insignia indicates that the artwork on which it appears is created by hand in Alaska by an individual Alaska Native artist. Only original contemporary and traditional Alaska Native artwork, not reproductions or manufactured work, may be identified and marketed with the Silver Hand insignia. To be eligible for a 2-year Silver Hand permit, an Alaska Native artist must be a full-time resident of Alaska, be at least 18 years old, and provide documentation of membership in a federally recognized Alaska Native tribe. The Silver Hand insignia may only be attached to original work that is produced in the State of Alaska.

The final rule requires that FWS Form 3–2484 (a simple certification which is not subject to the PRA) or a Silver Hand insignia accompany each Alaska Native article of handicraft or clothing that contains inedible migratory bird parts. It also requires all consignees, sellers, and purchasers to retain this documentation with each item and produce it upon the request of a law enforcement officer. The final rule also requires that artists maintain adequate records of the certification or Silver Hand insignia

with each item and requires artists and sellers/consignees provide the documentation to buyers. These recordkeeping and third-party notification requirements are subject to the PRA and require OMB approval.

Title of Collection: Alaska Native Handicrafts, 50 CFR 92.6.

OMB Control Number: 1018–0168.

Form Numbers: FWS Form 3–2484.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Individuals and businesses.

Total Estimated Number of Annual Respondents: 2.

Total Estimated Number of Annual Responses: 2.

Estimated Completion Time per Response: 5 minutes.

Total Estimated Number of Annual Burden Hours: 0.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: None.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: May 15, 2020.

Madonna Baucum,

Information Collection Clearance Officer, U.S. Fish and Wildlife Service.

[FR Doc. 2020–10870 Filed 5–19–20; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[201A2100DD/AAKC001030/ A0A501010.999900253G]

Indian Gaming; Approval of Tribal-State Class III Gaming Compact Amendment in the State of Oregon

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The State of Oregon entered into a compact amendment with the Coquille Tribe of Indians governing certain forms of class III gaming; this notice announces the approval of Amendment III to the Amended and Restated Tribal-State Compact for Regulation of Class III Gaming between the Coquille Tribe of Indians and the State of Oregon.

DATES: This amendment takes effect May 20, 2020.

FOR FURTHER INFORMATION CONTACT: Ms. Paula L. Hart, Director, Office of Indian Gaming, Office of the Deputy Assistant Secretary—Policy and Economic Development, Washington, DC 20240, *paula.hart@bia.gov,* (202) 219–4066.

SUPPLEMENTARY INFORMATION: Under section 11 of the Indian Gaming Regulatory Act (IGRA), Public Law 100–497, 25 U.S.C. 2701 *et seq.,* the Secretary of the Interior shall publish in the **Federal Register** notice of approved Tribal-State compacts for the purpose of engaging in Class III gaming activities on Indian lands. As required by 25 CFR 293.4, all compacts are subject to review and approval by the Secretary. The Amendment changes the definition of video lottery terminal to reflect updated standards and adds a new subsection to the compact providing procedures for the Tribe to offer new video lottery terminals.

Tara Sweeney,

Assistant Secretary—Indian Affairs.

[FR Doc. 2020–10823 Filed 5–19–20; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[XXXD5198NI DS61100000 DNINR0000.000000 DX61104]

Notice of Teleconference Meeting of the Exxon Valdez Oil Spill Public Advisory Committee

AGENCY: Office of the Secretary, Interior.

ACTION: Meeting notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, the Department of the Interior, Office of the Secretary is announcing that the *Exxon Valdez* Oil Spill (EVOS) Trustee Council's Public Advisory Committee will meet by teleconference as noted below.

DATES: The teleconference meeting will be held on Monday, June 15, 2020, beginning at 1:00 p.m. AKST.

ADDRESSES: The meeting will be telephonic only. The public may dial into the meeting by calling 1–800–315–6338 and using access code: 72241.

FOR FURTHER INFORMATION CONTACT: Dr. Philip Johnson, Department of the Interior, Office of Environmental Policy and Compliance, telephone number: (907) 271–5011; email: *Philip_johnson@ios.doi.gov.*

SUPPLEMENTARY INFORMATION: The EVOS Public Advisory Committee was created pursuant to Paragraph V.A.4 of the Memorandum of Agreement and Consent Decree entered into by the United States of America and the State of Alaska on August 27, 1991, and approved by the United States District Court for the District of Alaska in settlement of *United States of America* v. *State of Alaska,* Civil Action No. A91–081 CV.

The EVOS Public Advisory Committee teleconference agenda will include a review of the draft Fiscal Year 2022–2031 Invitation for Proposals. An opportunity for public comments will be provided. The final agenda and materials for the meeting will be posted on the EVOS Trustee Council website at least 15 calendar days prior to the meeting at *www.evostc.state.ak.us.* All EVOS Public Advisory Committee meetings are open to the public.

Public Input

Submitting Written Information or Questions

Interested members of the public may submit relevant information or questions for the Committee to consider during the public meeting. Written statements must be received no later than June 10, 2020, so that the information may be made available to the Committee for their consideration prior to this meeting. Written statements must be sent to Dr. Philip Johnson (c/o of EVOS Trustee Council, 4230 University Drive, Suite 220, Anchorage, AK 99508) in the following formats: One hard copy with original signature and/or one electronic copy via email (acceptable file formats are Adobe Acrobat PDF, MS Word, MS PowerPoint, or rich text file). You may submit a copy of oral statement or expanded statement, or to submit a written statement because time constraints prevented presentation during the teleconference up to 30 days after the teleconference date.

Public Disclosure of Comments

Before including your address, phone number, email address, or other personal identifying information in your comments, please be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 5 U.S.C. Appendix 2.

Philip Johnson,

Regional Environmental Officer, Office of Environmental Policy and Compliance.

[FR Doc. 2020–10800 Filed 5–19–20; 8:45 am]

BILLING CODE 4334–63–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCOS05000.L14400000.FR0000.20X; COC–78200]

Notice of Realty Action: Recreation and Public Purposes Act Classification and Conveyance, Montrose County, CO

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) has examined certain public lands in Montrose County, Colorado, and has found them suitable for classification for lease and subsequent conveyance to Montrose County (County) under the provisions of the Recreation and Public Purposes Act (R&PP), as amended, and Executive Order No. 6910. The lands consist of approximately 44 acres, must conform to the official plat of survey, and are legally described below.

DATES: The BLM must receive written comments on or before July 6, 2020.

ADDRESSES: Written comments may be mailed or hand delivered to Jana Moe, Realty Specialist, Uncompahgre Field Office, 2465 South Townsend Avenue, Montrose, Colorado 81401. They may also be faxed to 970–240–5368 or emailed to *jpmoe@blm.gov.* The BLM will not consider comments received via telephone calls.

Detailed information including, but not limited to, a proposed development and management plan and documentation relating to compliance with applicable environmental and cultural resource laws, is available for review by appointment, 8:00 a.m. to 4:30 p.m. Mountain Time, Monday through Friday, except during Federal holidays, at the BLM Uncompahgre Field Office Visitor Center or online at *https://eplanning.blm.gov/shavano.*

FOR FURTHER INFORMATION CONTACT: Jana Moe, Realty Specialist, BLM Uncompahgre Field Office, at 970–240–5324 or by email at *jpmoe@blm.gov.* Persons who use a telecommunications device for the deaf may call the Federal Relay Service (FRS) at 1–800–877–8339 to leave a message or question for Ms. Moe. The FRS is available 24 hours a day, 7 days a week. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Montrose County has not applied for more than the 6,400-acre limitation for recreation uses in a year, nor more than 640 acres for each of the programs involving public resources other than recreation. Montrose County has submitted a statement in compliance with the regulations at 43 CFR 2741.4(b).

Montrose County proposes to use the land to develop the Shavano Gateway Recreation Area. The recreation area will provide parking spaces for vehicles and trailers, trailhead facilities such as restrooms and picnic tables, informational signage and an off-highway vehicle training area. This proposal aligns with Secretarial Order 3366's focus on increasing recreational opportunities on lands managed by the Department of the Interior.

The lands examined and identified as suitable for lease and subsequent conveyance under the R&PP Act are legally described as:

New Mexico Principal Meridian, Colorado

T. 48 N., R. 10 W.,

Sec. 8, SE$^{1/4}$NE$^{1/4}$ and NE$^{1/4}$SE$^{1/4}$, that portion lying southeasterly of the southeasterly right-of-way line of Montrose County 90 Road and easterly of the easterly edge of Shavano Loop trail.

The area described contains 44 acres.

The lands are not needed for any Federal purposes. Leasing or conveying these lands for recreational or public purposes is in public and national interest.

In conformance with the National Environmental Policy Act, the BLM prepared a parcel-specific Environmental Assessment (EA) document (DOI–BLM–CO–S050–2019–0019–EA) for this Notice of Realty Action. A copy of the EA is available online at *https://eplanning.blm.gov/shavano.* Based on the EA, the BLM approved a Finding of No Significant Impact and a Decision Record to implement the classification and conveyance of the lands described above on September 12, 2019.

The BLM completed the EA and issued the Decision Record under the 1989 BLM Uncompahgre Basin Resource Management Plan, as amended in September 1994. The EA, lease, and conveyance are in conformance with the recently approved April 2020 Uncompahgre Resource Management Plan.

All interested parties will receive a copy of this notice once it is published in the **Federal Register**. The **Federal Register** notice with information about this proposed realty action will be published in the newspaper of local circulation once a week for three consecutive weeks. The regulations at 43 CFR subpart 2741 addressing requirements and procedures for conveyances under the R&PP Act do not require a public meeting.

Upon publication of this notice in the **Federal Register**, the lands will be segregated from all other forms of appropriation under the public land laws, including the locations under the mining laws, except for lease or conveyance under the R&PP Act and leasing under the mineral leasing laws.

The lease or conveyance of the land, when issued, will be subject to the following terms, conditions, and reservations:

1. A right-of-way thereon for ditches and canals constructed by the authority of the Act of August 30, 1890, 26 Stat. 391 (43 U.S.C. 945), commonly referred to as the Canal Act.

2. Provisions of the R&PP Act and to all applicable regulations of the Secretary of the Interior.

3. All mineral deposits in the land so patented, the right to prospect for, mine, and remove such deposits from the same under applicable law and regulations as established by the Secretary of the Interior are reserved to the United States, together with all necessary access and exit rights.

4. Lease or conveyance of the parcel is subject to valid existing rights.

5. An appropriate indemnification clause protecting the United States from claims arising out of the lessee's/patentee's use, occupancy, or occupations on the leased/patented lands.

6. Any other reservations that the authorized officer determines appropriate to ensure public access and proper management of Federal lands and interests therein.

Classification Comments: Interested persons may submit comments involving the suitability of the land for development of the Shavano Gateway Recreation Area. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with state and Federal programs.

Application Comments: Interested persons may submit comments regarding the specific use proposed in the application and plan of development and management, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to

the suitability of the lands for the Shavano Gateway Recreation Area.

Any adverse comments will be reviewed by the BLM State Director or other authorized official of the Department of the Interior, who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, the classification will become effective on July 20, 2020. The lands will not be offered for conveyance until after the classification becomes effective.

Before including your address, phone number, email address, or other personal identifying information in any comment, be aware that your entire comment including your personal identifying information may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

(Authority: 43 CFR 2741.5)

Jamie E. Connell,

Colorado State Director.

[FR Doc. 2020–10804 Filed 5–19–20; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#–30265; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before May 2, 2020, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by June 4, 2020.

ADDRESSES: Comments are encouraged to be submitted electronically to *National_Register_Submissions@nps.gov* with the subject line ''Public Comment on <property or proposed district name, (County) State>.'' If you have no access to email you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before May 2, 2020. Pursuant to Section 60.13 of 36 CFR part 60, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

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.

Nominations submitted by State or Tribal Historic Preservation Officers:

IOWA

Polk County

Lustron House #02437, 1440 63rd St., Windsor Heights, SG100005272

MASSACHUSETTS

Middlesex County

First Parish Church of Groton and Parish House, 1 Powderhouse Rd., Groton, SG100005275

Suffolk County

Theodore Parker Unitarian Universalist Church, 1859 Centre St., West Roxbury, SG100005274

NORTH DAKOTA

Wells County

Harvey Power Plant, SE corner of US 52 Bus. and Judy Blvd., Harvey, SG100005273

WISCONSIN

Sauk County

Freedom Mine, S5910 Cty. Rd. PF, Freedom, SG100005266

Additional documentation has been received for the following resources:

VIRGINIA

New Kent County

Cedar Lane, 9040 New Kent Hwy., New Kent (Courthouse) vicinity, AD100000985

WISCONSIN

Lafayette County

St. Augustine Church (Additional Documentation), 26291 High St., New Diggings, AD72000057

Authority: Section 60.13 of 36 CFR part 60.

Dated: May 4, 2020.

Julie H. Ernstein,

Supervisory Archeologist, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2020–10903 Filed 5–19–20; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Section 337 Investigations]

Notice of Commission Determination To Extend Postponement of All In-Person Section 337 Hearings Until July 10, 2020

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to extend postponement of all in-person hearings under section 337 of the Tariff Act of 1930 until July 10, 2020.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov.* The public record for section 337 investigations may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: In light of the ongoing Coronavirus (COVID–19) outbreak, the Commission has determined to extend postponement of all section 337 in-person hearings until July 10, 2020. Commission Administrative Law Judges (''ALJ'') are directed to notify all affected parties and to schedule new dates for the hearings as appropriate. ALJs may otherwise conduct their investigations in accordance with their established procedures.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: May 14, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–10808 Filed 5–19–20; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1133]

In the Matter of Certain Unmanned Aerial Vehicles and Components Thereof Notice of Request for Submissions on the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the presiding chief administrative law judge (''CALJ'') issued an Initial Determination on Violation of Section 337 and Recommended Determination (''RD'') on Remedy and Bond in the above-captioned investigation. The Commission is soliciting submissions on public interest issues raised by the recommended limited exclusion order and cease and desist orders against SZ DJI Technology Co. Ltd. of Shenzhen, China; DJI Europe B.V. of Barendrecht, Netherlands; DJI Technology Inc. of Burbank, California; iFlight Technology Co., Ltd. of Hong Kong; DJI Baiwang Technology Co. Ltd. of Shenzhen, China; DJI Research LLC of Palo Alto, California; DJI Service LLC of Cerritos, California; and DJI Creative Studio LLC of Burbank, California (collectively, ''Respondents''), should a violation be found. This notice is soliciting comments from the public only.

FOR FURTHER INFORMATION CONTACT: Carl P. Bretscher, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2382. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket system (''EDIS'') at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: Parties are to file public interest submissions pursuant to 19 CFR 210.50(a)(4). Section 337 of the Tariff Act of 1930 provides that, if the Commission finds a violation, it shall exclude the articles concerned from the United States:

> unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry.

19 U.S.C. 1337(d)(1). A similar provision applies to cease and desist orders. 19 U.S.C. 1337(f)(1).

The Commission is soliciting submissions on public interest issues raised by the recommended relief should the Commission find a violation, specifically, a limited exclusion order directed to unmanned aerial vehicles and components thereof and cease and desist orders directed to the respondents.

The Commission is interested in further development of the record on the public interest in this investigation. Accordingly, members of the public are invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the CALJ's recommended determination on remedy and bonding issued in this investigation on March 2, 2020. Comments should address whether issuance of the recommended limited exclusion order and cease and desist orders in this investigation, should the Commission find a violation, would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the recommended remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the recommended orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third-party suppliers have the capacity to replace the volume of articles potentially subject to the recommended orders within a commercially reasonable time; and

(v) explain how the recommended orders would impact consumers in the United States.

Written submissions must be filed no later than by close of business on June 15, 2020.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. The Commission's paper filing requirements in 19 CFR 210.4(f) are currently waived. 85 FR 15798 (March 19, 2020). Submissions should refer to the investigation number (''Inv. No. 337–TA–1133'') in a prominent place on the cover page and/or the first page. (*See Handbook for Electronic Filing Procedures, https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*) Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

This action is taken under the authority of Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: May 15, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–10894 Filed 5–19–20; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–577]

Raspberries for Processing: Conditions of Competition Between U.S. and Foreign Suppliers, With a Focus on Washington State

ACTION: Notice of Investigation and Scheduling of a Public Hearing.

SUMMARY: Following receipt on April 9, 2020, of a request from the U.S. Trade Representative (USTR), under section 332(g) of the Tariff Act of 1930, the U.S. International Trade Commission (Commission) instituted Investigation No. 332–577, *Raspberries for Processing: Conditions of Competition between U.S. and Foreign Suppliers, with a Focus on Washington State,* for the purpose of providing a report that provides an overview of the U.S. raspberry industry in Washington state and assesses the conditions of competition between U.S. and foreign suppliers of raspberries meant for processing. The USTR requests that the Commission transmit its report no later than 14 months following receipt of this request.

DATES:

August 27, 2020: Deadline for filing requests to appear at the public hearing.

September 8, 2020: Deadline for filing prehearing briefs and statements.

September 17, 2020: Public hearing.

September 24, 2020: Deadline for filing post-hearing briefs and statements.

December 6, 2020: Deadline for filing all other written submissions.

June 9, 2021: Transmittal of Commission report to the Committee.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the U.S. International Trade Commission Building, 500 E Street SW, Washington, DC. All written submissions should be addressed to the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Project Leader Jessica Pugliese (*jessica.pugliese@usitc.gov*) or Deputy Project Leader Mary Roop (202–708–2277 or *mary.roop@usitc.gov*) for information specific to this investigation. For information on the legal aspects of this investigation, contact William Gearhart of the Commission's Office of the General Counsel (202–205–3091 or *william.gearhart@usitc.gov*). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819 or *margaret.olaughlin@usitc.gov*). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. General information concerning the Commission may also be obtained by accessing its website (*https://www.usitc.gov*). Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

Background

As requested by the USTR, the Commission will conduct an investigation and prepare a report that provides, to the extent practical, the following information:

(1) An overview of the U.S. raspberry industry in Washington State—including fresh raspberries for processing, frozen raspberries, and raspberry juice—as well as an overview of the industries producing fresh and processed raspberries in major producing and exporting countries. The overviews should include information on production and processing volumes and trends, planted acreage, processing capacity, supply chains, domestic consumption, and imports and exports of fresh and processed raspberries.

(2) Production, pricing, and consumption trends for fresh and processed raspberries in the United States and other major producing and exporting countries over the last five years. Pricing analysis should include the relationship between prices of domestic products and imports of fresh and processed raspberries in the U.S. market to the extent such data is available.

(3) An overview of U.S. imports of fresh and processed raspberries including information on the main country sources of supply, trade patterns, and supply chains of major suppliers to the United States, as well as an overview of country of origin labeling practices in major U.S. supplier countries.

(4) A description of foreign government policies, financial aid, and programs that directly or indirectly affect production, infrastructure, exports, and imports of fresh and processed raspberries, including product labeling and food safety regulations, producer support, and tariff and nontariff measures.

(5) A comparison of the competitive strengths and weaknesses of production and exports of fresh and processed raspberries in the United States and other major producing and exporting countries, including such factors as costs of production, industry structure, technology, product innovation, exchange rates, supply chains and distribution, pricing, marketing regimes, and government policies.

(6) A qualitative and, to the extent possible, quantitative assessment of the economic impact of imports from major producing and exporting countries on production and prices of U.S. fresh and processed raspberries.

The USTR requested that the report primarily focus on the 2015 to 2019 time period. The USTR requested that the Commission transmit its report no later than 14 months following receipt of this request. In his request letter, the USTR stated that his office intends to make the Commission's report available to the public in its entirety and asked that the Commission not include any confidential business information.

Public Hearing

A public hearing in connection with this investigation will be held at the U.S. International Trade Commission Building, 500 E Street SW, Washington, DC, beginning at 9:30 a.m. on September 17, 2020. Requests to appear at the public hearing should be filed with the Secretary no later than 5:15 p.m., August 27, 2020, in accordance with the requirements in the ''Written Submissions'' section below. All prehearing briefs and statements should be filed not later than 5:15 p.m., September 8, 2020, and all post-hearing briefs and statements should be filed not later than 5:15 p.m., September 24, 2020. Post-hearing briefs and statements should address matters raised at the hearing. In the event that, as of the close of business on September 8, 2020, no witnesses are scheduled to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or nonparticipant should contact the Office of the Secretary at 202–205–2000 after September 8, 2020, for information concerning whether the hearing will be held.

Written Submissions

In lieu of or in addition to participating in the hearing, interested parties are invited to file written submissions concerning this investigation. All written submissions

should be addressed to the Secretary, and should be received not later than 5:15 p.m., December 6, 2020. All written submissions must conform to the provisions of section 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8), as temporarily amended by 85 FR 15798 (March 19, 2020). Under that rule waiver, the Office of the Secretary will accept only electronic filings at this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov*). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding electronic filing should contact the Office of the Secretary, Docket Services Division (202–205–1802) or consult the Commission's Handbook on Filing Procedures.

Confidential Business Information

Any submissions that contain confidential business information must also conform to the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the ''confidential'' or ''non-confidential'' version, and that the confidential business information is clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available for inspection by interested parties.

As requested by the USTR, the Commission will not include any confidential business information in its report. However, all information, including confidential business information, submitted in this investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel for cybersecurity purposes. The Commission will not otherwise disclose any confidential business information in a way that would reveal the operations of the firm supplying the information.

Summaries of Written Submissions

Persons wishing to have a summary of their position included in the report should include a summary with their written submission and should mark the summary as having been provided for that purpose. The summary should be clearly marked as ''summary for inclusion in the report'' at the top of the page. The summary may not exceed 500 words, should be in MS Word format or a format that can be easily converted to MS Word, and should not include any confidential business information. The summary will be published as provided if it meets these requirements and is germane to the subject matter of the investigation. The Commission will list the name of the organization furnishing the summary and will include a link to the Commission's Electronic Document Information System (EDIS) where the full written submission can be found.

By order of the Commission.

Issued: May 15, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–10893 Filed 5–19–20; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Prohibited Transaction Class Exemption 1985–68 To Permit Employee Benefit Plans To Invest in Customer Notes of Employers

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Employee Benefits Security Administration (EBSA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before June 19, 2020.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

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

FOR FURTHER INFORMATION CONTACT: Anthony May by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This class exemption exempts from the prohibited transaction provisions of ERISA, certain transactions involving the purchase of customer notes of an employee by an employee benefit plan. The class exemption requires plans to maintain for a period of six years all necessary records pertaining to the affected transactions and to make those records available to certain designed persons upon request. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on October 10, 2019 (84 FR 54642).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–EBSA.

Title of Collection: Prohibited Transaction Class Exemption 1985–68 to Permit Employee Benefit Plans to Invest in Customer Notes of Employers.

OMB Control Number: 1210–0094.

Affected Public: Private Sector: Businesses or other for-profits, not-for-profit institutions.

Total Estimated Number of Respondents: 69.

Total Estimated Number of Responses: 325.

Total Estimated Annual Time Burden: 1 hour.

Total Estimated Annual Other Costs Burden: $0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: May 14, 2020.

Anthony May,

Acting Departmental Clearance Officer.

[FR Doc. 2020–10827 Filed 5–19–20; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Loans To Plan Participants and Beneficiaries Who Are Parties in Interest With Respect to the Plan Regulation

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Employee Benefits Security Administration (EBSA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before June 19, 2020.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

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

FOR FURTHER INFORMATION CONTACT: Anthony May by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This regulation (29 CFR 2550.408b–1) describes the terms, under section 408(b)(1), whereby plans' loans to participants and beneficiaries are exempt from ERISA's prohibited transaction rules. Among other things, the regulation describes the specific provisions regarding such loans that must be included in the plan document for the statutory exemption to apply. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on October 10, 2019 (84 FR 54642).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–EBSA.

Title of Collection: Loans to Plan Participants and Beneficiaries Who Are Parties in Interest With Respect to the Plan Regulation.

OMB Control Number: 1210–0076.

Affected Public: Private Sector: businesses or other for-profits, not-for-profit institutions.

Total Estimated Number of Respondents: 2,576.

Total Estimated Number of Responses: 2,576.

Total Estimated Annual Time Burden: 0 hours.

Total Estimated Annual Other Costs Burden: $1,069,632.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: May 14, 2020.

Anthony May,

Acting Departmental Clearance Officer.

[FR Doc. 2020–10826 Filed 5–19–20; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0042]

Gear Certification Standard; Revision of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning the proposal to extend the Office of Management and Budget (OMB) approval of the information collection requirements specified in the Gear Certification Standard.

DATES: Comments must be submitted (postmarked, sent, or received) by July 20, 2020.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2010–0042, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–3653, 200 Constitution Avenue NW, Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Docket Office's normal business hours, 10:00 a.m. to 3:00 p.m., ET.

Instructions: All submissions must include the agency name and the OSHA docket number (OSHA–2010–0042) for the Information Collection Request (ICR). All comments, including any personal information you provide, such as social security numbers and dates of birth, are placed in the public docket without change, and may be made

available online at *http://www.regulations.gov.* For further information on submitting comments see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the above address. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download from the website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney or Seleda Perryman at the below phone number to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Seleda Perryman, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, telephone: (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of the continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of effort in obtaining information (29 U.S.C. 657).

The ICR addresses the burden hours associated with gathering information to complete the OSHA 70 Form. The OSHA 70 Form is used by applicants seeking accreditation from OSHA to be able to test or examine certain equipment and material handling devices as required under the maritime regulations, part 1917 (Marine Terminals), and part 1918 (Longshoring). The OSHA 70 Form application for accreditation provides an easy means for companies to apply for accreditation.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

The agency is requesting an adjustment decrease of 94 hours (from 203 to 109 hours) associated with this Information Collection Request. The decrease is primarily attributed to a decline in the issuance of exams from 8,701 to 5,000 and the number of applicants seeking accreditation from 39 to 35. The agency determined that it had over counted the number of quadrennial exams since they are conducted every 4 years rather than annually. Additionally, the cost to the government was not factored in during previous years. This new program change factors in the Cost of the Government to run this program.

Type of Review: Revision of a currently approved collection.

Title: Gear Certification Standard (29 CFR part 1919); OSHA 70 Form.

OMB Control Number: 1218–0003.

Affected Public: Business or other for-profits.

Number of Respondents: 664.

Frequency of Responses: On occasion; Monthly; Quadrenially.

Total Responses: 5,035.

Average Time per Response: Varies from one minute (1/60 hour) for a clerical to maintain certifications to 45 minutes (45/60 hour) for a prospective accredited agency to complete the OSHA 70 Form.

Estimated Total Burden Hours: 109.

Estimated Cost (Operation and Maintenance): $2,612,500.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other material must identify the agency name and the OSHA docket number for this ICR (Docket No. OSHA–2010–0042). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and dates of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download from this website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* website to submit comments and access the docket is available at the website's ''User Tips'' link.

Contact the OSHA Docket Office for information about materials not available from the website, and for assistance in using the internet to locate docket submissions.

V. Authority and Signature

Loren Sweatt, Principal Deputy Assistant Secretary of Labor Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44

U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC.

Loren Sweatt,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2020–10829 Filed 5–19–20; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0040]

Concrete and Masonry Construction Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning the proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements specified in the Concrete and Masonry Construction Standard.

DATES: Comments must be submitted (postmarked, sent, or received) by July 20, 2020.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal e-Rulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2010–0040, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3653, 200 Constitution Avenue NW, Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Docket Office's normal business hours, 10:00 a.m. to 3:00 p.m., ET.

Instructions: All submissions must include the agency name and the OSHA docket number (OSHA–2010–0040) for the Information Collection Request (ICR). All comments, including any personal information you provide, such as social security number and date of birth, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the above address. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download from the website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You also may contact Theda Kenney at the below phone number to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Seleda Perryman, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of the continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

The warning signs/barriers required by paragraph 1926.701(c)(2) reduce exposure of non-essential workers to the hazards of post-tensioning operations, principally a failed rope or wire striking a worker and causing serious injury. The requirements for lockout and tag ejection systems and other hazardous equipment (*e.g.,* compressors, mixers, screens or pumps used for concrete and masonry construction) specified by paragraphs 1926.702(a)(2), (j)(1), and (j)(2) warn equipment operators not to activate their equipment if another worker enters the equipment to perform a task (*e.g.,* cleaning, inspecting, maintaining, repairing), thereby preventing injury or death.

Construction contractors and workers use the drawings, plans, and designs required by paragraph 1926.703(a)(2) to provide specific instructions on how to construct, erect, brace, maintain, and remove shores and formwork if they pour concrete at the job site. Paragraph 1926.705(b) requires employers to mark the rated capacity of jacks and lifting units. This requirement prevents overloading and subsequent collapse of jacks and lifting units, as well as their loads, thereby sparing exposed workers from serious injury or death.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend the approval of the collection of information (paperwork) requirements contained in the Concrete and Masonry Construction Standard. The agency is requesting a 10,197 hour adjustment increase (from 12,771 hours to 22,968 burden hours).

Type of Review: Extension of a currently approved collection.

Title: Concrete and Masonry Construction Standard (29 CFR part 1926, subpart Q).

OMB Number: 1218–0095.

Affected Public: Businesses or other for-profits.

Number of Respondents: 1,378,095.

Frequency of Response: On Occasion.

Total Responses: 275,619.

Average Time per Response: Various.

Estimated Total Burden Hours: 22,968.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal e-Rulemaking Portal; (2) by facsimile; or (3) by hard copy. All comments, attachments, and other material must identify the agency name and the OSHA docket number for this ICR (Docket No. OSHA–2010–0040). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as your social security number and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download from this website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* website to submit comments and access the docket is available at the website's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available from the website, and for assistance in using the internet to locate docket submissions.

V. Authority and Signature

Loren Sweatt, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC.

Loren Sweatt,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2020–10828 Filed 5–19–20; 8:45 am]

BILLING CODE 4510–26–P

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 20–01]

Notice of Open Meeting

AGENCY: Millennium Challenge Corporation.

ACTION: Notice.

SUMMARY: In accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C.—App., the Millennium Challenge Corporation (MCC) Economic Advisory Council was established as a discretionary advisory committee on October 5, 2018. The MCC Economic Advisory Council serves MCC solely in an advisory capacity and provides advice and guidance to MCC economists, evaluators, leadership of the Department of Policy and Evaluation, and senior MCC leadership regarding relevant trends in development economics, applied economic and evaluation methods, poverty analytics, as well as modeling, measuring, and evaluating development interventions. In doing so, the MCC Economic Advisory Council helps sharpen MCC's analytical methods and capacity in support of the agency's economic development goals. It also serves as a sounding board and reference group for assessing and advising on strategic policy innovations and methodological directions in MCC.

DATES: Friday, June 5th, 2020, from 10:00 a.m.–12:00 p.m. ET.

ADDRESSES: The meeting will be held via conference call.

FOR FURTHER INFORMATION CONTACT: Mesbah Motamed, 202.521.7874, *MCCEACouncil@mcc.gov* or visit *www.mcc.gov/about/org-unit/economic-advisory-council.*

SUPPLEMENTARY INFORMATION:

Agenda. During this meeting of the MCC Economic Advisory Council, members will receive an overview of MCC's work and the context and function of the MCC Economic Advisory Council within MCC's mission. The MCC Economic Advisory Council will also discuss issues related to MCC's core functions, including the following topics: (i) The Global Economic Implications of the Covid-19 Pandemic; and (ii) Industrial Policy Strategies in Developing Economies.

Public Participation: The meeting will be open to the public. Members of the public may file written statement(s) before or after the meeting. If you plan to participate, please submit your name and affiliation no later than Friday, May 29, 2020 to *MCCEACouncil@mcc.gov* to receive dial-in instructions and to be placed on an attendee list.

Dated: May 15, 2020.

Thomas G. Hohenthaner,

Acting VP/General Counsel and Corporate Secretary.

[FR Doc. 2020–10888 Filed 5–19–20; 8:45 am]

BILLING CODE 9211–03–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (20–047)]

NASA New Technology Reporting System

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, 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.

DATES: Comments are due by July 20, 2020.

ADDRESSES: All comments should be addressed to Claire Little, National Aeronautics and Space Administration, 300 E Street SW, Washington, DC 20546–0001 or call 202–358–2375.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Claire Little, NASA Clearance Officer, NASA Headquarters, 300 E Street SW, JF0000, Washington, DC 20546, 202–358–2375, or email *claire.a.little@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Contractors performing research and development are required by statutes, NASA implementing regulations, and OMB policy to submit reports of inventions, patents, data, and copyrights, including the utilization and disposition of same. The NASA New Technology Summary Report reporting form is being used for this purpose.

II. Methods of Collection

NASA FAR Supplement clauses for patent rights and new technology encourage the contractor to use an electronic form and provide a hyperlink to the electronic New Technology Reporting System (e-NTR) site *http://invention.nasa.gov.* This website has been set up to help NASA employees and parties under NASA funding agreements (*i.e.,* contracts, grants, cooperative agreements, and subcontracts) to report new technology information directly to NASA via a secure internet connection.

III. Data

Title: NASA New Technology Reporting System.

OMB Number: 2700–0052.

Type of review: Extension of a currently approved collection.

Affected Public: Businesses, colleges and university and/or other for-profit institutions.

Estimated Annual Number of Activities: 3,372.

Estimated Number of Respondents per Activity: 1.

Annual Responses: 3,372.

Estimated Time per Response: 3 hours.

Estimated Total Annual Burden Hours: 10,116.

Estimated Total Annual Cost: $518,191.45.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

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

Lori Parker,

NASA PRA Clearance Officer.

[FR Doc. 2020–10871 Filed 5–19–20; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (20–048)]

NASA Universal Registration and Data Management System

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, 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.

DATES: Comments are due by July 20, 2020.

ADDRESSES: All comments should be addressed to Claire Little, National Aeronautics and Space Administration, 300 E Street SW, Washington, DC 20546–0001 or call 202–358–2375.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Claire Little, NASA Clearance Officer, NASA Headquarters, 300 E Street SW, JF0000, Washington, DC 20546, 202–358–2375, or email *claire.a.little@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The NASA Universal Registration and Data Management System is a comprehensive tool designed to allow learners (*i.e.,* students, educators, and awardee principal investigators) to apply to NASA STEM engagement opportunities (*e.g.,* internships, fellowships, challenges, educator professional development, experiential learning activities, etc.) in a single location. NASA personnel manage the selection of applicants and implementation of engagement opportunities within the Universal Registration and Data Management System. The information collected will be used by the NASA Office of STEM Engagement (OSTEM) in order to review applications for participation in NASA engagement opportunities. The information is reviewed by OSTEM project and activity managers, as well as NASA mentors who would be hosting students. This information collection will consist of student-level data such as demographic information submitted as part of the application. In addition to supporting student selection, student-level data will enable NASA OSTEM to fulfill federally mandated reporting on its STEM engagement activities and report relevant demographic information as needed for Agency performance goals and success criteria (annual performance indicators).

II. Methods of Collection

Online/Web-based

III. Data

Title: NASA Universal Registration and Data Management System.

OMB Number:

Type of Review: New Collection.

Affected Public: Eligible students or educators, and/or awardee principal investigators may voluntarily apply for an internship or fellowship experience at a NASA facility, or register for a STEM engagement opportunity (*e.g.,* challenges, educator professional development, experiential learning activities, etc.). Parents/caregivers of eligible student applicants (at least 16 years of age but under the age of 18) may voluntarily provide consent for their eligible student applicants to apply.

Estimated Annual Number of Activities: 40.

Estimated Number of Respondents per Activity: 4,125.

Annual Responses: 165,000.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 82,500.

Estimated Total Annual Cost: $1,015,207.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB

approval of this information collection. They will also become a matter of public record.

Lori Parker,

NASA PRA Clearance Officer.

[FR Doc. 2020–10874 Filed 5–19–20; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Arts Advisory Panel Meetings

AGENCY: National Endowment for the Arts, National Foundation on the Arts and the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the Federal Advisory Committee Act, as amended, notice is hereby given that 22 meetings of the Arts Advisory Panel to the National Council on the Arts will be held by teleconference.

DATES: See the **SUPPLEMENTARY INFORMATION** section for individual meeting times and dates. All meetings are Eastern time and ending times are approximate:

ADDRESSES: National Endowment for the Arts, Constitution Center, 400 7th St. SW, Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Further information with reference to these meetings can be obtained from Ms. Sherry P. Hale, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506; *hales@arts.gov,* or call 202/682–5696.

SUPPLEMENTARY INFORMATION: The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of September 10, 2019, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of title 5, United States Code.

The Upcoming Meetings Are

CARES Act (review of applications): This meeting will be closed.

Date and time: June 10, 2020; 2:00 p.m. to 4:00 p.m.

CARES Act (review of applications): This meeting will be closed.

Date and time: June 12, 2020; 2:00 p.m. to 4:00 p.m.

CARES Act (review of applications): This meeting will be closed.

Date and time: June 16, 2020; 2:00 p.m. to 4:00 p.m.

Music (review of applications): This meeting will be closed.

Date and time: June 22, 2020; 12:00 p.m. to 2:00 p.m.

Music (review of applications): This meeting will be closed.

Date and time: June 22, 2020; 3:00 p.m. to 5:00 p.m.

Arts Education (review of applications): This meeting will be closed.

Date and time: June 23, 2020; 1:30 p.m. to 3:30 p.m.

Music (review of applications): This meeting will be closed.

Date and time: June 23, 2020; 12:00 p.m. to 2:00 p.m.

Music (review of applications): This meeting will be closed.

Date and time: June 23, 2020; 3:00 p.m. to 5:00 p.m.

Musical Theater (review of applications): This meeting will be closed.

Date and time: June 23, 2020; 1:00 p.m. to 3:00 p.m.

Theater (review of applications): This meeting will be closed.

Date and time: June 23, 2020; 4:00 p.m. to 6:00 p.m.

Media (review of applications): This meeting will be closed.

Date and time: June 24, 2020; 11:30 a.m. to 1:30 p.m.

Media (review of applications): This meeting will be closed.

Date and time: June 24, 2020; 2:30 p.m. to 4:30 p.m.

Music (review of applications): This meeting will be closed.

Date and time: June 24, 2020; 12:00 p.m. to 2:00 p.m.

Media (review of applications): This meeting will be closed.

Date and time: June 25, 2020; 11:30 a.m. to 1:30 p.m.

Media (review of applications): This meeting will be closed.

Date and time: June 25, 2020; 2:30 p.m. to 4:30 p.m.

Opera (review of applications): This meeting will be closed.

Date and time: June 29, 2020; 12:00 p.m. to 2:00 p.m.

Opera (review of applications): This meeting will be closed.

Date and time: June 29, 2020; 3:00 p.m. to 5:00 p.m.

Arts Education (review of applications): This meeting will be closed.

Date and time: June 30, 2020; 1:30 p.m. to 3:30 p.m.

Theater (review of applications): This meeting will be closed.

Date and time: June 30, 2020; 1:00 p.m. to 3:00 p.m.

Theater (review of applications): This meeting will be closed.

Date and time: June 30, 2020; 4:00 p.m. to 6:00 p.m.

Research (review of applications): This meeting will be closed.

Date and time: June 30, 2020; 11:30 a.m. to 1:30 p.m.

Research (review of applications): This meeting will be closed.

Date and time: June 30, 2020; 2:30 p.m. to 4:30 p.m.

Dated: May 15, 2020.

Sherry P. Hale,

Staff Assistant, National Endowment for the Arts.

[FR Doc. 2020–10879 Filed 5–19–20; 8:45 am]

BILLING CODE 7537–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88874; File No. SR–NYSE–2020–39]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend its Price List

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 May 1, 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 (1) revise the adding average daily volume (''ADV'') requirement for the second way to qualify for the Tier 3 Adding Credit; (2) adopt a new Step Up Tier 3 Adding Credit; (3) adopt a new Incremental Rebate Per Share for Designated Market Makers (''DMM'') in most active securities; (4) revise the adding liquidity requirement in Tape B and C securities for the Supplemental Liquidity Provider (''SLP'') Tape A adding tiers; and (5) extend the waiver of equipment and

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

related service charges and trading license fees for NYSE Trading Floor-based member organizations to May 2020 in connection with the temporary closing of the Trading Floor. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Price List to (1) revise the ADV requirement for the second way to qualify for the Tier 3 Adding Credit; (2) adopt a new Step Up Tier 3 Adding Credit; (3) adopt a new Incremental Rebate Per Share for DMMs in most active securities; (4) revise the adding liquidity requirement in Tape B and C securities for the SLP Tape A adding tiers; and (5) extend the waiver of equipment and related service charges and trading license fees for NYSE Trading Floor-based member organizations to May 2020 in connection with the temporary closing of the Trading Floor.

The proposed changes respond to the current competitive environment where order flow providers have a choice of where to direct liquidity-providing orders by offering further incentives for member organizations to send additional displayed liquidity to the Exchange. The proposed changes also respond to the current volatile market environment that has resulted in unprecedented average daily volumes and the temporary closure of the Trading Floor, which are both related to the ongoing spread of the novel coronavirus (''COVID–19'').

The Exchange proposes to implement the fee changes effective May 1, 2020.

Current Market and Competitive Environment

The Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [4]

As the Commission itself recognized, the market for trading services in NMS stocks has become ''more fragmented and competitive.'' [5] Indeed, equity trading is currently dispersed across 13 exchanges,[6] 31 alternative trading systems,[7] and numerous broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly-available information, no single exchange has more than 20% market share (whether including or excluding auction volume).[8] Therefore, no exchange possesses significant pricing power in the execution of equity order flow. More specifically, the Exchange's market share of trading in Tape A, B and C securities combined is less than 13%.

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can move order flow, or discontinue or reduce use of certain categories of products, in response to fee changes. With respect to non-marketable order flow that would provide displayed liquidity on an Exchange, member organizations can choose from any one of the 13 currently operating registered exchanges to route such order flow. Accordingly, competitive forces constrain exchange transaction fees that relate to orders that would provide liquidity on an exchange.

In response to the competitive environment described above, the Exchange has established incentives for its member organizations who submit orders that provide and remove liquidity on the Exchange, including cross-tape incentives for member organizations and SLPs based on submission of orders that provide displayed and non-displayed liquidity in Tapes B and C securities. The proposed fee change is designed to attract additional order flow to the Exchange by:

- Lowering the adding ADV requirement for the second way to qualify for Tier 3 Adding Credit;
- offering a new pricing tier to incentivize member organizations to step up their liquidity-providing orders on the Exchange;
- offering an incremental rebate per share for DMMs in more active securities; and
- lowering the adding liquidity requirement in Tape B and C securities for the SLP Tape A adding tiers.

Moreover, beginning on March 16, 2020, in order to slow the spread of COVID–19 through social distancing measures, significant limitations were placed on large gatherings throughout the country. As a result, on March 18, 2020, the Exchange determined that beginning March 23, 2020, the physical Trading Floor facilities located at 11 Wall Street in New York City would close and that the Exchange would move, on a temporary basis, to fully electronic trading.[9] The proposed rule change responds to these unprecedented events by extending the waiver of equipment and related service charges and trading license fees for NYSE Trading Floor-based member organizations for May 2020 in connection with the temporary closing of the Trading Floor. The proposed DMM incremental credit is also designed to incentivize DMM to increase their added liquidity on the Exchange during periods of high market volumes.

Proposed Rule Change

Tier 3 Adding Credit Adding ADV Requirement

Under current Tier 3, a member organization that adds liquidity to the Exchange in securities with a share price of $1.00 or more would be entitled to a per share credit of $0.0018 if the

[4] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37495, 37499 (June 29, 2005) (S7–10–04) (Final Rule) (''Regulation NMS'').

[5] *See* Securities Exchange Act Release No. 51808, 84 FR 5202, 5253 (February 20, 2019) (File No. S7–05–18) (Transaction Fee Pilot for NMS Stocks Final Rule) (''Transaction Fee Pilot'').

[6] *See* Cboe Global Markets, U.S. Equities Market Volume Summary, available at *http://markets.cboe.com/us/equities/market_share/. See generally https://www.sec.gov/fast-answers/divisionsmarketregmrexchangesshtml.html.*

[7] *See* FINRA ATS Transparency Data, available at *https://otctransparency.finra.org/otctransparency/AtsIssueData.* A list of alternative trading systems registered with the Commission is *available at https://www.sec.gov/foia/docs/atslist.htm.*

[8] *See* Cboe Global Markets U.S. Equities Market Volume Summary, available at *http://markets.cboe.com/us/equities/market_share/.*

[9] *See* Press Release, dated March 18, 2020, available here: *https://ir.theice.com/press/press-releases/allcategories/2020/03-18-2020-204202110.*

criteria in A or B are satisfied, as follows:

A

(i) The member organization has an Adding ADV equal to at least 0.40% of NYSE CADV,[10] and

(ii) The member organization executes market at-the-close (''MOC'') and limit at-the-close (''LOC'') orders equal to at least 0.05% of NYSE CADV.

B

(i) The member organization has an Adding ADV equal to at least 0.35% of NYSE CADV,

(ii) The member organization executes MOC and LOC orders equal to at least 0.05% of NYSE CADV, and

(iii) The member organization has an Adding ADV in MPL orders of at least 200,000 shares.

The Exchange proposes to reduce the adding ADV requirement in the second of the two alternative methods described above to qualify for the credit by requiring member organization to have an Adding ADV equal to at least 0.30% of NYSE CADV. As proposed, the first method to qualify for the credit and the amount of the credit would remain unchanged.

The purpose of the proposed change is to increase the incentive for order flow providers to send liquidity-providing orders to the Exchange. As described above, member organizations with liquidity-providing orders have a choice of where to send those orders. The Exchange believes that by reducing the Adding ADV requirement to qualify for a tiered credit, more member organizations will choose to route their liquidity-providing orders to the Exchange to qualify for the credit. The Exchange cannot predict with certainty how many member organizations would avail themselves of this opportunity, but believes that at least three member organizations could qualify for the tier. Additional liquidity-providing orders benefits all market participants because it provides greater execution opportunities on the Exchange.

Step Up Tier 3 Adding Credit

The Exchange proposes to adopt a ''Step Up Tier 3 Adding Credit'' that would offer a credit to member organizations providing displayed liquidity to the Exchange in Tape A securities.

As proposed, a member organization that

- sends orders, except Mid-Point Liquidity Orders (''MPL'') and Non-Displayed Limit Orders, that add liquidity to the NYSE in Tape A securities, and
- that has Adding ADV, excluding any liquidity added by a DMM, that is at least 0.05% of NYSE CADV over that member organization's Fourth Quarter 2019 adding liquidity taken as a percentage of NYSE CADV (the ''Baseline Tape A Share'')

would receive a credit of $0.0015 for adding liquidity, except MPL and Non-Displayed Limit Orders, if the increase in Adding ADV over the Baseline Tape A Share is at least 0.05% and less than 0.10%. If the increase in Adding ADV over the Baseline Tape A Share is at least 0.10% or more, a member organization meeting the above requirements would receive a credit of $0.0018 for adding liquidity, except MPL and Non-Displayed Limit Orders.

In addition, member organizations that meet these requirements and qualify for the $0.0015 or $0.0018 credit in Tape A securities would be eligible to receive an additional $0.0001 per share for adding liquidity in Tape A securities if trades in Tapes B and C securities against the member organization's orders that add liquidity, excluding orders as an SLP, equal to at least 0.20% of Tape B and Tape C CADV combined.

For example, Member Organization A averages an Adding ADV in Tape A securities of 3.5 million shares in the Fourth Quarter of 2019 where the NYSE CADV was 3.5 billion shares. Member Organization A's adding percentage of NYSE CADV for the Fourth Quarter 2019 would be 0.10%. In the billing month, Member Organization A has an adding ADV of 5.25 million shares when NYSE CADV was again 3.5 billion shares. Member Organization A's adding percentage of NYSE CADV for that billing month would thus be of 0.15%. Since Member Organization A's Adding ADV for the billing month was is 0.05% of NYSE ADV over Member Organization A's Fourth Quarter 2019 adding percentage of NYSE CADV, Member Organizations A qualifies for the $0.0015 credit. If Member Organization A had instead had an Adding ADV of 7 million shares in that same billing month for an Adding percent of NYSE CADV of 0.20%, then Member Organization A would have instead qualified for the $0.0018 credit.

The purpose of this proposed change is to incentivize member organizations to increase the liquidity-providing orders in the Tape A securities they send to the Exchange, which would support the quality of price discovery on the Exchange and provide additional liquidity for incoming orders. As noted above, the Exchange operates in a competitive environment, particularly as it relates to attracting non-marketable orders, which add liquidity to the Exchange. Because the proposed tier requires a member organization to increase the volume of its trades in orders that add liquidity over that member organization's Fourth Quarter 2019 baseline, the Exchange believes that the proposed credit would provide an incentive for all member organizations to send additional liquidity to the Exchange in order to qualify for it. The Exchange does not know how much order flow member organizations choose to route to other exchanges or to off-exchange venues. There are currently no firms that could qualify for the proposed Step Up Tier 3 Adding Credit based on their current trading profile on the Exchange, but the Exchange believes that at least six member organizations could qualify for the tier if they so choose. However, without having a view of member organization's activity on other exchanges and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would result in any member organization directing orders to the Exchange in order to qualify for the new tier.

DMM Incremental Rebate per Share for More Active Securities

The Exchange proposes to adopt an incremental rebate per share that would offer an additional per share credit to DMMs in each eligible assigned More Active Security with a stock price of at least $1.00 on current rebates of $0.0034 or less.

As proposed, DMMs would earn an incremental rebate $0.0002 per share in each eligible assigned More Active Security with a stock price of at least $1.00 where NYSE CADV is equal to or greater than 4.5 billion shares, when adding liquidity with orders, other than MPL Orders, in such securities and the DMM either:

(1) Has providing liquidity in all assigned securities as a percentage of NYSE CADV that is an increase of 0.30% more than the DMM's April 2020 providing liquidity in all assigned securities as a percentage of NYSE CADV, or

(2) has providing liquidity in all assigned securities as a percentage of NYSE CADV that is an increase of at least 40% more than the DMM's April 2020 providing liquidity in all assigned securities as a percentage of NYSE CADV for DMMs with 750 or fewer

[10] The terms ''ADV'' and ''CADV'' are defined in footnote * of the Price List.

assigned securities in the previous month.

As noted, the proposed incremental credit would be payable in addition to the DMM regular Most Activity Security credits for those credits up to $0.0034 per share or less, specifically adding credits of $0.0015, $0.0027, $0.0031, and $0.0034 per share.

For example, DMM A with more than 750 assigned securities in the billing month has providing liquidity in those securities of 35 million shares in April 2020. Assume Tape A was 3.5 billion shares in April 2020. DMM A would thus have providing liquidity of 1.00% of NYSE CADV for April 2020. If DMM A averages 75 million shares in a month when NYSE CADV is 5 billion shares, for a providing liquidity of 1.50%, DMM A would then qualify for the incremental rebate of $0.0002 per share in More Activity Securities with an increase of 0.50%.

If DMM B had less than 750 assigned securities in that same billing month with a providing liquidity of 3.5 million shares in April 2020, for providing liquidity of 0.10% of NYSE CADV, then DMM B would need to increase its providing liquidity by 40%, or 0.14% of NYSE CADV, in order to qualify in that billing month when NYSE CADV was 5 billion shares. If NYSE CADV was instead 4 billion shares in that billing month, both DMM A and DMM B would not be eligible for any incremental credits.

The purpose of this proposed change is to incentivize DMM to increase their added liquidity on the Exchange during a period of high market volumes, which would improve quoting and increase adding liquidity across securities where there may be more liquidity providers.

The Exchange believes that higher quoting obligations provide higher volumes of liquidity, which contributes to price discovery and benefits all market participants. As noted above, the Exchange operates in a competitive environment, particularly as it relates to attracting non-marketable orders, which add liquidity to the Exchange. Because, as proposed, the first way to qualify for the proposed credit requires providing liquidity in all assigned securities as a percentage of NYSE CADV that is an increase of 0.30% more than the DMM's April 2020 providing liquidity in all assigned securities as a percentage of NYSE CADV while the way for DMMs with less than 750 issues to qualify requires an increase of at least 40% more than the DMM's April 2020 providing liquidity in all assigned securities as a percentage of NYSE CADV, the Exchange believes that the proposed credit would provide an incentive for all DMMs to send additional liquidity to the Exchange in order to qualify for it.

Moreover, the Exchange believes that the second way to qualify for the incremental credit is designed to provide smaller market makers (*i.e.,* DMMs with 750 or fewer assigned securities in the previous month) with an added incentive to add liquidity in their assigned securities in a given month. A DMM with providing share of NYSE CADV of 0.10% would otherwise have to quadruple its providing ADV, for an increase of 0.30% to 0.40% of NYSE CADV, in order to qualify for the incremental credit. As described above, member organizations have a choice of where to send order flow. The Exchange believes that incentivizing DMMs on the Exchange to add liquidity could contribute to price discovery and improve quoting on the Exchange. In addition, additional liquidity-providing quotes benefit all market participants because they provide greater execution opportunities on the Exchange and improve the public quotation.

Adding Liquidity Requirement for SLP Tape A Tiers

The Exchange currently offers tiered and non-tiered credits in Tape A securities to SLPs that meet certain quoting obligations in assigned securities based upon the total percent of NYSE CADV executed.

Each of the current adding liquidity tiers (SLP Tiers 1, 1A, 2, 3, 4, and the SLP Step Up Tier) offer a cross-tier incentive. Specifically, in addition to the credit specified for each tier, SLPs are eligible for an additional incremental per share credit [11] in securities with a per share price of $1.00 that meet the 10% average or more quoting requirement in an assigned security pursuant to Rule 107B (quotes of an SLP-Prop and an SLMM of the same member organization shall not be aggregated) where the SLP:

- Meets the applicable tier requirements, and
- adds liquidity in Tape B and C securities [12] of at least 0.30% of Tape B and Tape C CADV combined.

For each cross-tier incentive in SLP Tiers 1, 1A, 2, 3, 4, and the SLP Step Up Tier, the Exchange proposes to require that SLPs add liquidity in Tape B and C securities of at least 0.25% of Tape B and Tape C CADV combined. The other requirements to qualify for SLP Tiers 1, 1A, 2, 3, 4, and the SLP Step Up Tier, as well as the associated credits, would remain unchanged.

The proposed fee change is designed to attract additional order flow to the Exchange by making it easier to qualify for cross-tier incentive in SLP Tiers 1, 1A, 2, 3, 4, and the SLP Step Up Tier based on adding liquidity to the Exchange in Tape B and C Securities. There are currently no SLPs that qualify for the cross tier incentives based on their current trading profile on the Exchange, but the Exchange believes that at least two more SLPs could qualify if they so choose. However, without having a view of SLP's activity on other exchanges and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would result in any SLP directing orders to the Exchange in order to qualify for these incentives.

Fee Waivers for Trading Floor-Based Member Organizations

As noted above, on March 18, 2020, the Exchange announced that it would temporarily close the Trading Floor, effective March 23, 2020, as a precautionary measure to prevent the potential spread of COVID–19. Following the temporary closure of the Trading Floor, the Exchange waived certain equipment fees for the booth telephone system on the Trading Floor and associated service charges.[13]

Specifically, the Exchange waived the Annual Telephone Line Charge of $400 per phone number and the $129 fee for a single line phone, jack, and data jack. The Exchange also waived related service charges, as follows: $161.25 to install single jack (voice or data); $107.50 to relocate a jack; $53.75 to remove a jack; $107.50 to install voice or data line; $53.75 to disconnect data line; $53.75 to change a phone line subscriber; and miscellaneous telephone charges billed at $106 per hour in 15 minute increments.[14] These fees were waived for (1) member organizations with at least one trading license, a physical Trading Floor presence, and Floor broker executions accounting for

[11] The incremental credits are $0.0001 (SLP Tiers 1A, 2, 3 and the SLP Step Up Tier) and $0.00005 (SLP Tier 1 and 4).

[12] In SLP Tiers 1, 1A, 2, 3, 4, and the SLP Step Up Tier, the Price List uses the phrase ''securities traded pursuant to Unlisted Trading Privileges (Tapes B and C) on the Pillar Trading Platform.'' The Exchange proposes the non-substantive change of replacing that phrase with ''Tape B and C securities'' in each place in SLP Tiers 1, 1A, 2, 3, 4, and the SLP Step Up Tier where it appears by adding ''Tape B and C'' before ''securities'' and deleting each use of ''traded pursuant to Unlisted Trading Privileges (Tapes B and C) on the Pillar Trading Platform.''

[13] *See* Securities Exchange Act Release No. 88602 (April 8, 2020), 85 FR 20730 (April 14, 2020) (SR–NYSE–2020–27). *See* footnote 11 of the Price List.

[14] The Service Charges also include an internet Equipment Monthly Hosting Fee that the Exchange did not waive for April 2020 and that the Exchange does not propose to waive for May 2020.

40% or more of the member organization's combined adding, taking, and auction volumes during March 1 to March 20, 2020, and (2) member organizations with at least one trading license that are Designated Market Makers with 30 or fewer assigned securities for the billing month of March 2020.

Because the Trading Floor at 11 Wall Street remains temporarily closed, the Exchange proposes to waive these Trading Floor-based fees for May 2020. To effectuate this change, the Exchange proposes to add ''and May'' between ''April'' and ''2020'' in footnote 11 to the Price List.

The proposed change is designed to reduce monthly costs for member organizations with a Trading Floor presence that are unable to use the services associated with the fees while the Trading Floor is temporarily closed. The Exchange believes that extension of the fee waiver would ease the financial burden associated with the temporary Trading Floor closure.

In order to further reduce costs for member organizations with a Trading Floor presence, the Exchange also waived the April 2020 monthly portion of all applicable annual fees for (1) member organizations with at least one trading license, a physical Trading Floor presence and Floor broker executions accounting for 40% or more of the member organization's combined adding, taking, and auction volumes during March 1 to March 20, 2020, and (2) member organizations with at least one trading license that are DMMs with 30 or fewer assigned securities for the billing month of March 2020.[15]

The Exchange proposes to also waive the May 2020 monthly portion of all applicable annual fees for member organizations with at least one trading license, a physical Trading Floor presence and Floor broker executions accounting for 40% or more of the member organization's combined adding, taking, and auction volumes during March 1 to March 20, 2020. The indicated annual trading license fees would also be waived for May 2020 for member organizations with at least one trading license that are DMMs with 30 or fewer assigned securities for the billing month of March 2020. To effectuate this change, the Exchange proposes to add ''and May'' between ''April'' and ''2020'' in footnote 15.

The proposed changes are 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,[16] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[17] 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.

The Proposed Change Is Reasonable

As discussed above, the Exchange operates in a highly fragmented and competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [18]

Tier 3 Adding Credit Adding ADV Requirement

The Exchange believes that lowering the ADV requirement for the second way to qualify for the Tier 3 Adding Credit is reasonable because it would make it easier for member organizations to qualify for the credit, thereby encouraging the submission of additional liquidity by more member organizations to a national securities exchange. Submission of additional liquidity to the Exchange would promote price discovery and transparency and enhance order execution opportunities for member organizations from the substantial amounts of liquidity present on the Exchange. All member organizations would benefit from the greater amounts of liquidity that will be present on the Exchange, which would provide greater execution opportunities.

Step Up Tier 3 Adding Credit

The Exchange believes that a new Step Up Tier 3 Adding Credit is reasonable. Specifically, the Exchange believes that the proposed Step Up Tier 3 Adding Credit would provide an incentive for member organizations to send additional liquidity providing orders to the Exchange in Tape A securities. As noted above, the Exchange operates in a highly competitive environment, particularly for attracting non-marketable order flow that provides liquidity on an exchange.

The Exchange believes that requiring member organizations to have adding ADV, excluding any liquidity added by a DMM, that is at least 0.05% of NYSE CADV over that member organization's Fourth Quarter 2019 adding liquidity taken as a percentage of NYSE CADV in order to qualify for the proposed Step Up Tier 3 Adding Credit is reasonable because it would encourage additional displayed liquidity on the Exchange and because market participants benefit from the greater amounts of displayed liquidity present on the Exchange.

The Exchange believes that it is reasonable to offer a lower credit of $0.0015 if the increase in adding ADV over that member organization's Fourth Quarter 2019 adding liquidity taken as a percentage of NYSE CADV is 0.05% or more up to 0.09%, and to offer a higher credit of $0.0018 if the adding ADV increase is 0.10% or more, because it is reasonably related to the value to the Exchange's market quality associated with higher volume.

Finally, the Exchange believes it's reasonable to provide an additional $0.0001 per share for adding liquidity in Tape A securities for member organizations meet the proposed tier requirements and qualify for the $0.0015 or $0.0018 credit in Tape A securities if trades in Tapes B and C securities against the member organization's orders that add liquidity, excluding orders as an SLP, equal to at least 0.20% of Tape B and Tape C CADV combined, is reasonable as this same incentive is offered in the NYSE 's other adding tiers (Tier 1–4 Adding Credits).

Since the proposed Step Up Tier 3 would be new with a step up requirement, no member organization currently qualifies for the proposed pricing tier. As previously noted, there are a number of member organizations that could qualify for the proposed higher credit but without a view of member organization activity on other exchanges and off-exchange venues, the Exchange has no way of knowing whether the proposed rule change would result in any member organization qualifying for the tier. The Exchange believes the proposed credit is reasonable as it would provide an additional incentive for member organizations to direct their order flow to the Exchange and provide meaningful

[15] *See* note 13, *supra*. *See* footnotes 15 of the Price List.

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(4) & (5).

[18] *See* Regulation NMS, 70 FR at 37499.

added levels of liquidity in order to qualify for the higher credit, thereby contributing to depth and market quality on the Exchange.

DMM Incremental Rebate per Share for More Active Securities

The Exchange believes that the proposed incremental rebate for DMMs is a reasonable way to incentivize DMM to increase their added liquidity on the Exchange, which would improve quoting and increase adding liquidity across securities when market volumes are high. The Exchange believes that the incremental rebate will provide incentives for DMMs to provide higher volumes of liquidity, which contributes to price discovery and benefits all market participants. As noted above, the Exchange operates in a competitive environment, particularly as it relates to attracting non-marketable orders, which add liquidity to the Exchange. Because, as proposed, the first way to qualify for the proposed credit requires providing liquidity in all assigned securities as a percentage of NYSE CADV that is an increase of 0.30% more than the DMM's April 2020 providing liquidity in all assigned securities as a percentage of NYSE CADV while the second way to qualify requires an increase of at least 40% more than the DMM's April 2020 providing liquidity in all assigned securities as a percentage of NYSE CADV, the Exchange believes that the proposed credit would provide an incentive for DMMs to send additional liquidity to the Exchange in order to qualify for it.

Moreover, the Exchange believes that the second way to qualify for the incremental credit is designed to provide smaller market makers (*i.e.,* DMMs with 750 or fewer assigned securities in the previous month) with an added incentive to add liquidity in their assigned securities in a given month is a reasonable means to improve market quality, attract additional order flow to a public market, and enhance execution opportunities for member organizations on the Exchange, to the benefit of all market participants. The Exchange notes that the proposal would also foster liquidity provision and stability in the marketplace during periods of high volumes. The proposal would also reward DMMs, who have greater risks and heightened quoting and other obligations than other market participants.

Adding Liquidity Requirement for SLP Tape A Tiers

In addition, lowering the adding liquidity requirement to 0.25% of Tape B and Tape C CADV combined in order for member organizations that are SLPs to qualify for the applicable credit in SLP Tiers 1, 1A, 2, 3, 4, and the SLP Step Up Tier is reasonable because it would provide further incentives for such member organizations to provide additional liquidity to a public exchange in Tape B and C securities to reach the proposed Adding ADV requirement, thereby promoting price discovery and transparency and enhancing order execution opportunities for member organizations. All member organizations would benefit from the greater amounts of liquidity that will be present on the Exchange, which would provide greater execution opportunities.

The Exchange believes the proposal would provide an incentive for member organizations that are SLPs to route additional liquidity-providing orders to the Exchange in Tape B and C securities. As noted above, the Exchange operates in a highly competitive environment, particularly for attracting non-marketable order flow that provides liquidity on an exchange. Without having a view of a member organization's activity on other markets and off-exchange venues, the Exchange believes the proposed additional requirement to qualify for the SLP Adding Tier credits would provide an incentive for member organizations who are SLPs to submit additional adding liquidity to the Exchange in Tape B and C securities. As previously noted, there are currently no SLPs that qualify for the cross tier incentives based on their current trading profile on the Exchange, but the Exchange believes that at least 2 more SLPs could qualify if they choose to direct order flow to, and increase quoting on, the Exchange.

Fee Waivers for Trading Floor-Based Member Organizations

The proposed extension of the waiver of equipment and related service fees and the applicable monthly trading license fee for Trading Floor-based member organizations is reasonable in light of the temporary closure of the NYSE Trading Floor. Beginning March 2020, markets worldwide have experienced unprecedented declines and volatility because of the ongoing spread of COVID–19 that has also resulted in the temporary closure of the NYSE Trading Floor. The proposed change is designed to reduce costs for Floor participants for the month of May 2020 that are unable to conduct Floor operations while the Trading Floor remains temporarily closed. The Exchange believes that this fee waiver would ease the financial burden faced by member organizations that conduct business on the Trading Floor and benefit all such member organizations.

Finally, the Exchange also believes the proposed non-substantive changes are reasonable and would not be inconsistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from increased clarity and transparency on the Price List, thereby reducing potential confusion.

The Proposal Is an Equitable Allocation of Fees

The Exchange believes the proposal equitably allocates its fees among its market participants by fostering liquidity provision and stability in the marketplace.

Tier 3 Adding Credit Adding ADV Requirement

The Exchange is not proposing to adjust the amount of the Tier 3 Adding Credit, which will remain at the current level for all market participants. Rather, the proposal to lower the ADV requirement for the second way to qualify for the Tier 3 Adding Credit would continue to encourage more member organizations to send add liquidity to the Exchange by making it more attainable, thereby contributing to robust levels of liquidity, which benefits all market participants. As described above, member organizations with liquidity-providing orders have a choice of where to send those orders. The Exchange believes that, for the reasons discussed above, lowering the Adding ADV requirement to qualify for a tiered credit, would make it easier for additional liquidity providers to qualify for the Tier 3 Adding Credit, thereby encouraging submission of additional liquidity to the Exchange. The proposed change will thereby encourage the submission of additional liquidity to a national securities exchange, thus promoting price discovery and transparency and enhancing order execution opportunities for member organizations from the substantial amounts of liquidity present on the Exchange. All member organizations would benefit from the greater amounts of liquidity that will be present on the Exchange, which would provide greater execution opportunities.

Step Up Tier 3 Adding Credit

The Exchange believes that the proposed Step Up Tier 3 is equitable because the magnitude of the additional credit is less than the current Step Up Tier 2 credit in Tape A securities. Moreover, the proposed credits are not unreasonable relative with the other non-SLP adding tier credits, which as

range from $0.0015 to $0.0029, in comparison to the credits paid by other exchanges for orders that provide additional step up liquidity.[19] The Exchange believes the proposed rule change would improve market quality for all market participants on the Exchange and, as a consequence, attract more liquidity to the Exchange, thereby improving market wide quality and price discovery.

Since the proposed Step Up Tier 3 would be new and includes a step up Adding ADV requirement, no member organization currently qualifies for it. As noted, there are currently a number of member organizations that could qualify for the proposed tier, but without a view of member organization activity on other exchanges and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would result in any member organization qualifying for the tier. The Exchange believes the proposed credit is reasonable as it would provide an additional incentive for member organizations to direct their order flow to the Exchange and provide meaningful added levels of liquidity in order to qualify for the higher credit, thereby contributing to depth and market quality on the Exchange. The proposal neither targets nor will it have a disparate impact on any particular category of market participant. All member organizations that provide liquidity could be eligible to qualify for the credit proposed in Step Up Tier 3 if they increase their Adding ADV over their own baseline of order flow. The Exchange believes that offering a step up credit for providing liquidity if the step up requirements for Tape A securities are met will continue to attract order flow and liquidity to the Exchange, thereby providing additional price improvement opportunities on the Exchange and benefiting investors generally. As to those market participants that do not presently qualify for the adding liquidity credits, the proposal will not adversely impact their existing pricing or their ability to qualify for other credits provided by the Exchange.

DMM Incremental Rebate per Share for More Active Securities

The Exchange believes that the proposed incremental rebate to DMMs is an equitable allocation of fees because it would reward DMMs for their increased risks and heightened quoting and other obligations. As such, it is equitable to offer DMMs an incremental rebate for increased adding liquidity in addition to current rates of $0.0034 or less. The proposed rule change is also equitable because it would apply equally to all existing and potential DMM firms.

The Exchange notes that all five DMM firms could qualify for the proposed incremental rebate. The Exchange believes that the proposal would provide an equal incentive to all DMMs to add liquidity in more active securities, and that the proposal constitutes an equitable allocation of fees because all similarly situated DMMs would be eligible for the same incremental rebate.

Adding Liquidity Requirement for SLP Tape A Tiers

The Exchange believes that lowering the adding liquidity requirement in order for member organizations that are SLPs to qualify for the applicable credit in SLP Tiers 1, 1A, 2, 3, 4, and the SLP Step Up Tier equitably allocates its fees among its market participants. The Exchange is not proposing to adjust the amount of any of the SLP Adding Tier credits, which will remain at current levels for all market participants. For the reasons discussed above, the Exchange believes that the proposed change to the SLP Adding Tier requirements would encourage the SLPs to add liquidity to the market in Tape B and C securities, thereby providing customers with a higher quality venue for price discovery, liquidity, competitive quotes and price improvement. The proposed change will thereby encourage the submission of additional liquidity to a national securities exchange, thus promoting price discovery and transparency and enhancing order execution opportunities for member organizations from the substantial amounts of liquidity present on the Exchange. All member organizations would benefit from the greater amounts of liquidity that will be present on the Exchange, which would provide greater execution opportunities. As previously noted, there are currently no SLPs that qualify for the cross tier incentives based on their current trading profile on the Exchange, but the Exchange believes that at least two more SLPs could qualify if they choose to direct order flow to, and increase quoting on, the Exchange.

Fee Waivers for Trading Floor-Based Member Organizations

Finally, the proposed extension of the waiver of equipment and related service fees and the applicable monthly trading license fee for Trading Floor-based member organizations to May 2020 are also an equitable allocation of fees. The proposed waivers apply to all Trading Floor-based firms meeting specific requirements during the period that the Trading Floor is temporarily closed. The proposed change is equitable as it is designed to reduce monthly costs for Trading Floor-based member organizations that are unable to conduct Floor operations.

The Proposal Is Not Unfairly Discriminatory

The Exchange believes that the proposal is not unfairly discriminatory. In the prevailing competitive environment, member organizations are free to disfavor the Exchange's pricing if they believe that alternatives offer them better value.

The proposal is not unfairly discriminatory because it neither targets nor will it have a disparate impact on any particular category of market participant.

Tier 3 Adding Credit Adding ADV Requirement

The Exchange believes that the proposal to lower the ADV requirement for the Tier 3 Adding Credit does not permit unfair discrimination because the lower threshold would be applied to all similarly situated member organizations and other market participants, who would all be eligible for the same credit on an equal basis. Accordingly, no member organization already operating on the Exchange would be disadvantaged by this allocation of fees.

Step Up Tier 3 Adding Credit

The Exchange believes it is not unfairly discriminatory to provide an additional per share step up credit, as the proposed credits would be provided on an equal basis to all member organizations that add liquidity by meeting the new proposed Step Up 3 Tier's requirements. For the same reason, the Exchange believes it is not unfairly discriminatory to provide a higher credit of $0.0018 for increased adding ADV over the member organization's Fourth Quarter 2019 adding liquidity taken as a percentage of NYSE CADV because the proposed higher credit would equally encourage all member organizations to provide additional displayed liquidity on the Exchange. As noted, the Exchange believes that the proposed credit would provide an incentive for member organizations to send additional liquidity to the Exchange in order to qualify for the additional credits.

[19] *See* Cboe BZX Fee Schedule, which has adding credits ranging from $0.0025 to $0.0032, at *https://markets.cboe.com/us/equities/membership/fee_schedule/bzx/.*

The Exchange also believes that the proposed change is not unfairly discriminatory because it is reasonably related to the value to the Exchange's market quality associated with higher volume. Finally, the submission of orders to the Exchange is optional for member organizations in that they could choose whether to submit orders to the Exchange and, if they do, the extent of its activity in this regard.

DMM Incremental Rebate per Share for More Active Securities

The proposed incremental rebate for DMM more active securities during periods of high volumes is also not unfairly discriminatory because the proposed rebates would provide an additional incentive to DMMs to quote and trade their assigned securities on the Exchange in very active months, and will generally allow the Exchange and DMMs to better compete for order flow, thus enhancing competition. The Exchange believes that the requirement that DMMs increase adding liquidity over the Baseline Month in order to qualify for the credits is not unfairly discriminatory because it would apply equally to all DMMs. The Exchange believes that requiring a higher percentage increase of at least 40% more than the DMM's April 2020 providing liquidity in all assigned securities as a percentage of NYSE CADV for DMMs with 750 or fewer assigned securities in the previous month is not unfairly discriminatory because it would apply equally to all similarly situated DMMs.

Moreover, the Exchange believes that the second way to qualify for the incremental credit is designed to provide smaller market makers (*i.e.,* DMMs with 750 or fewer assigned securities in the previous month) with an added incentive to add liquidity in their assigned securities in a given month. As described above, member organizations have a choice of where to send order flow. The Exchange believes that incentivizing DMMs on the Exchange to add more liquidity during period of high volumes could contribute to greater price discovery on the Exchange. In addition, additional liquidity-providing quotes benefit all market participants because they provide greater execution opportunities on the Exchange and improve the public quotation.

Adding Liquidity Requirement for SLP Tape A Tiers

Lowering the adding ADV requirement for the SLP Adding Tiers is not unfairly discriminatory because the proposal would be provided on an equal basis to all member organizations that add liquidity by meeting the new proposed alternative requirement, who would all be eligible for the same credits on an equal basis. Accordingly, no member organization already operating on the Exchange would be disadvantaged by this allocation of fees. Further, as noted, the Exchange believes the proposal would provide an incentive for member organizations to continue to send orders that provide liquidity to the Exchange, to the benefit of all market participants.

Fee Waivers for Trading Floor-Based Member Organizations

The proposed waiver of equipment and related service fees and the applicable monthly trading license fee for Trading Floor-based member organizations during May 2020 is not unfairly discriminatory because the proposed waivers would benefit all similarly-situated market participants on an equal and non-discriminatory basis. The Exchange is not proposing to waive the Floor-related fixed indefinitely, but rather during the period that the Trading Floor is temporarily closed. The proposed fee change is designed to ease the financial burden on Trading Floor-based member organizations that cannot conduct Floor operations while the Trading Floor remains closed.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

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,[20] 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 Exchange believes that the proposed changes would encourage the continued participation of member organizations on the Exchange by providing certainty and fee relief during the unprecedented volatility and market declines caused by the continued spread of COVID–19. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.'' [21]

Intramarket Competition. The Exchange believes that lowering the adding ADV requirement for the second way to qualify for Tier 3 Adding Credit, offering a new pricing tier to incentivize member organizations to step up their liquidity-providing orders on the Exchange, offering an incremental rebate per share for DMMs in more active securities, and lowering the adding liquidity requirement in Tape B and C securities for the SLP Tape A adding tiers are designed to respond to the current competitive environment and to attract additional order flow to the Exchange. The Exchange believes that the proposed changes would continue to incentivize market participants to direct displayed order flow to the Exchange. Greater liquidity benefits all market participants on the Exchange by providing more trading opportunities and encourages member organizations to send orders, thereby contributing to robust levels of liquidity, which benefits all market participants on the Exchange. The current and proposed credits and incentives and revised qualification requirements would be available to all similarly-situated market participants, and, as such, the proposed change would not impose a disparate burden on competition among market participants on the Exchange. Further, the proposed continued waiver of equipment and related service fees and the applicable monthly trading license fee for Trading Floor-based member organizations during May 2020 provide a degree of certainty to DMMs and SLPs adding liquidity to the Exchange during high volatility and to ease the financial burden on Trading Floor-based member organizations impacted by the temporary closing of the Trading Floor. As noted, the proposal would apply to all similarly situated member organizations on the same and equal terms, who would benefit from the changes on the same basis. Accordingly, the proposed change would not impose a disparate burden on competition among market participants on the Exchange.

Intermarket Competition. The Exchange operates in a highly competitive market in which market 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. As previously noted, the Exchange's market share of trading in Tape A, B and C securities combined is

[20] 15 U.S.C. 78f(b)(8).

[21] Regulation NMS, 70 FR at 37498–99.

less than 13%. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with off-exchange venues. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange does not believe its proposed fee change can impose any burden on intermarket competition. The Exchange believes that the proposed rule change reflects this competitive environment because it modifies the Exchange's fees in a manner designed to provide a degree of certainty and ease the financial burdens of the current unsettled market environment, and permit affected member organizations to continue to conduct market-making operations on the Exchange and avoid unintended costs of doing business on the Exchange while the Trading Floor is inoperative, which could make the Exchange a less competitive venue on which to trade as compared to other options exchanges.

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) [22] of the Act and subparagraph (f)(2) of Rule 19b–4 [23] thereunder, because it establishes a due, 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) [24] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2020–39 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–2020–39. 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–2020–39 and should be submitted on or before June 10, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–10817 Filed 5–19–20; 8:45 am]

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[22] 15 U.S.C. 78s(b)(3)(A).

[23] 17 CFR 240.19b–4(f)(2).

[24] 15 U.S.C. 78s(b)(2)(B).

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88869; File No. SR–NYSEAMER–2020–35]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Change To Amend Its Price List To Offer New Credits

May 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 May 1, 2020, NYSE American LLC (''NYSE American'' 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 offer new credits for liquidity-providing displayed orders, MPL orders, and orders setting a new NYSE American BBO. The Exchange proposes to implement the rule change on May 1, 2020. The proposed change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Price List to offer a new tier of credits that would apply to displayed orders, Mid-Point Liquidity (''MPL'') orders,[4] and orders setting a new NYSE American best bid or offer (''BBO''), if such orders have an Adding ADV[5] of at least 2,500,000 shares.

The proposed change responds to the current competitive environment where order flow providers have a choice of where to direct orders by offering further incentives for Equity Trading Permit (''ETP'') Holders[6] to send additional displayed liquidity to the Exchange.

The Exchange proposes to implement the rule change on May 1, 2020.

Competitive Environment

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.''[7]

As the Commission itself recognized, the market for trading services in NMS stocks has become ''more fragmented and competitive.''[8] Indeed, equity trading is currently dispersed across 13 exchanges,[9] 31 alternative trading systems,[10] and numerous broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly available information, no single exchange has more than 19% of the market share of executed volume of equity trades (whether excluding or including auction volume).[11] Therefore, no exchange possesses significant pricing power in the execution of equity order flow. More specifically, the Exchange's market share of trading in Tapes A, B, and C securities combined is less than 1%.

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue or reduce use of certain products, in response to fee changes. With respect to non-marketable order flow that would provide liquidity on an exchange, ETP Holders can choose from any one of the 13 currently operating registered exchanges to route such order flow. Accordingly, competitive forces constrain the Exchange's transaction fees that relate to orders that would provide liquidity on an exchange.

In response to this competitive environment, the Exchange proposes to introduce incentives for its ETP Holders who submit orders that provide liquidity on the Exchange. The proposed fee change is designed to attract additional order flow to the Exchange and to encourage quoting and trading on the Exchange.

Proposed Rule Change

For transactions in securities priced at or above $1.00, other than transactions by Electronic Designated Market Makers in assigned securities, the Exchange proposes to amend its Price List to offer the following new credits that would apply to ETP Holders with an Adding ADV of at least 2,500,000 shares during the billing month:

- For displayed orders and MPL orders that add liquidity, the Exchange proposes a $0.0026 credit per displayed and MPL share.
- For orders that set a new BBO on NYSE American, the Exchange proposes a $0.0027 credit per share. Orders that set a new BBO on the Exchange but do not meet the Adding ADV requirement of at least 2,500,000 shares will continue to receive a credit of $0.0026 per share.

The credits applicable to displayed orders and MPL orders for ETP Holders with Adding ADV of at least 750,000 shares ($0.0025 per share), and otherwise ($0.0024 per share), will remain unchanged.

This proposed change is intended to incentivize ETP Holders to increase the liquidity-providing orders they send to the Exchange, which would support the quality of price discovery on the Exchange and provide additional liquidity for incoming orders. The Exchange believes that by correlating the level of credits to the level of executed providing volume on the Exchange, the Exchange's fee structure would encourage ETP Holders to submit more displayed, liquidity-providing orders to the Exchange that are likely to be executed, thereby increasing the potential for incoming marketable orders submitted to the Exchange to receive an execution.

As noted above, the Exchange operates in a competitive environment, particularly as it relates to attracting non-marketable orders that add displayed liquidity to the Exchange. The Exchange believes that the proposed tiering of credits applicable to displayed orders, MPL orders, and orders setting a new NYSE American BBO, for ETP Holders that meet the Adding ADV requirement of at least 2,500,000 shares, would serve as an additional incentive for ETP Holders to send liquidity to and improve quoting on the Exchange in order to qualify for such credits.

The Exchange also proposes non-substantive changes to add headers to the table in Section I.A. of the Price List, which sets forth Transaction Fees and Credits, to more clearly describe the credits that would be applicable to (1) displayed and MPL orders adding liquidity, and (2) orders setting a new NYSE American BBO.

The proposed changes are not otherwise intended to address any 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,[12] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[13] 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.

[4] *See* Rule 7.31E(d)(3) (description of MPL order).

[5] As set forth in the Price List, Adding ADV means an ETP Holder's average daily volume of shares executed on the Exchange that provided liquidity.

[6] *See* Rules 1.1E(m) (definition of ETP) & (n) (definition of ETP Holder).

[7] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (S7–10–04) (Final Rule) (''Regulation NMS'').

[8] *See* Securities Exchange Act Release No. 51808, 84 FR 5202, 5253 (February 20, 2019) (File No. S7–05–18) (Transaction Fee Pilot for NMS Stocks Final Rule).

[9] *See* Cboe Global Markets, U.S. Equities Market Volume Summary, available at *http://markets.cboe.com/us/equities/market_share/. See generally https://www.sec.gov/fast-answers/divisionsmarketregmrexchangesshtml.html.*

[10] *See* FINRA ATS Transparency Data, *available at https://otctransparency.finra.org/otctransparency/AtsIssueData.* A list of alternative trading systems registered with the Commission is *available at https://www.sec.gov/foia/docs/atslist.htm.*

[11] *See* Cboe Global Markets U.S. Equities Market Volume Summary, available at *http://markets.cboe.com/us/equities/market_share/.*

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(4) & (5).

The Proposed Change Is Reasonable

As discussed above, the Exchange operates in a highly fragmented and competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [14]

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can move order flow, or discontinue or reduce use of certain categories of products, in response to fee changes. With respect to non-marketable order flow that would provide liquidity on an Exchange, ETP Holders can choose from any one of the 13 currently operating registered exchanges to route such order flow. Accordingly, competitive forces constrain exchange transaction fees that relate to orders that would provide liquidity on an exchange. Stated otherwise, changes to exchange transaction fees can have a direct effect on the ability of an exchange to compete for order flow.

Given this current competitive environment, the Exchange believes that this proposal represents a reasonable attempt to attract additional order flow to, and increase quoting on, the Exchange. As noted above, the Exchange's market share of trading in Tapes A, B, and C securities combined is under 1%.

Specifically, the Exchange believes that the proposed credits for displayed orders, MPL orders, and orders setting a new NYSE American BBO, with an Adding ADV of 2,500,000 shares or more, would provide incentives for ETP Holders to route additional liquidity-providing orders to the Exchange. As noted above, the Exchange operates in a highly competitive environment, particularly with respect to attracting order flow that provides liquidity on an exchange. The Exchange believes that it is reasonable to provide a higher credit for orders that provide additional liquidity and to provide an incremental credit for orders that meet the Adding ADV requirements as described above.

The Exchange believes that 6 ETP Holders currently qualify for the proposed new credits, and more ETP Holders could qualify for the proposed credit for setting a new BBO if they so choose. Without having a view of ETP Holders' activity on other exchanges and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would result in any ETP Holder directing orders to the Exchange in order to qualify for the new credits. However, the Exchange believes that the proposal represents a reasonable effort to provide an additional incentive for ETP Holders to direct their order flow to the Exchange and provide meaningful added levels of liquidity in order to qualify for the higher credit, thereby contributing to depth and market quality on the Exchange.

The Exchange notes that volume-based incentives and discounts have been widely adopted by exchanges [15] and are reasonable, equitable, and non-discriminatory because that are available to all ETP Holders on an equal basis and provide additional credits that are reasonably related to the value to an exchange's market quality and associated higher levels of market activity. The Exchange further notes that the proposed credits remain in line with credits currently offered on other markets to attract liquidity.[16]

Given the competitive environment in which the Exchange currently operates, the proposed rule change constitutes a reasonable attempt to increase liquidity on the Exchange and improve the Exchange's market share relative to its competitors.

The Proposal Is an Equitable Allocation of Fees

The Exchange believes its proposed change equitably allocates its fees among its market participants by fostering liquidity provision and stability in the marketplace. The Exchange believes that the new credits for displayed orders, MPL orders, and orders that set a new NYSE American BBO, if an ETP Holder's Adding ADV is at least 2,500,000 shares, are equitable because the proposed credits are not unreasonably high in comparison to credits paid by other exchanges for orders that provide liquidity.[17] The Exchange also believes the proposed rule change would improve market quality for all market participants on the Exchange and, as a consequence, attract more liquidity to the Exchange, thereby improving market-wide quality and price discovery.

As previously noted, the Exchange believes that 6 ETP Holders currently qualify for the proposed new credits, and all ETP Holders could qualify for the proposed credit for setting a new BBO if they so choose. Without having a view of ETP Holders' activity on other exchanges and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would result in any ETP Holder directing orders to the Exchange in order to qualify for the new credits. However, the Exchange believes that the proposed credits are reasonable, as they would provide an additional incentive for ETP Holders to direct order flow to the Exchange and provide meaningful added levels of liquidity in order to qualify for the higher credits, thereby contributing to depth and market quality on the Exchange.

The proposal neither targets nor will it have a disparate impact on any particular category of market participant. Many ETP Holders would be eligible to qualify for the proposed credits by directing order flow to the Exchange that meets the Adding ADV requirement, and ETP Holders that currently qualify for credits associated with adding liquidity on the Exchange will continue to receive such credits when they provide liquidity to the Exchange. The Exchange believes that these opportunities for ETP Holders to receive additional credits when they provide liquidity will further attract order flow and liquidity to the Exchange for the benefit of investors generally. As to those market participants that do not presently qualify for the adding liquidity credits, the proposal will not adversely impact their existing pricing or their ability to qualify for these or other credits provided by the Exchange.

The Proposal Is Not Unfairly Discriminatory

The Exchange believes that the proposal is not unfairly discriminatory. In the prevailing competitive environment, ETP Holders are free to disfavor the Exchange's pricing if they believe that alternatives offer them better value.

[14] *See* Regulation NMS, 70 FR at 37499.

[15] *See, e.g.,* Cboe BZX U.S. Equities Exchange (''BZX'') Fee Schedule, Footnote 1, Add Volume Tiers, available at *https://markets.cboe.com/us/equities/membership/fee_schedule/bzx/* (tiers providing enhanced rebates between $0.0028 and $0.0032 per share for displayed orders where BZX members meet certain volume thresholds).

[16] *See, e.g.,* BZX Fee Schedule, Fee Codes and Associated Fees, available at *https://markets.cboe.com/us/equities/membership/fee_schedule/bzx/*; Nasdaq Price List, Rebate to Add Displayed Designated Retail Liquidity, available at *http://nasdaqtrader.com/Trader.aspx?id=PriceList Trading2.*

[17] *See* note 15, *supra.*

The Exchange believes it is not unfairly discriminatory to provide higher credits for ETP Holders' displayed orders, MPL orders, and orders setting a new BBO on NYSE American, who meet the Adding ADV requirement as described above, because the proposed credits would be provided on an equal basis to all similarly situated ETP Holders that add liquidity to the Exchange, who would all be eligible for the same credits if they meet such requirement on an equal basis.

The Exchange also believes that the proposed change is not unfairly discriminatory because it is reasonably related to the value to the Exchange's market quality associated with higher volume. The Exchange believes the proposed credits would incentivize ETP Holders to send more orders to the Exchange and to increase quoting on the Exchange in order to qualify for the proposed credits, which would support the quality of price discovery on the Exchange and provide additional liquidity for incoming orders.

Finally, the submission of orders to the Exchange is optional for ETP Holders in that they can choose whether to submit orders to the Exchange and, if they do, the extent of activity in this regard. The Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

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,[18] 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 Exchange believes that the proposed change would encourage the submission of additional liquidity and order flow to a public exchange, thereby promoting market depth, price discovery, and transparency and enhancing order execution opportunities for ETP Holders. 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.'' [19]

Intramarket Competition. The proposed change is designed to attract additional order flow to the Exchange. The Exchange believes that the proposed change would continue to incentivize market participants to direct providing order flow to the Exchange. Greater liquidity benefits all market participants on the Exchange by providing more trading opportunities and encourages ETP Holders to send orders, thereby contributing to robust levels of liquidity for the benefit of all market participants. The proposed credits would be available to all similarly-situated market participants, and thus, the proposed change would not impose a disparate burden on competition among market participants on the Exchange.

Intermarket Competition. The Exchange operates in a highly competitive market in which market participants can readily choose to send their orders to other exchanges and off-exchange venues if they deem fee levels at those other venues to be more favorable. As noted above, the Exchange's market share of trading in Tapes A, B, and C securities combined is less than 1%. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and off-exchange venues. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange does not believe its proposed fee change can impose any burden on intermarket competition.

The Exchange believes that the proposed change could promote competition between the Exchange and other execution venues, including those that currently offer similar order types and comparable transaction pricing, by encouraging additional orders to be sent to the Exchange for execution.

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) [20] of the Act and subparagraph (f)(2) of Rule 19b–4 [21] thereunder, because it establishes a due, 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) [22] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEAMER–2020–35 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–NYSEAMER–2020–35. 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

[18] 15 U.S.C. 78f(b)(8).

[19] Regulation NMS, 70 FR at 37498–99.

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f)(2).

[22] 15 U.S.C. 78s(b)(2)(B).

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–NYSEAMER–2020–35 and should be submitted on or before June 10, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–10813 Filed 5–19–20; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88875; File No. SR–NYSE–2020–43]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt New Section 312.03T of the NYSE Listed Company Manual To Provide a Temporary Exception Through June 30, 2020 From the Application of Certain Shareholder Approval Requirements Set Forth in Sections 312.03 and 303A.08 of the Manual

May 14, 2020.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on May 13, 2020, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to [sic] new Section 312.03T of the NYSE Listed Company Manual (the ''Manual'') to provide a temporary exception through June 30, 2020 from the application of certain of the shareholder approval requirements set forth in Sections 312.03 and 303A.08 of the Manual. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes new Section 312.03T of the Manual to provide a temporary exception through June 30, 2020 from the application of certain of the shareholder approval requirements under Sections 312.03 and 303A.08 as described below.

The U.S. and global economies have experienced unprecedented disruption as a result of the ongoing spread of COVID–19, including severe limitations on companies' ability to operate their businesses, dramatic market declines and volatility in the U.S. and global equity markets, and severe disruption in the credit markets. Many listed companies are experiencing urgent liquidity needs during this period of crisis due to lost revenues and maturing debt obligations. In these circumstances, listed companies frequently need to access additional capital that may not be available in the public equity or credit markets.

In response to this unprecedented emergency and to facilitate companies in quickly accessing necessary capital, the Exchange proposes to temporarily modify certain of its shareholder approval requirements for share issuances.[4] Specifically, the Exchange proposes to adopt Section 312.03T to provide a limited temporary, exception to the shareholder approval requirements in Section (c)[5] and, in certain narrow circumstances, a limited exception to 312.03(b)[6] and the

[23] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Exchange waived certain of the requirements under Section 312.03 through June 30, 2020 pursuant to an earlier rule filing. Specifically, the Exchange waived: (i) The provision in Section 312.03(b) limiting a Related Party or other purchaser affiliated with a Related Party to purchasing securities representing no more than 5% of the company's then-outstanding shares or 5% of the company's voting power before the issuance in a transaction meeting the Minimum Price Test; and (ii) certain of the requirements for meeting the Bona Fide Financing exception to Section 312.03(c) (*i.e.,* the requirements that there must be multiple purchasers in the transaction and that no purchaser may acquire securities representing more than 5% of the company's then-outstanding shares or 5% of its voting power before the issuance). *See* Exchange Act Release No. 34–88572 (April 6, 2020); 85 FR 20323 (April 10, 2020) (SR–NYSE–2020–30).

[5] Section 312.03(c) requires shareholder approval prior to the issuance of common stock, or of securities convertible into or exercisable for common stock, in any transaction or series of related transactions if: (1) The common stock has, or will have upon issuance, voting power equal to or in excess of 20 percent of the voting power outstanding before the issuance of such stock or of securities convertible into or exercisable for common stock; or (2) the number of shares of common stock to be issued is, or will be upon issuance, equal to or in excess of 20 percent of the number of shares of common stock outstanding before the issuance of the common stock or of securities convertible into or exercisable for common stock. However, shareholder approval will not be required for any such issuance involving: Any public offering for cash; any bona fide private financing, if such financing involves a sale of: Common stock, for cash, at a price at least as great as the Minimum Price; or securities convertible into or exercisable for common stock, for cash, if the conversion or exercise price is at least as great as the Minimum Price.

Section 312.04(i) defines the Minimum Price as follows: ''Minimum Price'' means a price that is the lower of: (i) The Official Closing Price immediately preceding the signing of the binding agreement; or (ii) the average Official Closing Price for the five trading days immediately preceding the signing of the binding agreement. Section 312.04(j) defines the Official Closing Price as follows: ''Official Closing Price'' of the issuer's common stock means the official closing price on the Exchange as reported to the Consolidated Tape immediately preceding the signing of a binding agreement to issue the securities. For example, if the transaction is signed after the close of the regular session at 4:00 p.m. Eastern Standard Time on a Tuesday, then Tuesday's official closing price is used. If the transaction is signed at any time between the close of the regular session on Monday and the close if the regular session on Tuesday, then Monday's official closing price is used.

[6] Section 312.03(b) of the Manual requires shareholder approval prior to the issuance of common stock, or of securities convertible into or exercisable for common stock, in any transaction or series of related transactions, to: (1) A director, officer or substantial security holder of the company (each a ''Related Party''); (2) a subsidiary, affiliate or other closely-related person of a Related Party; or (3) any company or entity in which a Related Party has a substantial direct or indirect interest; if the number of shares of common stock to be issued, or if the number of shares of common stock into which the securities may be convertible or exercisable, exceeds either one percent of the number of shares of common stock or one percent of the voting power outstanding before the issuance.

Continued

requirements with respect to equity compensation set forth in Sections 312.03(a) and 303A.08 of the Manual.[7]

Difficulties Posed by Shareholder Approval Requirements in Current Crisis

One unavoidable consequence of the actions being taken to reduce the spread of COVID–19 is a reduction, or complete interruption, in revenue for many companies. For example, many communities have mandated that all restaurants and entertainment facilities close for a period of time. Similarly, companies in the travel sector have seen significant declines in bookings even if they are allowed to continue to operate. Thus, these businesses have no or greatly reduced revenue to offset the operating costs or increased costs associated with the crisis. As such, investors may be reluctant to enter into new equity transactions, unless they are compensated for the risk through discounts to the trading price of a security, and companies may be forced by current circumstances to raise money through equity financings that require shareholder approval under the Exchange's rules. At the same time, other companies have sudden, unexpected cash needs as they undertake new or accelerated initiatives designed to address the loss of business and supply shortages caused by COVID–19.

While an exception is currently available under Section 312.05 of the Manual for companies in financial distress where the delay in securing stockholder approval would seriously jeopardize the financial viability of the company, that exception is not helpful in most situations arising from the COVID–19 pandemic.[8] For example, while a company may need additional cash so that it can continue to pay employees during a period of decreased or no revenue, the company's viability may not otherwise be in jeopardy. Further, the accelerated need for funds, as well as the significantly curtailed operations of many businesses, may make impractical the requirement to mail notice to all shareholders.

Proposed COVID–19 Exception

In light of the difficulties experienced by certain listed companies during the current crisis, the Exchange proposes a limited, temporary exception from the shareholder approval requirements in Section 312.03(c), accompanied, in certain narrow circumstances, by a limited exception from Sections 312.03(a) and (b) and Section 303A.08. This proposed exception in Section 312.03T would be available until and including June 30, 2020. To rely on this exception, the company must submit the related supplemental listing application and certification pursuant to Section 312.03T(b)(5)(A) (as described below) and obtain the Exchange's approval of its utilization of the exception pursuant to Section 312.03T(b)(5)(B) (as described below) and thereafter sign a binding agreement no later than June 30, 2020. If the company satisfies such conditions, the issuance of the securities governed by such agreement in reliance on the exception in Section 312.03T may occur after June 30, 2020, provided the issuance takes place no later than 30 calendar days following the date of the binding agreement. If the company does not issue securities within 30 calendar days, as described above, it may no longer rely on the exception in Section 312.03T.

Under proposed Section 312.03T, the exception would be limited to circumstances where the delay in securing shareholder approval would (i) have a material adverse impact on the company's ability to maintain operations under its pre-COVID–19 business plan; (ii) result in workforce reductions; (iii) adversely impact the company's ability to undertake new initiatives in response to COVID–19; or (iv) seriously jeopardize the financial viability of the enterprise. In addition to demonstrating that the transaction meets one of the foregoing requirements, the company would have to demonstrate to the Exchange that the need for the transaction is due to circumstances related to COVID–19, that the proceeds would not be used to fund any acquisition transaction, and that the company undertook a process designed to ensure that the proposed transaction represents the best terms available to the company. The Exchange also proposes, similar to the requirement for the financial viability exception, to require that the company's audit committee or a comparable committee comprised solely of independent, disinterested directors expressly approve reliance on this exception. The Exchange also proposes to require such committee or a comparable committee comprised solely of independent, disinterested directors to determine that the transaction is in the best interest of shareholders.[9]

The company must submit a supplemental listing application as required by Section 703.01(part one)(A) in relation to the applicable transaction along with a certification to the Exchange that it complies with all requirements of Section 312.03T(b) (and Section 312.03T(c) if applicable) and describing with specificity how it complies. In such certification, the Exchange expects such company to describe with specificity how it complies with Section 312.03T(b) and (c), if applicable. The Exchange must approve all transactions by countersigned application in advance of any issuance of securities in reliance on Section 312.03T and such approval of a company's reliance on the exception will be based on a review of whether the company has established that it complies with the requirements of Section 312.03T(b) (and Section 312.03T(c) if applicable). Given the fact that the Exchange must undertake a detailed review before approving any use of this exception, the Exchange advises companies to commence discussions with the Exchange and provide the required documentation as far in advance of the proposed transaction as is possible.

Section 312.03T(e) will provide that issuances pursuant to Section 312.03T must comply with all other requirements of applicable Exchange rules, except as provided for therein.

However, if the Related Party involved in the transaction is classified as such solely because such person is a substantial security holder, and if the issuance relates to a sale of stock for cash at a price at least as great as the Minimum Price, then shareholder approval will not be required unless the number of shares of common stock to be issued, or unless the number of shares of common stock into which the securities may be convertible or exercisable, exceeds either five percent of the number of shares of common stock or five percent of the voting power outstanding before the issuance. Section 312.03(b) includes an exemption for companies that meet the Exchange's definition of an Early Stage Company.

[7] Section 303A.08 requires shareholder approval, with certain exceptions, prior to the issuance of securities when a stock option or purchase plan is to be established or materially amended or other equity compensation arrangement made or materially amended, pursuant to which stock may be acquired by officers, directors, employees, or consultants. Section 312.03(a) incorporates the requirements of Section 303A.08 into Section 312.03.

[8] Section 312.05 provides as follows: Exceptions may be made to the shareholder approval policy in Para. 312.03 upon application to the Exchange when (1) the delay in securing stockholder approval would seriously jeopardize the financial viability of the enterprise and (2) reliance by the company on this exception is expressly approved by the Audit Committee of the Board. A company relying on this exception must mail to all shareholders not later than 10 days before issuance of the securities a letter alerting them to its omission to seek the shareholder approval that would otherwise be required under the policy of the Exchange and indicating that the Audit Committee of the Board has expressly approved the exception.

[9] The Exchange notes that the proposed relief will not override any requirements arising under applicable laws or a company's own governance documents that would otherwise require a company to obtain shareholder approval for a transaction.

Such requirements include the shareholder approval requirements in Sections 312.03(b) and (c) in relation to issuances other than sales of securities for cash, the change of control provision of Section 312.03(d) and the equity compensation requirements set forth in sections 312.03(a) and 303A.08 subject to the limited exceptions set forth therein. In addition, funds raised from the issuance of securities pursuant to Section 312.03T may not be used to fund acquisition transactions.

To provide shareholders with advance notice of the transaction, the Exchange proposes Section 312.03T(d), which would require a company relying on the proposed exception to make a public announcement by filing a Form 8–K, where required by SEC rules, or by issuing a press release disclosing as promptly as possible, but no later than two business days before the issuance of the securities:

- The terms of the transaction (including the number of shares of common stock that could be issued and the consideration received);
- that shareholder approval would ordinarily be required under Exchange shareholder approval rules; and
- that the audit committee or a comparable committee comprised solely of independent, disinterested directors expressly approved reliance on the exception and determined that the transaction is in the best interest of shareholders.[10]

In addition to the limitations on issuances to related parties set forth in Section 312.03(b), the Exchange has long interpreted Section 303A.08 to require shareholder approval for certain sales to officers, directors, employees, or consultants when such issuances could be considered a form of ''equity compensation.'' The Exchange has heard from market participants that investors often require a company's senior management to put their personal capital at risk and participate in a capital raising transaction alongside the unaffiliated investors. The Exchange believes that as a result of uncertainty related to the ongoing spread of the COVID–19 virus, listed companies seeking to raise capital may face such requests. Accordingly, the Exchange proposes that the temporary exception allow such investments under limited circumstances.

To that end, the Exchange proposes Section 312.03T(c), which would provide for an exception from shareholder approval under Sections 312.03(b) and Sections 312.03(a) and 303A.08 for participation in the transaction described in Section 312.03T(b) by any person whose participation would otherwise be subject to shareholder approval under Section 312.03(b) or Sections 312.03(a) and 303A.08 (an ''Affiliated Purchaser''), provided the Affiliated Purchaser's participation in the transaction was specifically required by unaffiliated investors. In addition, to further protect against self-dealing, proposed Section 312.03T(c) would limit such participation to a *de-minimis* level—each Affiliated Purchaser's participation must be less than 5% of the transaction and all Affiliated Purchasers' participation collectively must be less than 10% of the transaction. Finally, any Affiliated Purchaser investing in the transaction must not have participated in negotiating the economic terms of the transaction.

Finally, the Exchange proposes to aggregate issuances of securities in reliance on the exception in Section 312.03T with any subsequent issuance by the company, other than a public offering for cash, at a discount to the Minimum Price[11] if the binding agreement governing the subsequent issuance is executed within 90 days of the prior issuance. Accordingly, if, following the subsequent issuance, the aggregate issuance (including shares issued in reliance on the exception) equals or exceeds 20% of the total shares or the voting power outstanding before the initial issuance, then shareholder approval would be required under Section 312.03(c) before the issuance can occur.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[12] in general, and furthers the objectives of Section 6(b)(5) of the Act,[13] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect the public interest and the interests of investors, and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. As a result of uncertainty related to the ongoing spread of the COVID–19 virus, the prices of securities listed on U.S. exchanges are experiencing significant volatility. The Exchange believes that the proposed rule change is designed to remove an impediment to companies addressing certain immediate capital needs as a result of the COVID–19 pandemic and reduce uncertainty regarding the ability of companies to raise money quickly through equity financings during the current highly unusual market conditions and general economic disruptions. The Exchange believes that in this way, the proposed rule change will protect investors, facilitate transactions in securities, and remove an impediment to a free and open market. All companies listed on the Exchange would be eligible to take advantage of the proposed rule.

In addition, the Exchange believes the proposed rule change is designed to protect investors by limiting the exception from the shareholder approval requirements to situations where the need for the transaction is due to circumstances related to COVID–19 and the proceeds will not be used to fund any acquisition transactions [sic] that the company undertook a process designed to ensure that the proposed transaction represents the best terms available to the company. The exception is also limited to circumstances where the delay in securing shareholder approval would (i) have a material adverse impact on the company's ability to maintain operations under its preCOVID–19 business plan; (ii) result in workforce reductions; (iii) adversely impact the company's ability to undertake new initiatives in response to COVID–19; or (iv) seriously jeopardize the financial viability of the enterprise. Further, the proposed rule requires that the company's audit committee or a comparable committee comprised solely of independent, disinterested directors expressly approve reliance on this exception and determine that the transaction is in the best interest of shareholders.

Notwithstanding the proposed exception from certain shareholder approval requirements, as described above, important investor protections will remain as the proposed exception would not be available for the shareholder approval requirements related to equity compensation in Section 312.03(a) and Section 303A.08 (except for the limited circumstances described above for insider participation in transactions covered by the proposed exception), transactions other than sales

[10] *See* Section 312.05 requiring similar disclosure, for a transaction for which a company relied on the financial viability exception, alerting shareholders to the omission to seek the shareholder approval that would otherwise be required.

[11] *See* footnote 6 [sic] *supra* for the definition of Minimum Price.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

of securities for cash under Sections 312.03(b) and (c) and a change of control under Section 312.03(d). In addition, funds raised from the issuance of securities pursuant to Section 312.03T may not be used to fund acquisition transactions.

Finally, the Exchange notes that the proposed rule is a temporary exception from certain shareholder approval requirements, as described above, operative through, and including, June 30, 2020.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. All companies listed on the Exchange would be eligible to take advantage of the proposed rule. In addition, the proposed rule change is not designed to have any effect on intermarket competition but instead seeks to address concerns the Exchange has observed surrounding the application of the shareholder approval requirements, as described above, to companies listed on the Exchange. Other exchanges can craft relief based on their own rules and observations.[14]

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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[15] and Rule 19b–4(f)(6) thereunder.[16]

A proposed rule change filed under Rule 19b–4(f)(6)[17] normally does not become operative for 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[18] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative immediately upon filing. The Exchange stated that waiver of the operative delay would allow companies to quickly raise money through equity financings to maintain operations, avoid jeopardizing its financial viability, compensate its workforce, or undertake new initiatives in response to COVID–19 during the current highly unusual market and economic conditions and ongoing uncertainty relating to the global spread of the COVID–19 virus. In addition, the Exchange stated that the proposed exception from the shareholder approval requirements is limited to situations where the need for the transaction is due to circumstances related to COVID–19, the proceeds will not be used to fund any acquisition transactions, and the company undertook a process designed to ensure that the proposed transaction represents the best terms available to the company. The Exchange stated that the proposed exception is further limited to circumstances where the delay in securing shareholder approval would (i) have a material adverse impact on the company's ability to maintain operations under its pre-COVID–19 business plan; (ii) result in workforce reductions; (iii) adversely impact the company's ability to undertake new initiatives in response to COVID–19; or (iv) seriously jeopardize the financial viability of the enterprise. The Exchange also noted that the proposed rule requires that the company's audit committee or a comparable committee comprised solely of independent, disinterested directors expressly approve reliance on this exception and determine that the transaction is in the best interest of shareholders. Finally, the Exchange stated that the proposed exception would not be available for the shareholder approval requirements related to equity compensation in in Sections 312.02(a) and 303A.08 (except for the limited circumstances described above for insider participation in transactions covered by the proposed exception), transactions other than sales of securities for cash under Sections 312.03(b) and (c) and a change of control under Section 312.03(d). In addition, funds raised from the issuance of securities pursuant to Section 312.03T may not be used to fund acquisition transactions.

The Commission notes that while the proposed rule change would provide a temporary exception to certain shareholder approval requirements, it is limited to situations where the need for the transaction is related to COVID–19 circumstances and the proceeds will not be used to fund any acquisition transaction, and only where the delay in obtaining shareholder approval meets one of the four specified conditions for the transaction set forth in the temporary rule and described above. In addition, the Commission notes that there are important investor protections built into the proposed temporary rule. For example, the Exchange must approve all transactions in advance of any issuance of securities in reliance on Section 312.03T and the Exchange has stated that it will undertake a detailed review of whether the company has established that it complies with the requirements of Section 312.03T(b) (and Section 312.03T(c) if applicable) before approving any use of the exception. Additionally, the exception from the shareholder approval requirements is limited to situations where the company undertook a process designed to ensure that the proposed transaction represents the best terms available to the company. The proposed rule change also requires that the company's audit committee or a comparable committee comprised solely of independent, disinterested directors expressly approve reliance on the exception and determine that the transaction is in the best interest of shareholders. Further, the Commission notes that shareholder approval would continue to be required for transactions that do not qualify for the proposed temporary exception, such as for equity compensation (Sections 312.02(a) and 303A.08), except for the limited circumstances described above for insider participation in transactions covered by the proposed exception); transactions other than sales of securities for cash under Sections 312.03(b) and (c); a change of control under Section 312.03(d). In addition, funds raised from the issuance of securities pursuant to Section 312.03T may not be used to fund acquisition transactions. Therefore, securities issued to raise capital to fund an acquisition would be subject, as such transactions currently are, to any applicable Exchange shareholder approval requirements. The Commission also notes that the proposal

[14] Nasdaq has already adopted relief under its comparable shareholder approval requirements. *See* SR–NASDAQ–2020–025.

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[17] 17 CFR 240.19b–4(f)(6).

[18] 17 CFR 240.19b–4(f)(6)(iii).

is a temporary measure designed to allow companies to raise necessary capital quickly in response to current, unusual market conditions. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[19]

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 shall institute proceedings under Section 19(b)(2)(B)[20] 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.shtm*l); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2020–43 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–2020–43. 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–2020–43 and should be submitted on or before June 10, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–10818 Filed 5–19–20; 8:45 am]

BILLING CODE 8011–01–P

[19] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[20] 15 U.S.C. 78s(b)(2)(B).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–087, OMB Control No. 3235–0078]

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

Extension:
Rule 15c3–3

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 15c3–3 (17 CFR 240.15c3–3), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval. Furthermore, notice is given regarding new collections of information that were previously proposed in Rule 18a–4 (OMB No. 3235–0700) and that are being moved to this Rule 15c3–3 (OMB No. 3235–0078) based on comments received during the rulemaking process.

With respect to the extension of the previously approved collection of information, Rule 15c3–3 requires that a broker-dealer that holds customer securities obtain and maintain possession and control of fully-paid and excess margin securities they hold for customers. In addition, the Rule requires that a broker-dealer that holds customer funds make either a weekly or monthly computation to determine whether certain customer funds need to be segregated in a special reserve bank account for the exclusive benefit of the firm's customers. It also requires that a broker-dealer maintain a written notification from each bank where a Special Reserve Bank Account is held acknowledging that all assets in the account are for the exclusive benefit of the broker-dealer's customers, and to provide written notification to the Commission (and its designated examining authority) under certain, specified circumstances. Finally, broker-dealers that sell securities futures products (''SFP'') to customers must provide certain notifications to customers and make a record of any changes of account type.

A broker-dealer required to maintain the Special Reserve Bank Account prescribed by Rule 15c3–3 must obtain and retain a written notification from each bank in which it has a Special Reserve Bank Account to evidence the bank's acknowledgement that assets deposited in the Account are being held by the bank for the exclusive benefit of the broker-dealer's customers. In addition, a broker-dealer must immediately notify the Commission and its designated examining authority if it fails to make a required deposit to its Special Reserve Bank Account. Finally, a broker-dealer that effects transactions in SFPs for customers also will have paperwork burdens to make a record of each change in account type.

The Commission staff estimates a total annual time burden of approximately 625,490 hours and a total annual cost burden of approximately $1,440,513 to comply with the existing information collection requirements of the rule.

With respect to the new collections of information, in 2019, the Commission adopted amendments to establish segregation and notice requirements for broker-dealers with respect to their security-based swap activity. The Commission staff estimates a total annual time burden of approximately 96,601 hours and a total annual cost

burden of approximately $65,334 to comply with the new information collection requirements of the rule.

The Commission staff thus estimates that the aggregate annual information collection burden associated with Rule 15c3–3 is approximately 722,091 hours and $1,505,847.

Written 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 to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: May 15, 2020.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–10875 Filed 5–19–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–473, OMB Control No. 3235–0530]

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 32a–4

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 350l *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget requests for extension of the previously approved collections of information discussed below.

Section 32(a)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a 31(a)(2)) (''Act'') requires that the selection of a registered management investment company's or registered face-amount certificate company's (collectively, ''funds'') independent public accountant be submitted to shareholders for ratification or rejection. Rule 32a–4 under the Investment Company Act (17 CFR 270.32a–4) exempts a fund from this requirement if, among other things, the fund has an audit committee consisting entirely of independent directors. The rule permits continuing oversight of a fund's accounting and auditing processes by an independent audit committee in place of a shareholder vote.

Among other things, in order to rely on rule 32a–4, a fund's board of directors must adopt an audit committee charter and must preserve that charter, and any modifications to the charter, permanently in an easily accessible place. The purpose of these conditions is to ensure that Commission staff will be able to monitor the duties and responsibilities of an audit committee of a fund relying on the rule.

Commission staff estimates that on average the board of directors takes 15 minutes to adopt the audit committee charter. Commission staff has estimated that with an average of 8 directors on the board,[1] total director time to adopt the charter is 2 hours. Combined with an estimated ½ hour of paralegal time to prepare the charter for board review, the staff estimates a total one-time collection of information burden of 2½ hours for each fund. Once a board adopts an audit committee charter, the charter is preserved as part of the fund's records. Commission staff estimates that there is no annual hourly burden associated with preserving the charter in accordance with this rule.[2]

Because virtually all existing funds have now adopted audit committee charters, the annual one-time collection of information burden associated with adopting audit committee charters is limited to the burden incurred by newly established funds. Commission staff estimates that fund sponsors establish approximately 90 new funds each year,[3] and that all of these funds will adopt an audit committee charter in order to rely on rule 32a–4. Thus, Commission staff estimates that the annual one-time hour burden associated with adopting an audit committee charter under rule 32a–4 is approximately 225 hours.[4]

When funds adopt an audit committee charter in order to rely on rule 32a–4, they also may incur one-time costs related to hiring outside counsel to prepare the charter. Commission staff estimates that those costs average approximately $1500 per fund.[5] As noted above, Commission staff estimates that approximately 90 new funds each year will adopt an audit committee charter in order to rely on rule 32a–4. Thus, Commission staff estimates that the ongoing annual cost burden associated with rule 32a–4 in the future will be approximately $135,000.[6]

The estimates of average burden hours and costs are made solely for the purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms. The collections of information required by rule 32a–4 are necessary to obtain the benefits of the rule. The Commission is seeking OMB approval, because 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,

[1] This estimate is based on staff experience and on discussions with a representative of an entity that surveys funds and calculates fund board statistics based on responses to its surveys.

[2] This estimate is based on staff experience and discussions with funds regarding the hour burden related to maintenance of the charter.

[3] This estimate is based on the average number of notifications of registration on Form N–8A filed from 2017 2019.

[4] This estimate is based on the following calculation: (2.5 burden hours for establishing charter × 90 new funds = 225 burden hours).

[5] Costs may vary based on the individual needs of each fund. However, based on the staff's experience and conversations with outside counsel that prepare these charters, legal fees related to the preparation and adoption of an audit committee charter usually average $1500 or less. The Commission also understands that model audit committee charters are available, which reduces the costs associated with drafting a charter.

[6] This estimate is based on the following calculations: ($1500 cost of adopting charter × 90 newly established funds = $135,000).

Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: May 15, 2020.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–10881 Filed 5–19–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–501, OMB Control No. 3235–0559]

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 203A–2(e)

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 extension and approval of the previously approved collection of information discussed below.

Rule 203A–2(e),[1] which is entitled ''internet Investment Advisers,'' exempts from the prohibition on Commission registration an internet investment adviser who provides investment advice to all of its clients exclusively through computer software-based models or applications termed under the rule as ''interactive websites.'' [2] These advisers generally would not meet the statutory thresholds currently set out in section 203A of the Advisers Act [3]—they do not manage $25 million or more in assets and do not advise registered investment companies, or they manage between $25 million and $100 million in assets, do not advise registered investment companies or business development companies, and are required to be registered as investment advisers with the states in which they maintain their principal offices and places of business and are subject to examination as an adviser by such states.[4] Eligibility under rule 203A–2(e) is conditioned on an adviser maintaining in an easily accessible place, for a period of not less than five years from the filing of Form ADV,[5] a record demonstrating that the adviser's advisory business has been conducted through an interactive website in accordance with the rule.[6]

This record maintenance requirement is a ''collection of information'' for PRA purposes. The Commission believes that approximately 181 advisers are registered with the Commission under rule 203A–2(e), which involves a recordkeeping requirement of approximately four burden hours per year per adviser and results in an estimated 724 of total burden hours (4 ×181) for all advisers.

This collection of information is mandatory, as it is used by Commission staff in its examination and oversight program in order to determine continued Commission registration eligibility of advisers registered under this rule. Responses generally are kept confidential pursuant to section 210(b) of the Advisers Act.[7] 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: May 15, 2020.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–10876 Filed 5–19–20; 8:45 am]

BILLING CODE 8011–01–P

[1] 17 CFR 275.203A–2(e).

[2] Included in rule 203A–2(e) is a limited exception to the interactive website requirement which allows these advisers to provide investment advice to fewer than 15 clients through other means on an annual basis. 17 CFR 275.203A–2(e)(1)(i). The rule also precludes advisers in a control relationship with an SEC-registered internet adviser from registering with the Commission under the common control exemption provided by rule 203A–2(b) (17 CFR 275.203A–2(b)). 17 CFR 275.203A–2(e)(1)(iii).

[3] 15 U.S.C. 80b–3a(a).

[4] *Id.*

[5] The five-year record retention period is a similar recordkeeping retention period as imposed on all advisers under rule 204–2 of the Advisers Act. See rule 204–2 (17 CFR 275.204–2).

[6] 17 CFR 275.203A–2(e)(1)(ii).

[7] 15 U.S.C. 80b–10(b).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88877; File No. SR–CBOE–2020–043]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Silexx Trading Platform Fees Schedule

May 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 May 1, 2020, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to amend the Silexx trading platform (''Silexx'' or the ''platform'') Fees Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to amend language within the Silexx Fees Schedule to extend the end of the time period for a free upgrade for users on Silexx Basic to Silexx Pro from April 30, 2020 through May 31, 2020.

By way of background, the Silexx platform consists of a ''front-end'' order entry and management trading platform (also referred to as the ''Silexx terminal'') for listed stocks and options that supports both simple and complex orders,[3] and a ''back-end'' platform which provides a connection to the infrastructure network. From the Silexx platform (*i.e.,* the collective front-end and back-end platform), a Silexx user has the capability to send option orders to U.S. options exchanges, send stock orders to U.S. stock exchanges (and other trading centers), input parameters to control the size, timing, and other variables of their trades, and also includes access to real-time options and stock market data, as well as access to certain historical data. The Silexx platform is designed so that a user may enter orders into the platform to send to an executing broker (including Trading Permit Holders (''TPHs'')) of its choice with connectivity to the platform, which broker will then send the orders to Cboe Options (if the broker is a TPH) or other U.S. exchanges (and trading centers) in accordance with the user's instructions.[4] The Silexx front-end and back-end platforms are a software application that are installed locally on a user's desktop. Silexx grants users licenses to use the platform, and a firm or individual does not need to be a TPH to license the platform. Use of Silexx is completely optional.

Free Upgrade

Silexx Basic is an order-entry and management system that provides basic functionality including real-time data, alerts, trade reports, views of exchange books, management of the customer's orders and positions, simple and complex order tickets, and basic risk features. Users are currently charged $200 per month per Login ID for Silexx Basic. Silexx Pro offers the same functionality as the basic platform plus additional features including an algorithmic order ticket, position analysis, charting, earnings and dividend information, delta hedging tools, volatility skews, and additional risk features. Prior to March 13, 2020, Users were charged $400 per month per Login ID for Silexx Pro. However on March 13, 2020, the Exchange introduced a free-upgrade period for Users that are currently on Silexx Basic.[5] This upgrade has allowed users of Silexx Basic to use the functionality of Silexx Pro from March 13, 2020 through April 30, 2020 at the current Silexx Basic rate of $200 per month per Login ID.

The Exchange now proposes to extend the end of the period of the free-upgrade to May 31, 2020. After this period ends, beginning June 1, 2020, those users who upgraded will be charged at the Silexx Pro rate of $400 per month until they choose to downgrade. The Exchange notes that the upgrade to Silexx Pro is optional.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[6] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[7] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[8] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

In particular, the Exchange believes the proposed rule change is reasonable, equitable, and not unfairly discriminatory because the free upgrade will continue to apply to all current users of Silexx Basic who wish to upgrade. Additionally, the free upgrade period will be limited through May 31, 2020. Finally, the Exchange notes that use of the platform, including the upgrade, is discretionary and not compulsory, and users may downgrade or cancel their Login IDs with Silexx at any time.

B. Self-Regulatory Organization's Statement on Burden on Competition

Cboe Options does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed rule change will not impose any burden on intramarket competition because the proposed rule change applies to all users of Silexx. The Exchange notes that each version of Silexx is available to all market participants, and users have discretion to determine which version of the platform they register for based on functionality.

The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed change applies only to Cboe Options. To the extent that the proposed changes make Cboe Options a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become Cboe Options market participants.

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[9] and paragraph (f) of Rule 19b–4[10] 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

[3] The platform also permits users to submit orders for commodity futures, commodity options and other non-security products to be sent to designated contract markets, futures commission merchants, introducing brokers or other applicable destinations of the users' choice.

[4] Silexx does not allow users to send orders directly to the Exchange or other market centers; however, an additional version of the Silexx platform, Silexx FLEX, supports the trading of FLEX Options and allows authorized Users with direct access to the Exchange. See Securities Exchange Act Release No. 87028 (September 19, 2019) 84 FR 50529 (September 25, 2019) (SR–CBOE–2019–061).

[5] *See* Securities Exchange Act No. 88475 (March 25, 2020) 85 FR 17925 (March 31, 2020) (SR–CBOE–2020–018).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f).

it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2020–043 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2020–043. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2020–043 and should be submitted on or before June 10, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–10820 Filed 5–19–20; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88873; File No. SR–NYSEArca–2020–44]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Modifying the NYSE Arca Options Fee Schedule Regarding Pricing Incentives for Certain Posted Volume

May 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 May 11, 2020, NYSE Arca, Inc. (''NYSE Arca'' 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 modify the NYSE Arca Options Fee Schedule (''Fee Schedule'') regarding pricing incentives for certain posted volume. The Exchange proposes to implement the fee change effective May 11, 2020.[4] The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to amend the Fee Schedule to introduce a new incentive program, and to modify other credits to encourage a variety of transactions to be executed on the Exchange.

Specifically, the Exchange proposes to adopt incentives designed to increase Firm and Broker Dealer transactions on the Exchange, including by offering credits based on posted Firm and Broker Dealer volume under existing and proposed incentive programs, which would increase available interest on the Exchange to the benefit of all market participants.[5] The proposed change would include a ''cross-asset pricing'' component to incentivize OTP Holders and affiliates to execute a certain amount of volume on both the Exchange's equities and options platform.

The Exchange proposes to implement the fee changes on May 11, 2020.

Background

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. 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

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[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Exchange originally filed to amend the Fee Schedule on May 1, 2020 (SR–NYSEArca–2020–41) and withdrew such filing on May 11, 2020.

[5] Firm and Broker Dealer transactions are included as ''Non-Customer'' for purpose of fees and credits. *See* Fee Schedule, NYSE Arca Options Trade Related Charges For Standard Options, *available here, https://www.nyse.com/publicdocs/nyse/markets/arca-options/NYSE_Arca_Options_Fee_Schedule.pdf* (providing that for fee/credit purposes, Firms, Broker Dealers, and Market Makers are considered ''Non-Customers'' and, unless otherwise specified, Professional Customers are considered ''Customers'').

''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [6]

There are currently 16 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.[7] Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity & ETF options order flow. More specifically, in January 2020, the Exchange had less than 10% market share of executed volume of multiply-listed equity & ETF options trades.[8] Similarly, the equities markets also face stark competition, which is relevant because the Exchange may offer ''cross-asset pricing,'' which is designed to incent participants to execute a certain amount of volume on both the Exchange's equities and options platform. As the Commission itself recognized, the market for trading services in NMS stocks has become ''more fragmented and competitive.'' [9] Indeed, equity trading is currently dispersed across 13 exchanges,[10] 31 alternative trading systems,[11] and numerous broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly-available information, no single exchange has more than 18% market share (whether including or excluding auction volume).[12] Therefore, currently no single exchange possesses significant pricing power in the execution of equity order flow. More specifically, the Exchange's market share of trading in Tapes A, B and C securities combined is less than 10%.

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue or reduce use of certain categories of products. To respond to this competitive marketplace, the Exchange has established incentives—or posting credit tiers—designed to encourage OTP Holders and OTP Firms (collectively, ''OTP Holders'') to direct additional order flow to the Exchange to achieve more favorable pricing and higher credits. The Exchange incentives also include ''cross-asset pricing,'' which allows OTP Holders to aggregate their options and equity volume with affiliated or appointed Order Flow Providers (''OFPs'') (collectively referred to as affiliates herein), making the NYSE Arca a more attractive trading venue.[13]

The Exchange proposes to modify its existing posting credit tiers and adopt a new posting credit tier program that would offer more favorable rates for increased Firm and Broker Dealer volume beyond certain minimum thresholds. The Exchange also proposes a related new incentive program that incorporates cross-asset pricing for OTP Holders that meet minimum Firm and Broker Dealer volume thresholds. The proposed change should encourage OTP Holders to increase their participation on the Exchange, thereby improving the quoted markets and attracting more order flow to the Exchange. The Exchange notes that the proposed change would be competitive with other options exchanges that offer pricing incentive for Firm and Broker Dealer volume as well as cross-asset pricing incentives.[14]

Proposed Rule Change

Firm and Broker Dealer Incentives

The Exchange proposes to adopt a new incentive program that would provide increasing levels of credit for posted Firm and Broker Dealer interest in Penny Pilot issues (the ''FBD Posting Incentive'').[15] The Exchange currently provides a $0.10 per contract credit on electronic executions of Firm and Broker Dealer posted interest in Penny Pilot issues, and proposes to include this $0.10 credit in the FBD Posting Incentive table for reference only.[16] As proposed, OTP Holders that execute at least 0.15% of Total Customer Average Daily Volume (''TCADV'') [17] from Firm and Broker Dealer posted interest in all issues, which would qualify them for the Tier 1 level under the proposed FBD Posting Incentive, would receive a per contract credit of $0.25. OTP Holders that execute at least 0.30% of TCADV from Firm and Broker Dealer posted interest in all issues, which would qualify them for the Tier 2 level under the proposed FBD Posting Incentive, would receive a per contract of $0.35. As is the case with current posting credit tiers, OTP Holders may aggregate their volume with affiliated OTPs to achieve the proposed credits.[18]

The Exchange also proposes that OTP Holders that qualify for either the Tier 1 or Tier 2 FBD Posting Incentive described above may earn the greater of one of the following additional credits.[19] The first alternative of the proposed ''Firm and Broker Dealer Incentive Program'' would be a cross-asset incentive that would provide an additional $0.03 per contract credit to OTP Holders that execute at least 0.30% ADV of U.S Equity Tape C Market Share Posted and Executed on NYSE Arca Tape C Equity Market. The second alternative would provide an additional $0.05 per contract credit to OTP Holders that execute at least 0.85% of TCADV of posted interest in all issues across all account types, of which at least 0.60% TCADV is from Firm and Broker Dealer

[6] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (S7–10–04) (''Reg NMS Adopting Release'').

[7] The OCC publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, *available here: https://www.theocc.com/market-data/volume/default.jsp.*

[8] Based on OCC data, *see id.,* in 2019, the Exchange's market share in equity-based options was 9.57% for the month of January 2019 and 9.59% for the month of January 2020.

[9] *See* Securities Exchange Act Release No. 84875 (December 19, 2018), 84 FR 5202, 5253 (February 20, 2019) (File No. S7–05–18) (Transaction Fee Pilot for NMS Stocks Final Rule).

[10] *See* Cboe Global Markets, U.S. Equities Market Volume Summary, *available here http://markets.cboe.com/us/equities/market_share/. See generally https://www.sec.gov/fast-answers/divisionsmarketregmrexchangesshtml.html.*

[11] *See* FINRA ATS Transparency Data, *available here: https://otctransparency.finra.org/otctransparency/AtsIssueData.* A list of alternative trading systems registered with the Commission is *available at https://www.sec.gov/foia/docs/atslist.htm.*

[12] *See* Cboe Global Markets U.S. Equities Market Volume Summary, *available here: http://markets.cboe.com/us/equities/market_share/.*

[13] *See* Fee Schedule, Endnote 15 (providing that an ''Appointed MM'' is an NYSE Arca Market Maker designated as such by an Order Flow Provider (''OFP'') (as defined in NYSE Arca Rule 6.1A–O(a)(21)) and ''Appointed OFP'' is an OFP been designated as such by an NYSE Arca Market Maker).

[14] *See, e.g.,* Cboe BZX Options Exchange Fee Schedule, *available here, https://markets.cboe.com/us/options/membership/fee_schedule/bzx/* (setting forth posting volume tiers for Firm and Broker Dealer volume in Penny Pilot Issues); Cboe BZX U.S. Equities Exchange Fee Schedule, Footnote 1 and Cboe EDGX Options Exchange Fee Schedule, Footnote 4 (regarding cross-asset pricing).

[15] *See* proposed Fee Schedule, FIRM AND BROKER DEALER PENNY PILOT POSTING CREDIT TIERS (providing in the preamble that ''OTP Holders and OTP Firms meeting the qualifications below will receive the corresponding credit on all electronic executions of Firm and Broker Dealer posted interest in Penny Pilot Issues'').

[16] *See* Fee Schedule, *id.; see also* TRANSACTION FEE FOR ELECTRONIC EXECUTIONS—PER CONTRACT (referring in both places to same $0.10 credit on Firm Broker Dealer transactions).

[17] TCADV includes OCC calculated Customer volume of all types, including Complex Order Transactions and QCC transactions, in equity and ETF options. *See* Fee Schedule, Endnote 8.

[18] *See* proposed Fee Schedule, Endnotes 8 (providing that the proposed incentives will include the activity of affiliates) and 15 (defining affiliates referenced in Endnote 8).

[19] *See* proposed Fee Schedule, Firm and Broker Dealer Incentive Program (providing that OTP Holders ''that qualify for Tier 1 or Tier 2 Firm and Broker-Dealer Penny Pilot Posting Credit Tiers may earn the greater of the alternative additional credits listed above'' and referencing Endnotes 8 and 15).

posted interest. If an OTP Holder qualifies for both additional credits, they would earn the greater of the two additional credits, not both.

To further encourage Firm and Broker dealer volume, the Exchange also proposes to add alternative qualification bases to the existing posting tiers set forth in both the Non-Customer, Non-Penny Pilot Posting Credit Tiers and the Customer and Professional Customer Posting Credit Tiers in Non-Penny Pilot Issues. As noted above, an OTP Holder that executes at least 0.15% of TCADV from Firm and Broker Dealer posted interest in all issues (the ''FirmBD Threshold'') qualifies for Tier 1 of the proposed Firm and Broker Dealer Posting Credit Tiers. The Exchange proposes to add a new Tier to the Non-Customer, Non-Penny Pilot Posting Credit Tiers, and amend existing Tier A to the Customer and Professional Customer Posting Credit Tiers in Non-Penny Pilot Issues, to provide that if an OTP Holder that meets the FirmBD Threshold and also executes at least 0.10% TCADV from Customer posted interest in all issues, that OTP Holder would qualify for the following per contract credits on electronic executions (the ''CustFirmBD Threshold''):

- A $0.62 per contract credit from non-Customer posted interest in non-Penny Pilot issues, as proposed alternative qualification to new Tier 3 of the Non-Customer, Non-Penny Pilot Posting Credit Tiers; and
- A $0.85 per contract credit from Customer posted interest in non-Penny Pilot issues, as proposed alternative qualification to Tier A of Customer and Professional Customer Posting Credit Tiers in Non-Penny Issues.[20]

Customer Penny and Non-Customer Non-Penny Volume Incentives

The Exchange also proposes additional modifications to the existing posting credit tier qualification thresholds and credits to encourage diverse order flow.

First, the Exchange proposes to modify the existing qualifications for Tier 2 under the Customer Penny Pilot Posting Credit Tiers by replacing the existing alternative qualification, which requires an OTP Holder to have at least 0.70% of TCADV from posted interest in Penny Pilot Issues in all account types, with a new proposed Tier 2 alternative that would require an OTP Holder to increase or step-up posted interest in all issues, all account types other than Market Maker by at least 0.15% of TCADV over its March 2020 level of posted interest in all issues, all account types other than Market Maker.[21] The amount of the contract credit for Tier 2 would not change. The Exchange notes that although it has deleted the existing Tier 2 alternative qualification basis, an OTP Holder can still aim to achieve credits based on posted interest in Penny Pilot Issues under Tier 4, which has a slightly higher (0.85%) minimum qualification basis.[22]

The Exchange also proposes to modify the Non-Customer, Non-Penny Pilot Posting Credit Tiers by introducing a new Tier 3 with two alternatives to qualify for the proposed credit. As described above, OTP Holders can qualify for a $0.62 per contract credit in proposed Tier 3 by achieving the CustFirmBD Threshold. As an alternative, OTP Holders can qualify for the same Tier 3 credit by executing at least 0.15% of TCADV from non-Customer posted interest in all non-Penny issues. In addition, current Tier 3 would become new Tier 4, and the qualification threshold for that tier would be increased to require at least 0.25% of TCADV (up from 0.20%) from Non-Customer posted interest in all non-Penny Issues and the per contract credit of $0.82 would remain unchanged.[23]

The Exchange believes the proposed changes to the posting tiers are reasonable because OTP Holders (and their affiliates) can bring a variety of order flow to the Exchange, which may result in an increase volume and liquidity on both its options and equites platforms. The Exchange's fees are constrained by intermarket competition, as OTP Holders may direct their order flow to any of the 16 options exchanges, including those with similar posting incentives.[24] The proposed cross-asset pricing is designed to encourage participants to (continue to) conduct trading in both options and equities on the Exchange. The Exchange notes that all market participants stand to benefit from increased transaction volume, which promotes market depth, facilitates tighter spreads and enhances price discovery, and may lead to a corresponding increase in order flow from other market participants.

The Exchange cannot predict with certainty whether any OTP Holders would avail themselves of this proposed fee change by achieving any of the qualifications. At present, whether or when an OTP Holder qualifies for the various incentive Tiers in a given month is dependent on market activity and an OTP Holder's mix of order flow. Thus, the Exchange cannot predict with any certainty the number of OTP Holders that may qualify for the various proposed tiers—especially because the proposed credits for Firm and Broker Dealer volume would be new. However, the Exchange believes that OTP Holders would be encouraged to take advantage of the newly adopted and modified credits.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[25] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[26] 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.

The Proposed Rule Change Is Reasonable

The Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. 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

[20] The Exchange notes that the $0.85 per contract credit would be an increase (from $0.83) to the existing Tier A qualification basis that an OTP Holder execute ''[a]t least 0.80% of TCADV from Customer posted interest in all issues.'' *See* Fee Schedule, Customer Posting Credit Tiers in Non-Penny Issues. The Exchange proposes to remove reference to Professional Customer from the column heading given that such transactions are treated the same as Customer, which change would add clarity, transparency and internal consistency to the Fee Schedule making it easier to navigate. See proposed Fee Schedule, CUSTOMER POSTING CREDIT TIERS IN NON-PENNY PILOT ISSUES (with updated column title ''Customer Posting Credit Tiers In Non-Penny Pilot Issues'').

[21] *See* proposed Fee Schedule, CUSTOMER PENNY PILOT POSTING CREDIT TIERS. As an example: If TCADV for the month of May 2020 is 1,500,000 contracts, then 0.15% of the TCADV would be 2,250 contracts. Assume an OTP Holder had an ADV in March 2020 of 11,000 contracts from posted Customer and Non-Customer interest (excluding Market Maker interest). To qualify for Tier 2 under this alternative, the OTP Holder would have to increase its posted Customer and Non Customer volumes (exclusive of Market Maker interest) by at least 2,250 contracts ADV, to a minimum level of 13,250 contracts ADV.

[22] *See* Fee Schedule, CUSTOMER PENNY PILOT POSTING CREDIT TIERS, Tier 4.

[23] *See* proposed Fee Schedule, NON-CUSTOMER, NON-PENNY PILOT POSTING CREDIT TIERS.

[24] *See supra* note 14.

[25] 15 U.S.C. 78f(b).

[26] 15 U.S.C. 78f(b)(4) and (5).

broader forms that are most important to investors and listed companies.'' [27]

There are currently 16 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.[28] Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity & ETF options order flow. More specifically, in January 2020, the Exchange had less than 10% market share of executed volume of multiply-listed equity & ETF options trades.[29] In addition, by including the cross-asset pricing in the Firm and Broker Dealer Incentive Program, it is important to note that the equities market is likewise subject to stark competition. As the Commission itself recognized, the market for trading services in NMS stocks has become ''more fragmented and competitive.'' [30] Indeed, equity trading is currently dispersed across 13 exchanges, 32 alternative trading systems, and numerous broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly-available information, no single exchange has more than 18% market share (whether including or excluding auction volume). Therefore, no exchange possesses significant pricing power in the execution of equity order flow. More specifically, the Exchange's market share of trading in Tapes A, B, and C securities combined is less than 1%.

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue or reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain options exchange transaction fees. Stated otherwise, changes to exchange transaction fees can have a direct effect on the ability of an exchange to compete for order flow.

The proposed changes are designed to incent OTP Holders to transact more options (and equities) volume on the Exchange. The FBD Posting Incentive is designed to encourage OTP Holders to increase the Firm and Broker dealer volume sent to the Exchange for execution. The Firm and Broker Dealer Incentive Program, which will be available to participants that qualify for the FBD Posting Incentive, would encourage increased equity market participation by OTP Holders and their affiliates. The Exchange believes this should increase volume and liquidity—on both its options and equites platforms—to the benefit of all market participants by providing more trading opportunities and tighter spreads, and may lead to a corresponding increase in order flow from other market participants.

Further, the proposed FBD Posting Incentive and related cross-asset pricing incentive are similar to and competitive with posting credit tiers for Firm and Broker Dealer volume and cross-asset pricing offered by other exchanges and is designed to attract (and compete for) order flow to the Exchange, which provides a greater opportunity for trading by all market participants.[31]

The Exchange believes that the proposed change to add new posting tiers as well as to modify thresholds and credits available under existing posting credit tiers would incent OTP Holders to increase the number and variety orders sent to the Exchange for execution. Further, the Exchange notes that it continues to provide OTP Holders alternative methods (and thus increased opportunities) to qualify for posting credits and pricing incentives, resulting in favorable rates for a variety of order types. As such, OTP Holders would be encouraged to increase their participation on the Exchange, thereby improving the quoted markets and attracting more order flow to the Exchange. To the extent that the proposed change attracts more order flow to the Exchange, this increased order flow would continue to make the Exchange a more competitive venue for order execution, which, in turn, promotes just and equitable principles of trade and removes impediments to and perfects the mechanism of a free and open market and a national market system.

Finally, to the extent the proposed change continues to attract greater volume and liquidity, the Exchange believes the proposed change would improve the Exchange's overall competitiveness and strengthen its market quality for all market participants. In the backdrop of the competitive environment in which the Exchange operates, the proposed rule change is a reasonable attempt by the Exchange to increase the depth of its market and improve its market share relative to its competitors.

The Exchange cannot predict with certainty whether any OTP Holders would avail themselves of this proposed fee change. At present, whether or when an OTP Holder qualifies for the various incentive Tiers in a given month is dependent on market activity and an OTP Holders mix of order flow. Thus, the Exchange cannot predict with any certainty the number of OTP Holders that may qualify for the various proposed tiers—especially because the credits for Firm and Broker Dealer volume is brand new. However, the Exchange believes that OTP Holders would be encouraged to take advantage of the newly adopted and modified credits.

The Proposed Rule Change Is an Equitable Allocation of Credits and Fees

The Exchange believes the proposed rule change is an equitable allocation of its fees and credits. The proposal is based on the amount and type of business transacted on the Exchange and OTP Holders can opt to avail themselves of the incentives or not. Moreover, the proposal is designed to encourage OTP Holders to submit orders from all account types to the Exchange as a primary execution venue. To the extent that the proposed change attracts more Firm and Broker Dealer orders to the Exchange, this increased order flow would continue to make the Exchange a more competitive venue for order execution. Thus, the Exchange believes the proposed rule change would improve market quality for all market participants on the Exchange and, as a consequence, attract more order flow to the Exchange thereby improving market-wide quality and price discovery.

The Proposed Rule Change Is not Unfairly Discriminatory

The Exchange believes it is not unfairly discriminatory to introduce the various Tiers because the proposed modifications would be available to all similarly-situated market participants on an equal and non-discriminatory basis.

The proposal is based on the amount and type of business transacted on the Exchange and OTP Holders are not obligated to try to achieve the qualifications for any of the tiers, nor are they obligated to execute Firm and Broker Dealer orders. Rather, the proposal is designed encourage OTP Holders to utilize the Exchange as a primary trading venue for Firm and

[27] *See* Reg NMS Adopting Release, *supra* note 6, at 37499.

[28] The OCC publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, *available here: https://www.theocc.com/market-data/volume/default.jsp.*

[29] Based on OCC data, *see id.,* in 2019, the Exchange's market share in equity-based options was 9.57% for the month of January 2019 and 9.59% for the month of January 2020.

[30] *See supra* note 9.

[31] *See supra* note 14.

Broker Dealer Executions (if they have not done so previously) or increase volume sent to the Exchange. To the extent that the proposed change attracts more Firm and Broker Dealer orders to the Exchange, this increased order flow would continue to make the Exchange a more competitive venue for, among other things, order execution. Thus, the Exchange believes the proposed rule change would improve market quality for all market participants on the Exchange and, as a consequence, attract more order flow to the Exchange thereby improving market-wide quality and price discovery. The resulting increased volume and liquidity would provide more trading opportunities and tighter spreads to all market participants and thus would promote just and equitable principles of trade, 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.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act, the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, 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 market participants. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.'' [32]

Intramarket Competition. The proposed change is designed to attract additional order flow (particularly Firm and Broker Dealer orders) to the Exchange. The Exchange believes that the proposed FBD Posting Incentive, and related cross-asset pricing, would encourage market participants to direct a variety of order flow to the Exchange, including Firm and Broker Dealer execution volume to the Exchange. Greater liquidity benefits all market participants on the Exchange and increased Firm and Broker Dealer transactions would increase opportunities for execution of other trading interest. The proposed change would be available to all similarly-situated market participants (including those that handle Firm and Broker Dealer order flow), and, as such, the proposed change would not impose a disparate burden on competition among market participants on the Exchange.

Intermarket Competition. The Exchange operates in a highly competitive market in which market participants can readily favor one of the 16 competing option exchanges if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and to attract order flow to the Exchange. Based on publicly-available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.[33] Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity & ETF options order flow. More specifically, in January 2020, the Exchange had less than 10% market share of executed volume of multiply-listed equity & ETF options trades.[34]

The Exchange believes that the proposed rule change reflects this competitive environment because it modifies the Exchange's fees in a manner designed to encourage OTP Holders (and affiliates) to direct trading interest (particularly Firm and Broker Dealer order flow) to the Exchange, to provide liquidity and to attract order flow. To the extent that this purpose is achieved, all the Exchange's market participants should benefit from the improved market quality and increased opportunities for price improvement.

The Exchange believes that the proposed change could promote competition between the Exchange and other execution venues, including those that currently offer similar incentives, by encouraging additional orders to be sent to the Exchange for execution.[35]

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) [36] of the Act and subparagraph (f)(2) of Rule 19b–4 [37] thereunder, because it establishes a due, 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) [38] 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 No. SR–NYSEArca–2020–44 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File No. SR–NYSEArca–2020–44. 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/*

[32] *See* Reg NMS Adopting Release, *supra* note 6, at 37499.

[33] The OCC publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, *available here: https://www.theocc.com/market-data/volume/default.jsp.*

[34] Based on OCC data, *see id.,* in 2019, the Exchange's market share in equity-based options was 9.57% for the month of January 2019 and 9.59% for the month of January 2020.

[35] *See supra* note 14.

[36] 15 U.S.C. 78s(b)(3)(A).

[37] 17 CFR 240.19b–4(f)(2).

[38] 15 U.S.C. 78s(b)(2)(B).

rules/sro.shtml). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NYSEArca–2020–44, and should be submitted on or before June 10, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[39]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–10816 Filed 5–19–20; 8:45 am]

BILLING CODE 8011–01–P

[39] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88870; File No. SR–FINRA–2020–013]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change To Add FINRA Rule 6800 Series (Consolidated Audit Trail Compliance Rule) to FINRA's Minor Rule Violation Plan (''MRVP'')

May 14, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on April 29, 2020, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and approving the proposal on an accelerated basis.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to add industry member compliance rules relating to the Consolidated Audit Trail (''CAT'') to FINRA's Minor Rule Violation Plan (''MRVP'').

The text of the proposed rule change is available on FINRA's website at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

FINRA Rule 9216(b) provides procedures for disposition of certain rule violations designated as minor rule violations pursuant to a plan declared effective by the Commission in accordance with Section 19(d)(1) of the Act and Rule 19d–1(c)(2) thereunder. FINRA's MRVP allows FINRA to impose a fine of up to $2,500 on any member or person associated with a member for a minor violation of an eligible rule. FINRA Rule 9217 sets forth the rules eligible for disposition pursuant to FINRA's MRVP. FINRA is proposing to amend Rule 9217 to make minor violations of the CAT industry member compliance rules in the Rule 6800 Series eligible for disposition under FINRA's MRVP.

The purpose of the MRVP is to provide reasonable but meaningful sanctions for minor or technical violations of rules when the conduct at issue does not warrant stronger, immediately reportable disciplinary sanctions. The inclusion of a rule in FINRA's MRVP does not minimize the importance of compliance with the rule, nor does it preclude FINRA from choosing to pursue violations of eligible rules through an Acceptance, Waiver and Consent (''AWC'') or Complaint if the nature of the violations or prior disciplinary history warrants more significant sanctions. Rather, the option to impose an MRVP sanction gives FINRA additional flexibility to administer its enforcement program in the most effective and efficient manner, while still fully meeting FINRA's remedial objectives in addressing violative conduct. For example, MRVP dispositions provide a useful tool for implementing the concept of progressive discipline to remediate misconduct.[3]

With this proposed rule change, FINRA would add its CAT industry member compliance rules to its MRVP. FINRA adopted its CAT industry member compliance rules in the Rule 6800 Series to implement the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan''). The CAT NMS Plan was filed by the Plan Participants to comply with Rule 613 of Regulation NMS under the Exchange Act,[4] and each Plan Participant accordingly has adopted the same compliance rules that FINRA has in its Rule 6800 Series. The common compliance rules adopted by each Participant are designed to require industry members to comply with the provisions of the CAT NMS Plan, which broadly calls for industry members to record and report timely and accurate customer, order, and trade information relating to activity in NMS Securities and OTC Equity Securities.

FINRA notes that the CAT industry member compliance rules are highly similar to rules already covered in FINRA's MRVP. Specifically, the CAT industry member compliance rules in the Rule 6800 Series include rules relating to clock synchronization (Rule 6820), the recording and reporting of order and trade data (Rules 6830, 6840, 6850, 6860, 6870, 6880, and 6893), and recordkeeping (Rule 6890). FINRA's current MRVP includes the same kinds of audit trail-related rules relating to clock synchronization (Rule 4590), the recording and reporting of order audit trail data (Rules 7440, 7450), and recordkeeping (Rule 4510 Series and SEA Rule 17a–3(a) and 17a–4).

If approved, FINRA plans to employ the MRVP for CAT compliance rules the

[3] *See Notice to Members* 04–19 (March 2004) (providing guidance on FINRA's approach to progressive discipline under its MRVP).

[4] 17 CFR 242.613.

same way FINRA has for its similar existing audit trail-related rules.[5] FINRA is also coordinating with other Participants to promote harmonized and consistent enforcement of all the Participants' CAT compliance rules. The Commission recently approved a Rule 17d–2 Plan under which the regulation of CAT compliance rules will be allocated among Participants to reduce regulatory duplication for industry members that are members of more than one Participant (''common members'').[6] Under the Rule 17d–2 Plan, the regulation of CAT compliance rules with respect to common members that are members of FINRA is allocated to FINRA, and this proposed rule change would allow FINRA to consider MRVP dispositions in those cases. Similarly, under the Rule 17d–2 Plan, responsibility for common members of multiple other Participants and not a member of FINRA will be allocated among those other Participants, and FINRA understands the other Participants will submit proposed rule changes to adopt the same MRVP terms contemplated in this filing for their CAT compliance rules. As a result, there will be a coordinated, harmonized approach to CAT compliance rule enforcement across Participants, and it will be consistent with the approach FINRA has long taken for similar audit trail-related rules.

If the Commission approves the proposed rule change, the effective date of the proposed rule change will be the date of approval. FINRA has requested the Commission to find good cause pursuant to Section 19(b)(2) of the Act[7] for approving the proposed rule change prior to the 30th day after its publication in the **Federal Register**, to allow the change to take effect in line with the commencement of the first phase of industry member reporting to CAT.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[8] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade and, in general, to protect investors and the public interest. FINRA further believes that the proposed rule change is consistent with the provisions of Section 15A(b)(2) and (b)(7) of the Act,[9] which requires that FINRA enforce and provide appropriate discipline for violation of FINRA rules and applicable federal securities laws, rules and regulations. FINRA believes that adopting the proposed rule change will strengthen FINRA's ability to carry out its oversight and enforcement responsibilities in cases where full disciplinary proceedings are not warranted in view of the minor nature of the particular violation.

In addition, FINRA's MRVP, as amended by this proposal, provides a fair procedure for disciplining members and persons associated with members, consistent with Sections 15A(b)(8) and 15A(h)(1) of the Act.[10] The MRVP does not preclude a member or associated person from contesting an alleged violation and receiving a hearing on the matter with the same procedural rights through a litigated disciplinary proceeding.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Economic Impact Assessment

FINRA has undertaken an economic impact assessment, as set forth below, to analyze the potential economic impacts, including anticipated costs, benefits, and distributional and competitive effects, and the alternatives FINRA considered in assessing how to best meet its regulatory objectives.

Regulatory Need

FINRA is proposing to amend Rule 9217 to make minor violations of the CAT industry member compliance rules in the Rule 6800 Series eligible for disposition under FINRA's MRVP, which allows FINRA to impose a fine of up to $2,500 on any member or person associated with a member for a minor violation of an eligible rule. The purpose of the MRVP is to provide reasonable but meaningful sanctions for minor or technical violation of rules when the conduct at issue does not warrant stronger, immediately reportable disciplinary sanctions. This proposal is intended to allow MRVP dispositions when appropriate in the enforcement of CAT industry member reporting requirements.

Economic Baseline

FINRA adopted its CAT industry member compliance rules in the Rule 6800 Series to implement the National Market System Plan Governing the CAT NMS Plan. The CAT NMS Plan was filed by the Plan Participants to comply with Rule 613 of Regulation NMS under the Exchange Act,[11] and each Plan Participant accordingly has adopted the same compliance rules that FINRA has in its Rule 6800 Series. As the CAT industry member compliance rules take effect, members must comply with them and FINRA must enforce compliance with them. As discussed above, the CAT industry member compliance rules are highly similar to existing audit trail-related rules already eligible for disposition under FINRA's MRVP.

Economic Impact

The proposed rule will allow FINRA to treat violations of CAT compliance rules the same way FINRA treats violations of its current audit trail-related rules, including OATS. As such, most industry members would be subject to the same regime that exists today for enforcing FINRA's current audit trail-related rules and would not be expected to experience any additional costs or benefits under the proposed rule. The proposed rule may provide benefits, including to FINRA and reporting firms, if MRVP dispositions are eligible to be used when FINRA deems appropriate, as the MRVP gives FINRA additional flexibility to administer its enforcement program in the most effective and efficient manner.

Furthermore, the efforts of all CAT NMS Plan participants to adopt a coordinated, harmonized approach to MRVP treatment for CAT compliance rules will promote consistent treatment for all industry members that trade NMS Securities and OTC Equity Securities.

Alternatives Considered

No alternatives are under consideration.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. 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.

[5] *See Notice to Members* 04–19 (March 2004) (providing specific factors used to inform dispositions for violations of OATS reporting rules).

[6] *See* Securities Exchange Act Release No. 88366 (March 12, 2020), 85 FR 15238 (March 17, 2020).

[7] 15 U.S.C. 78s(b)(2).

[8] 15 U.S.C. 78*o*–3(b)(6).

[9] 15 U.S.C. 78*o*–3(b)(2) and 78*o*–3(b)(7).

[10] 15 U.S.C. 78*o*–3(b)(8) and 78*o*–3(h)(1).

[11] 17 CFR 242.613.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2020–013 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2020–013. 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 FINRA. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2020–013 and should be submitted on or before June 10, 2020.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[12] In particular, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Exchange Act,[13] which requires that FINRA rules be designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission also believes that the proposal is consistent with Sections 15A(b)(2) and 15A(b)(7) of the Exchange Act,[14] which require that FINRA rules enforce compliance with, and provide appropriate discipline for, violations of Commission and FINRA rules. Finally, the Commission finds that the proposal is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act, as required by Rule 19d–1(c)(2) under the Act,[15] which governs minor rule violation plans.

As stated above, FINRA proposes to add industry member compliance rules relating to CAT to FINRA's MRVP. According to FINRA, FINRA's current MRVP includes similar audit trail-related rules, and FINRA plans to employ the MRVP for CAT compliance rules the same way it has for its existing audit trail-related rules.[16] The Commission believes that the proposed rule provides a reasonable means of addressing violations that do not rise to the level of requiring formal disciplinary proceedings, while providing greater flexibility in handling certain violations. However, the Commission expects that FINRA will continue to conduct surveillance with due diligence and make determinations based on its findings, on a case-by-case basis, regarding whether a sanction under the rule is appropriate, or whether a violation requires formal disciplinary action.

For the same reasons discussed above, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[17] for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of the filing thereof in the **Federal Register**. The proposal merely adds FINRA's newly adopted CAT industry member compliance rules to its MRVP, which already includes similar audit trail-related rules. Accordingly, the Commission believes the proposal raises no novel or significant issues. Further, the Commission believes that a full notice-and-comment period is not necessary before approving the proposal.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act[18] and Rule 19d–1(c)(2) thereunder,[19] that the proposed rule change (SR–FINRA–2020–013) be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–10814 Filed 5–19–20; 8:45 am]

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[12] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[13] 15 U.S.C. 78*o*–3(b)(6).

[14] 15 U.S.C. 78*o*–3(b)(2) and 15 U.S.C. 78*o*–3(b)(7).

[15] 17 CFR 240.19d–1(c)(2).

[16] *See supra* note 5 and accompanying text.

[17] 15 U.S.C. 78s(b)(2).

[18] 15 U.S.C. 78s(b)(2).

[19] 17 CFR 240.19d–1(c)(2).

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88878; File No. SR–NYSEAMER–2020–38]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Rules To Add New Rule 7.19E

May 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 May 7, 2020, NYSE American LLC (''NYSE American'' 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 rules to add new Rule 7.19E (Pre-Trade Risk Controls). 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

In order to assist ETP Holders' efforts to manage their risk, the Exchange proposes to amend its rules to add new Rule 7.19E (Pre-Trade Risk Controls) to establish a set of pre-trade risk controls by which Entering Firms and their designated Clearing Firms (as defined below) may set credit limits and other pre-trade risk controls for an Entering Firm's trading on the Exchange and authorize the Exchange to take action if those credit limits or other pre-trade risk controls are exceeded.

For purposes of this proposed rule change, the Exchange proposes to define the term ''Entering Firm'' to mean an ETP Holder that either has a correspondent relationship with a Clearing Firm whereby it executes trades and the clearing function is the responsibility of the Clearing Firm or clears for its own account [4] and to define the term ''Clearing Firm'' to mean an ETP Holder that acts as principal for clearing and settling a trade, whether for its own account or for an Entering Firm.[5]

a. Overview

In order to help firms manage their risk, the Exchange proposes to offer optional pre-trade risk controls that would authorize the Exchange to take automated actions if a designated credit limit or other pre-trade risk control for a firm is breached. Because Clearing Firms bear the risk on behalf of their correspondent Entering Firms, the Exchange proposes to make the proposed pre-trade risk controls available not only to Entering Firms, but also to their Clearing Firms, if so authorized by the Entering Firm. These pre-trade risk controls would provide Entering Firms and their Clearing Firms with enhanced abilities to manage their risk with respect to orders on the Exchange.

As proposed, these optional controls would allow Entering Firms and their Clearing Firms (if designated by the Entering Firm) to each define different pre-set risk thresholds and to choose the automated action the Exchange would take if those thresholds are breached, which would range from notifying the Entering Firm and Clearing Firm that a limit has been breached, blocking new orders, or canceling orders until the Entering Firm has been reinstated to trade on the Exchange.

Although use of the proposed Exchange-provided pre-trade risk controls are optional, all orders on the Exchange will pass through risk checks. As such, an Entering Firm that does not choose to set limits or permit its Clearing Firm to set limits on its behalf will not achieve any latency advantage with respect to its trading activity on the Exchange. In addition, the Exchange expects that any latency added by the pre-trade risk controls will be *de minimis*.

The proposed pre-trade risk controls described are meant to supplement, and not replace, the ETP Holders' own internal systems, monitoring and procedures related to risk management. The Exchange does not guarantee that these controls will be sufficiently comprehensive to meet all of an ETP Holder's needs, the controls are not designed to be the sole means of risk management, and using these controls will not necessarily meet an ETP Holder's obligations required by Exchange or federal rules (including, without limitation, the Rule 15c3–5 under the Act [6] (''Rule 15c3–5'')). Use of the Exchange's pre-trade risk controls will not automatically constitute compliance with Exchange or federal rules and responsibility for compliance with all Exchange and Commission rules remains with the ETP Holder.[7]

b. Proposed Rule Change

Proposed Rule 7.19E(a) would set forth the definitions that would be used for purposes of the Rule. In addition to the defined terms of ''Entering Firm'' and ''Clearing Firm,'' as described above, the Exchange proposes the following definitions:

- The term ''Single Order Maximum Notional Value Risk Limit'' would mean a pre-established maximum dollar amount for a single order before it can be traded.
- The term ''Single Order Maximum Quantity Risk Limit'' would mean a pre-established maximum number of shares that may be included in a single order before it can be traded.
- The term ''Gross Credit Risk Limit'' would mean a pre-established maximum daily dollar amount for purchases and sales across all symbols, where both buy and sell orders are counted as positive values. For purposes of calculating the Gross Credit Risk Limit, unexecuted orders in the Exchange Book,[8] orders routed on arrival pursuant to Rule 7.37E(a)(1), and executed orders are included.

Proposed Rule 7.19E(b) would set forth the Pre-Trade Risk Controls that would be available to Entering Firms and Clearing Firms. Under proposed Rule 7.19E(b)(1), an Entering Firm may select one or more of the following optional pre-trade risk controls with respect to its trading activity on the Exchange: (i) Gross Credit Risk Limits; (ii) Single Order Maximum Notional Value Risk Limits; and (iii) Single Order Maximum Quantity Risk Limits, which would collectively be referred to as the ''Pre-Trade Risk Controls.''

In addition, under proposed Rule 7.19E(b)(2)(A), an Entering Firm that does not self-clear may designate its Clearing Firm to (i) view any Pre-Trade Risk Controls set by the Entering Firm, or (ii) set one or more Pre-Trade Risk Controls on the Entering Firm's behalf, or both. Proposed Rule 7.19E(b)(2)(B) provides that an Entering Firm would be able to view any Pre-Trade Risk Controls that its Clearing Firm sets with respect to the Entering Firm's trading activity on the Exchange. Because both an Entering Firm and Clearing Firm (if so designated by the Entering Firm) would be able to access information about Pre-Trade Risk Controls, this mechanism would foster transparency between an Entering Firm and its Clearing Firm regarding which Pre-Trade Risk Control limits may have been set. For example, if an Entering Firm designates its Clearing Firm to view the Pre-Trade Risk Controls set by that Entering Firm, its Clearing Firm

[4] *See* proposed Rule 7.19E(a)(1).

[5] *See* proposed Rule 7.19E(a)(2). As required by Rule 7.14E, an ETP Holder is required to give up the name of the clearing firm through which each transaction on the Exchange will be cleared.

[6] *See* 17 CFR 240.15c3–5.

[7] The Exchange proposes Commentary .01 to Rule 7.19E to provide that ''[t]he pre-trade risk controls described in this Rule are meant to supplement, and not replace, the ETP Holder's own internal systems, monitoring and procedures related to risk management and are not designed for compliance with Rule 15c3–5 under the Exchange Act. Responsibility for compliance with all Exchange and SEC rules remains with the ETP Holder.''

[8] The term ''Exchange Book'' is defined in Rule 1.1E to refer to the Exchange's electronic file of orders, which contains all orders entered on the Exchange.

may determine that it does not need to separately set Pre-Trade Risk Controls on behalf of such Entering Firm.

Because the Entering Firm is the ETP Holder that is entering orders on the Exchange, the Exchange will not take action based on a Clearing Firm's instructions about the Entering Firm's trading activities on the Exchange without first receiving consent from the Entering Firm. Accordingly, proposed Rule 7.19E(b)(2)(C) would provide that if an Entering Firm designates a Clearing Firm to set Pre-Trade Risk Controls for the Entering Firm, the Entering Firm would be consenting to the Exchange taking certain prescribed actions (discussed further below) with respect to the Entering Firm's trading activity as provided for in proposed Rules 7.19E(c) and (d), described below. The Exchange would consider an Entering Firm to provide such consent by authorizing a Clearing Firm to enter Pre-Trade Risk Controls via the risk management tool that will be provided to Entering Firms in connection with this proposed rule change. Once such authorization is provided by the Entering Firm, the Clearing Firm would have access to the Pre-Trade Risk Controls that the Entering Firm designates. The proposed Rule makes clear that by designating a Clearing Firm to set limits on its trading activities, the Entering Firm will have authorized the Exchange to act pursuant to the Clearing Firm's instructions if the limits set by the Clearing Firm are breached.

Proposed Rule 7.19E(b)(3) would set forth how the Pre-Trade Risk Controls could be set or adjusted. Proposed Rule 7.19E(b)(3)(A) would provide that Pre-Trade Risk Controls may be set before the beginning of a trading day and may be adjusted during the trading day. Proposed Rule 7.19E(b)(3)(B) would provide that Entering Firms or Clearing Firms may set Pre-Trade Risk Controls at the MPID level or at one or more sub-IDs associated with that MPID.[9] The Exchange believes that supporting Pre-Trade Risk Controls at both an MPID and sub-ID level would provide both Entering Firms, and if designated, their Clearing Firms, more granular control over how such risk controls are determined and monitored.

Proposed Rule 7.19E(b)(4) would provide that with respect to Gross Credit Risk Limits, an Entering Firm and, if so designated, its Clearing Firm, will receive notifications when the Entering Firm is approaching or has breached a limit set by itself or by the Clearing Firm. The Exchange believes that by providing such notifications, the Entering Firm, and if designated, its Clearing Firm, would have advance notice that the Entering Firm is approaching a designated limit and could take steps to mitigate the potential that an automated breach action would be triggered.

Proposed Rule 7.19E(c) would set forth the actions the Exchange would be authorized to take when a Pre-Trade Risk Control set by an Entering Firm or a Clearing Firm is breached, which would be referred to as ''Automated Breach Actions.'' These proposed actions would be automated; if a Pre-Trade Risk Control is breached, the Exchange would automatically take the designated action and would not need further direction from either the Entering Firm or Clearing Firm to take such action.

At the outset, proposed Rule 7.19E(c)(1) would provide that if both an Entering Firm and its Clearing Firm set the same type of Pre-Trade Risk Control for the Entering Firm but have set different limits, the Exchange would enforce the more restrictive limit. For example, if an Entering Firm sets a Single Order Maximum Notional Value Risk Limit of $20 million and its Clearing Firm sets the same risk limit at $15 million, the Exchange will take action when the more restrictive limit is breached—*i.e.,* $15 million.

Proposed Rule 7.19E(c)(2) would set forth the Automated Breach Action the Exchange would take if an order would breach the designated limit of either a Single Order Maximum Notional Value Risk Limit or Single Order Maximum Quantity Risk Limit. As proposed, the Exchange would reject the incoming order that would have breached the applicable limit.

Proposed Rule 7.19E(c)(3)(A) would set forth the Automated Breach Actions the Exchange would take if a designated Gross Credit Risk Limit is breached. The Exchange proposes to provide options of which Automated Breach Action the Exchange would be authorized to take if a Gross Credit Risk Limit is breached. Such Automated Breach Actions would be taken at the MPID or sub-ID level that is associated with the designated Gross Credit Risk Limit. As proposed, when setting Gross Credit Risk Limits, the Entering Firm or Clearing Firm setting the limit would be required to indicate one of the following actions that the Exchange would take if such limit is breached:

- ''Notification Only.'' As set forth in proposed Rule 7.19E(c)(3)(A)(i), if this option is selected, the Exchange would continue to accept new orders and order instructions and would not cancel any unexecuted orders in the Exchange Book. Proposed Rule 7.19E(b)(4), described above, sets forth the notifications that would be provided to an Entering Firm, and if designated, a Clearing Firm regarding the Pre-Trade Risk Controls that have been set. With the ''Notification Only'' action, the Exchange would provide such notifications, but would not take any other automated actions with respect to new or unexecuted orders.
- ''Block Only.'' As set forth in proposed Rule 7.19E(c)(3)(A)(ii), if this option is selected, the Exchange would reject new orders and order instructions but would not cancel any unexecuted orders in the Exchange Book. The Exchange would continue to accept instructions from the Entering Firm to cancel one or more orders in full (including Auction-Only Orders) or any instructions specified in proposed Rule 7.19E(e) (described below), but would not take any automated action to cancel orders.
- ''Cancel and Block.'' As set forth in proposed Rule 7.19E(c)(3)(A)(iii), if this option is selected, in addition to the Block actions described above, the Exchange would also cancel all unexecuted orders in the Exchange Book other than Auction-Only Orders.

If an Entering Firm and its Clearing Firm each set different limits for a Gross Credit Risk Limit for the Entering Firm's activities on the Exchange, proposed Rule 7.19E(c)(3)(B) would provide that the Exchange would enforce the action that was chosen by the party that set the limit that was breached. For example, if a Clearing Firm sets a lower limit and designates the ''Cancel and Block'' Automated Breach Action, if that limit is breached, the Exchange will implement that ''Cancel and Block'' action even if the Entering Firm designated a different Automated Breach Action.

Proposed Rule 7.19E(c)(3)(C) would provide that if both the Entering Firm and Clearing Firm set the same Gross Credit Risk Limit and that limit is breached, the Exchange would enforce the most restrictive Automated Breach Action. As further proposed, for purposes of this Rule, the ''Cancel and Block'' action would be more restrictive than ''Block Only,'' which would be more restrictive than ''Notification Only.'' For example, if the Entering Firm selects the ''Block Only'' action for a Gross Credit Risk Limit and its Clearing Firm selects the ''Cancel and Block'' action for the same Gross Credit Risk Limit, if the limit is breached, the Exchange would take the ''Cancel and Block'' action for the Entering Firm's orders.

[9] Entering Firms may request that the Exchange create sub-IDs associated with their MPIDs.

Proposed Rule 7.19E(c)(4) would provide that if a Pre-Trade Risk Control set at the MPID level is breached, the Automated Breach Action specified at the MPID level would be applied to all sub-IDs associated with that MPID. For instance, if a Clearing Firm sets a Gross Credit Risk Limit for an MPID at $500 million and the Entering Firm sets Gross Credit Risk Limits for each of three sub-IDs associated with that MPID at $500 million each, if two of the sub-IDs reach a $250 million limit, which combined is the Gross Credit Risk Limit at the MPID level, the Automated Breach Action associated with the limit at the MPID level would be triggered and would apply also to the associated sub-IDs, even though none of the sub-IDs have breached their separate $500 million limits. This functionality ensures that an Entering Firm cannot effectively override a Pre-Trade Risk Control set at the MPID level by setting risk limits for each of the MPID's associated sub-IDs that cumulatively equal more than the MPID's total Gross Credit Risk Limit.

Proposed Rule 7.19E(d) concerns how an Entering Firm's ability to enter orders and order instructions would be reinstated after a ''Block Only'' or ''Cancel and Block'' Automated Breach Action has been triggered. In such case, proposed Rule 7.19E(d) provides that the Exchange would not reinstate the Entering Firm's ability to enter orders and order instructions on the Exchange (other than instructions to cancel one or more orders (including Auction-Only Orders) in full) without the consent of (1) the Entering Firm, and (2) the Clearing Firm, if the Entering Firm has designated that the Clearing Firm's consent is required. The Exchange proposes to include this functionality because the Clearing Firm bears the risk of any exposure of its correspondent Entering Firms.

Finally, proposed Rule 7.19E(e) would set forth ''kill switch'' functionality, which would allow an Entering Firm or its designated Clearing Firm to direct the Exchange to take certain bulk Kill Switch Actions with respect to orders. In contrast to the Automated Breach Actions described above, which the Exchange would take automatically after the breach of a credit limit, the Exchange would not take any of the Kill Switch Actions without express direction from the Entering Firm or its designated Clearing Firm.

Specifically, Proposed Rule 7.19E(e) would specify that an Entering Firm, or if authorized pursuant to proposed Rule 7.19E(b)(2)(A), its Clearing Firm, could direct the Exchange to take one or more of the following actions with respect to orders at either an MPID, or if designated, sub-ID Level: (1) Cancel all Auction-Only Orders; (2) Cancel all unexecuted orders in the Exchange Book other than Auction-Only Orders; or (3) Block the entry of any new orders and order instructions, provided that the Exchange would continue to accept instructions from Entering Firms to cancel one or more orders (including Auction-Only Orders) in full, and later, reverse that block.

The Exchange proposes that the Kill Switch functionality proposed in Rule 7.19E(e) would supersede and replace the Exchange's previously filed proposed rule change,[10] which provided certain post-trade risk management tools to ETP Holders, but not to their Clearing Firms.

The Exchange proposes to provide these post-trade Kill Switch Actions in addition to the pre-trade Automated Breach Actions described above in order to give Entering Firms and their Clearing Firms more flexibility in setting risk controls. An Entering Firm that wants more control over when and which actions are taken with respect to its orders may choose to use these Kill Switch Actions instead of the ''Block'' or ''Cancel and Block'' Automated Breach Actions described above. For example, for an Entering Firm that selects the ''Notification Only'' Automated Breach Action, if it receives notification of a credit breach, it could choose to direct the Exchange to take a Kill Switch Action described in proposed Rule 7.19E(e).

c. Proposed Rule Commentary

The Exchange proposes Commentary .01 to Rule 7.19E to specify that the Pre-Trade Risk Controls described in this Rule are meant to supplement, and not replace, the ETP Holder's own internal systems, monitoring and procedures related to risk management and are not designed for compliance with Rule 15c3–5 under the Act.[11] This proposed Commentary specifies that use of the Exchange's pre-trade risk controls would not automatically constitute compliance with Exchange or federal rules and responsibility for compliance with all Exchange and SEC rules remains with the ETP Holder. The Exchange does not guarantee that these controls will be sufficiently comprehensive to meet all of an ETP Holder's needs, the controls are not designed to be the sole means of risk management, and using these controls will not necessarily meet an ETP Holder's obligations required by Exchange or federal rules (including, without limitation, the Rule 15c3–5).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[12] in general, and furthers the objectives of Section 6(b)(5) of the Act,[13] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Specifically, the Exchange believes that the proposed rule will remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed optional Pre-Trade Risk Controls would provide both Entering Firms, and if designated, Clearing Firms, with the ability to manage risk, while also providing an alert system that would help to ensure that such firms are aware of developing issues. In addition, the Pre-Trade Risk Controls would provide Clearing Firms, who have assumed certain risks of the Entering Firms, greater control and flexibility over setting risk tolerance and exposure on behalf of their correspondent Entering Firms. As such, the Exchange believes that the Pre-Trade Risk Controls would provide a means to address potentially market-impacting events, helping to ensure the proper functioning of the market.

In addition, the Exchange believes that the proposed rule change is designed to protect investors and the public interest because the Pre-Trade Risk Controls are a form of impact mitigation that will aid Entering Firms and Clearing Firms in minimizing their risk exposure and reduce the potential for disruptive, market-wide events. The Exchange understands that ETP Holders implement a number of different risk-based controls, including those required by Rule 15c3–5. The proposed controls will serve as an additional tool for Entering Firms and Clearing Firms to

[10] *See* Securities Exchange Act Release No. 71165 (December 20, 2013), 78 FR 79053 (December 27, 2013) (SR–NYSEMKT–2013–102) (Notice of filing and immediate effectiveness of proposed rule change) (the ''2013 Risk Control Filing'').

[11] *See* 17 CFR 240.15c3–5.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

assist them in identifying any risk exposure. The Exchange believes the Pre-Trade Risk Controls will assist Entering Firms and Clearing Firms in managing their financial exposure which, in turn, could enhance the integrity of trading on the securities markets and help to assure the stability of the financial system.

Further, the Exchange believes that the proposed rule will foster cooperation and coordination with persons facilitating transactions in securities because the Exchange will provide alerts to Entering Firms and their Clearing Firms when the Entering Firm's trading reaches certain thresholds. As such, the Exchange will help Clearing Firms monitor the risk levels of their correspondent Entering Firms and provide tools for Clearing Firms, if designated, to take action.

The Exchange believes that proposed Commentary .01 to Rule 7.19 is designed to prevent fraudulent and manipulative acts and practices and promote just and equitable principles of trade because it provides clarity in Exchange rules that the proposed Pre-Trade Risk Controls are intended to supplement, and not replace, an ETP Holder's own internal systems, monitoring, and procedures related to compliance with Rule 15c3–5.

Finally, the Exchange believes that the proposed rule change does not unfairly discriminate among the Exchange's ETP Holders because use of the Pre-Trade Risk Controls is optional and is not a prerequisite for participation on the Exchange. In addition, because all orders on the Exchange would pass through the risk checks, there would be no difference in the latency experienced by ETP Holders who have opted to use the Pre-Trade Risk Controls versus those who have not opted to use them.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In fact, the Exchange believes that the proposal will have a positive effect on competition because, by providing Entering Firms and their Clearing Firms additional means to monitor and control risk, the proposed rule will increase confidence in the proper functioning of the markets. The Exchange believes the proposed Pre-Trade Risk Controls will assist Entering Firms and Clearing Firms in managing their financial exposure which, in turn, could enhance the integrity of trading on the securities markets and help to assure the stability of the financial system. As a result, the level of competition should increase as public confidence in the markets is solidified.

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

Because the foregoing proposed rule does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission,[14] the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [15] and Rule 19b–4(f)(6) thereunder.[16]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [17] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEAMER–2020–38 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–NYSEAMER–2020–38. 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–NYSEAMER–2020–38 and should be submitted on or before June 10, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–10821 Filed 5–19–20; 8:45 am]

BILLING CODE 8011–01–P

[14] The Exchange has fulfilled this requirement.

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(6).

[17] 15 U.S.C. 78s(b)(2)(B).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88868; File No. SR–NASDAQ–2020–024]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify the Implementation Date for a Recent Rule Change Modifying the Delisting Process for Certain Securities With a Bid Price at or Below $0.10 or That Have Had Reverse Stock Splits With a Cumulative Ratio of 250 or More to One Over the Prior Two-Year Period

May 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 May 1, 2020, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify the implementation date and process for rule changes adopted in SR-Nasdaq-2020–001.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On January 2, 2020, Nasdaq filed with the Commission a proposed rule change to modify the delisting process for securities with a bid price at or below $0.10 and for securities that have had one or more reverse stock splits with a cumulative ratio of 250 shares or more to one over the prior two year period.[3] The Commission approved this proposed rule change on April 21, 2020.[4]

In its filing, Nasdaq stated that this rule change would be implemented for companies that first receive notification of noncompliance with the bid price requirement after the date of the Commission's approval of the changes. However, Nasdaq does not believe it is appropriate to implement this new requirement, which would affect low priced stocks, during a time when the U.S. and global equities markets have experienced unprecedented market-wide declines as a result of the ongoing spread of the COVID–19 virus and companies face highly unusual market conditions.[5] Accordingly, Nasdaq is filing this rule change to delay the implementation date and process for the changes adopted in SR–Nasdaq–2020–001.

As revised, Nasdaq will implement these rule changes for companies that first receive notification of noncompliance with the bid price requirement on or after September 1, 2020. A company that receives notification of non-compliance prior to that date will not be subject to the rule changes.

While Nasdaq rules may allow a company two 180-day periods to regain compliance with the bid price requirement in certain circumstances, a company is not eligible for the second compliance period ''if it does not appear to Nasdaq that it is possible for the Company to cure the deficiency.''[6] As is currently the case, Nasdaq may rely upon this language to deny the second compliance period to a company with a very low stock price or that has engaged in significant prior reverse stock splits, even though the company is not yet subject to the rule changes.

Until all companies are subject to the rule changes, Nasdaq will include a statement at the start of Rule 5810 and Rule 5815 explaining that the rule was recently amended, describing the nature of the amendment, and specifying the effective date for the rule changes, along with a link to the revised rules. Starting September 1, 2020, Rules 5810 and 5815 will reflect the rule changes, but until all companies are subject to the rule changes Nasdaq will include a statement at the start of Rule 5810 and Rule 5815 explaining that the rule was recently amended, describing the nature of the amendment, and specifying the effective date for the rule changes, along with a link to the rules as they existed before the amendment.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by delaying the implementation date of the rule changes in light of market declines and disruptions as a result of the COVID–19 virus and actions taken to address the pandemic. Until these rule changes are implemented, Nasdaq will continue to apply its prior rules and, notwithstanding the proposed delay in implementing the effective date of the rule changes, would not provide a company with a second 180-day compliance period for a bid price deficiency if it does not appear to Nasdaq that it is possible for the company to cure the deficiency.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change impacts unique Nasdaq listing rules. While Nasdaq does not believe there will be any impact on competition from the rule changes or the proposed change to the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 87982 (January 15, 2020), 85 FR 3736 (January 22, 2020) (SR–Nasdaq–2020–001).

[4] Securities Exchange Act Release No. 88716 (April 21, 2020), 85 FR 23393 (April 27, 2020).

[5] *See* Securities Exchange Act Release No. 88685 (April 17, 2020), 85 FR 22777 (April 23, 2020) (permitting companies a longer period of time to regain compliance with Nasdaq's bid price and market value of publicly held shares continued listing requirements by tolling the compliance periods through and including June 30, 2020, due to market disruptions caused by the COVID–19 virus).

[6] Listing Rules 5810(c)(3)(A)(i) and (ii).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

implementation schedule of the rule changes, any impact on competition that does arise from the revised implementation schedule is necessary to reflect concerns about market conditions in light of the COVID–19 pandemic.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [9] and Rule 19b–4(f)(6) thereunder.[10]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [11] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [12] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative upon filing. The Exchange stated that such waiver would ensure that there is no confusion about the implementation schedule for the rule change. The Exchange further stated that it believes waiver is consistent with the protection of investors and the public interest because it would merely provide a delay, until September 1, 2020, in the implementation of an approved rule change due to the highly unusual market conditions resulting from the ongoing spread of the COVID–19 virus. The Exchange further noted that investors will continue to be protected by Nasdaq's other bid price rules, which will continue to apply during that time, subject to a temporary tolling of compliance periods through and including June 30, 2020, as described above.

The Commission notes that the proposal is a temporary measure to delay the effectiveness of an approved rule change until September 1, 2020 in light of current market conditions. Further, Nasdaq's existing bid price rules will continue to apply, including its ability to deny a company a second compliance period if it does not appear to Nasdaq that it is possible for the company to cure the deficiency. The waiver of the operative delay will also help to ensure that all companies have the same rules applied to them as to bid price deficiencies as of the date of the filing of this rule change to delay the implementation date of the new rules. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[13]

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 shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2020–024 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2020–024. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2020–024 and should be submitted on or before June 10, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–10812 Filed 5–19–20; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–180, OMB Control No. 3235–0247]

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:

Form N–8B–4

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'') requests for extension of the previously approved collection of information discussed below.

Form N–8B–4 (17 CFR 274.14) is the form used by face-amount certificate companies to comply with the filing and disclosure requirements imposed by Section 8(b) of the Investment Company Act of 1940 (15 U.S.C. 80a–8(b)). Among other items, Form N–8B–4 requires disclosure of the following information about the face-amount certificate company: Date and form of organization; controlling persons; current business and contemplated changes to the company's business; investment, borrowing, and lending policies, as well as other fundamental policies; securities issued by the company; investment adviser; depositaries; management personnel; compensation paid to directors, officers, and certain employees; and financial statements. The Commission uses the information provided in the collection of information to determine compliance with Section 8(b) of the Investment Company Act of 1940.

Form N–8B–4 and the burden of compliance have not changed since the last approval. Each registrant files Form N–8B–4 for its initial filing and does not file post-effective amendments to Form N–8B–4.[1] Commission staff estimates that no respondents will file Form N–8B–4 each year. There is currently only one existing face-amount certificate company, and no face-amount certificate companies have filed a Form N–8B–4 in many years. No new face-amount certificate companies have been established since the last OMB information collection approval for this form, which occurred in 2017. Accordingly, the staff estimates that, each year, no face-amount certificate companies will file Form N–8B–4, and that the total burden for the information collection is zero hours. Although Commission staff estimates that there is no hour burden associated with Form N–8B–4, the staff is requesting a burden of one hour for administrative purposes. Estimates of the burden hours are made solely for the purposes of the PRA and are not derived from a comprehensive or even a representative survey or study of the costs of SEC rules and forms.

The information provided on Form N–8B–4 is mandatory. The information provided on Form N–8B–4 will not be kept confidential. 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: May 15, 2020.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–10880 Filed 5–19–20; 8:45 am]

BILLING CODE 8011–01–P

[1] Pursuant to Section 30(b)(1) of the Act (15 U.S.C. 80a-29), each respondent keeps its registration statement current through the filing of periodic reports as required by Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) and the rules thereunder. Post-effective amendments are filed with the Commission on the face-amount certificate company's Form S–1. Hence, respondents only file Form N–8B–4 for their initial registration statement and not for post-effective amendments.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88876; File No. SR–CboeEDGX–2020–020]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fees Schedule

May 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 May 1, 2020, Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX Options'') is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend its Fees Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/edgx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fees Schedule for its equity options platform (EDGX Options), effective May 1, 2020.

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 20% of the market share and currently the Exchange represents only 4% of the market share.[3] Thus, in such a low-concentrated and highly competitive market, no single options

[3] *See* Cboe Global Markets U.S. Options Market Volume Summary (April 27, 2020), available at *https://markets.cboe.com/us/options/market_statistics/.*

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 Fees Schedule sets forth standard rebates and rates applied per contract. For example, the Exchange provides standard rebates ranging from $0.01 up to $0.21 per contract for orders that add liquidity in both Penny and Non-Penny Securities and assesses fees ranging from $0.01 up to $0.75 per contract for orders that remove liquidity in both Penny and Non-Penny Securities. The Exchange also offers tiered pricing which provides Members [4] opportunities to qualify for higher rebates or reduced fees where certain volume criteria and thresholds are met. Footnote 5 of the Fees Schedule provides that when orders are submitted with a Designated Give Up,[5] the applicable rebates (*i.e.,* any standard rebate or applicable tier rebates) for orders yielding fee code BC,[6] NC,[7] PC,[8] SC,[9] QA[10] and QM [11] are provided to the Member who routed the order to the Exchange. Now, the Exchange proposes to amend footnote 5 to include fee codes ZA[12] and ZB [13] in the aforementioned list of fee codes.

Under Rule 21.12 a Member acting as an options routing firm on behalf of one or more other Exchange Members (a ''Routing Firm'') is able to route orders to the Exchange and to immediately give up the party (a party other than the Routing Firm itself or the Routing Firm's own clearing firm) who will accept and clear any resulting transaction. Because the Routing Firm is responsible for the decision to route the order to the Exchange, the Exchange provides the rebate to the Routing Firm when the orders yield fee codes BC, NC, PC, SC, QA and QM. The Exchange believes that the Routing Firm should also be provided the rebate when the orders yield fee codes ZA and ZB as those orders also represent liquidity adding customer orders for which the Routing Firm is responsible for the decision to route the order to the Exchange. In connection with this change, the Exchange proposes to append footnote 5 to fee codes ZA and ZB in the Fee Codes and Associated Fees table of the Fees Schedule.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.[14] Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[15] in that it provides for the equitable allocation of reasonable dues, fees and other charges among Members and other persons using any facility or system which the Exchange operates or controls.

The Exchange notes that the U.S. options markets are highly competitive, and the proposed fee structure is intended to provide an incentive for Members to direct orders to the Exchange. The proposal would apply to fee codes ZA and ZB related to customer liquidity adding orders, because these, along with the fee codes already included in Footnote 5, are the primary rebates in place on the Exchange and reflect the primary liquidity that the Exchange is seeking to attract from Routing Firms that are able to identify Designated Give Ups.[16] The Exchange believes the proposed amendment is reasonable because the Exchange already provides such rebates to the Routing Firm for orders yielding similar fee codes for customer liquidity adding orders (*i.e.,* orders yielding fee codes BC, NC, PC, QA, and SC). Additionally, the Exchange believes that the proposed amendments to its Fees Schedule will enhance the Exchange's competitive position and will result in increased liquidity on the Exchange, to the benefit of all Exchange participants. Therefore, the Exchange believes that providing rebates is equitable and reasonable and not unfairly discriminatory as it would allow the Exchange, in the context of the give up procedure described above, to provide a rebate directly to the party making the routing decision to direct certain orders to the Exchange (*i.e.,* the Routing Firm), which is consistent with both the Exchange's historic practice and the purpose behind a rebate (*i.e.,* to incentivize the order being directed to the Exchange).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes its proposed amendments to its Fees Schedule would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed change represents a significant departure from previous pricing offered by the Exchange or its competitors. Additionally, Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. The Exchange believes that its proposal will incentivize Routing Firms that are utilizing the give up procedure to direct orders yielding fee code ZA and ZB to the Exchange, and will enhance the Exchange's competitive position by resulting in increased liquidity on the Exchange, thereby providing more opportunities for customers to receive best executions.

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 [17] and paragraph (f) of Rule 19b–4 [18] 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

[4] *See* Exchange Rule 1.5(n).

[5] A Designated Give Up of a User refers to a Clearing Member identified to the Exchange by that User as a Clearing Member the User requests the ability to give up and that has been processed by the Exchange as a Designated Give Up. *See* Exchange Rule 21.12(b).

[6] Orders yielding fee code BC represent AIM Agency (Customer) orders.

[7] Orders yielding fee code NC represent Customer, Non-Penny orders.

[8] Orders yielding fee code PC represent Customer, Penny Pilot orders.

[9] Orders yielding fee code SC represent SAM Agency (Customer) orders.

[10] Orders yielding fee code QA represent QCC Agency (Customer) orders.

[11] Orders yielding fee code QM represent QCC Agency (Non-Customer) orders.

[12] Orders yielding fee code ZA represent Complex, Customer (contra Non-Customer), Penny orders.

[13] Orders yielding fee code ZB represent Complex, Customer (contra Non-Customer), Non-Penny orders.

[14] 15 U.S.C. 78f.

[15] 15 U.S.C. 78f(b)(4).

[16] The Exchange notes that Market-Makers may only give up its respective Guarantor, as defined by Rule 21.12(b)(2). *See* Exchange Rule 21.12(b)(5).

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f).

the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeEDGX–2020–020 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–CboeEDGX–2020–020. 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 tomake available publicly. All submissions should refer to File Number SR–CboeEDGX–2020–020 and should be submitted on or before June 10, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–10819 Filed 5–19–20; 8:45 am]

BILLING CODE 8011–01–P

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88872; File No. SR–MIAX–2020–11]

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing of a Proposed Rule Change To Amend Exchange Rule 518, Complex Orders, To Adopt New Interpretation and Policy .08, Related Futures Cross ("RFC") Order Type

May 14, 2020.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 11, 2020, Miami International Securities Exchange, LLC ("MIAX Options" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Exchange Rule 518, Complex Orders.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/* at MIAX Options' principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Exchange Rule 518, Complex Orders, to adopt a new Related Futures Cross ("RFC") order type.

In April of 2018, the Exchange adopted a proposal to list and trade on the Exchange options on the SPIKES™ Index ("SPIKES" or the "Index"), a new index that measures expected 30-day volatility of the SPDR S&P 500 ETF Trust.[3] Options on the Index are cash-settled and have European-style exercise provisions.[4]

There are currently no futures listed on the Index, therefore Members[5] of the Exchange who want to hedge a position in SPIKES options using futures have to hedge using highly correlated related instruments, such as VIX futures. While the SPIKES Index is highly correlated to the VIX Index (SPIKES is over 99% correlated to VIX), there remains some basis risk[6] between the two products. That basis risk can be exacerbated in times of extreme volatility, such as we are currently experiencing in the markets. Both the SPIKES Index and VIX Index settle on the same day, at the market's open, but using options on two different, but highly correlated, products. The SPIKES settlement value is determined using the opening prices on the Exchange of SPY options which expire in 30 days, whereas the VIX settlement value is determined using the opening prices on the Cboe Exchange of the SPX options which expire in 30 days. While the two products (SPY and SPX) are highly correlated, there are supply and demand variances that can

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Release No. 83619 (July 11, 2018), 83 FR 32932 (July 16, 2018) (SR–MIAX–2018–14).

[4] *See* Exchange Rule 1809(a)(4).

[5] The term "Member" means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed "members" under the Exchange Act. *See* Exchange Rule 100.

[6] Basis risk is the financial risk that offsetting investments in a hedging strategy will not experience price changes in entirely opposite directions from each other. This imperfect correlation between two investments creates the potential for excess gains or losses in a hedging strategy, thus adding risk to the position. James Chen, *Basis Risk,* Investopedia (June 16, 2019), *https://www.investopedia.com/terms/b/basisrisk.asp.*

occur at settlement which can cause the settlement prices of the two indexes (SPIKES and VIX) to diverge. For example, the settlement which occurred on March 18, 2020 illustrates this divergence.

Index	3/17/20 Close	3/18/20 Close	3/18/20 Settlement
SPIKE	75.51	77.77	77.64
VIX	75.91	76.45	69.76
Difference *(SPIKE—VIX)*	−0.40	1.32	7.88

As illustrated above demand for SPY options expiring on April 17, 2020, was relatively neutral, however there was selling pressure in those options representing the VIX settlement, (SPX options), which caused a significant divergence in the settlement prices of the indexes.

The impact this divergence has on a hedged position can be seen in the following example.

Example 1

Firm A has a long position of 10,000 SPIKES call options that are deep-in-the-money.[7]

Firm A has also sold 1,000 VIX futures contracts to hedge their position. (SPIKES options have a $100 multiplier; VIX futures have a $1,000 multiplier)

To unwind the position Firm A has two options:

1. Wait until expiration and allow both the SPIKES calls and the VIX futures to expire into cash; or

2. Unwind the position by transferring the risk from the VIX futures into SPIKES options by simultaneously:

a. Buying back the short VIX futures position; and

b. Selling the long SPIKES options position by selling SPIKES option combos

If Firm A chooses option 1 and allows the position to expire, Firm A assumes additional market risk by assuming the basis risk at settlement. Under this scenario if Firm A had allowed the long SPIKES options position and the short VIX futures position to expire at the March 2020 settlement, the Firm would have realized an unplanned profit of 7.88M (7.88 × 10,000 × $100). However, the settlement variance could have gone in the opposite direction and resulted in an unplanned loss for Firm A.

If Firm A chooses option 2, Firm A must use a broker to find a party to take the other side of the position (contra party), which is a hedged position in highly correlated products, with some basis risk. Since these are highly correlated indexes (SPIKE and VIX), if one were to find another participant (or participants), the optimal transaction would be to trade the 10,000 SPIKES option combos and 1,000 VIX futures as a single trade. If a contra party (Firm B) to the trade can be located, Firm A and Firm B will have to agree to a price for the ''package.'' Once a price is agreed upon there will have to be two trades between the parties as the products trade on two different market centers with the options trading only on the MIAX Options Exchange and the VIX futures trading only on the Cboe Futures Exchange (''CFE'').

To facilitate this type of exchange, the Exchange is proposing to adopt a new order type that will permit a Member to convert their hedge in VIX futures into SPIKES options combos, a synthetic equivalent, that does not carry any basis risk (the proposed order type can also be used to exchange SPIKES options combos for a corresponding futures position in order to reduce margin and capital requirements). If both the SPIKES option combos on MIAX Options and the VIX futures on the CFE are executed as a ''clean cross'' Firm A is left with a long position of 10,000 SPIKES calls perfectly hedged with 10,000 short SPIKES option combos, while Firm B has a hedged position long 10,000 SPIKES options combos and a short position of 1,000 VIX futures. If the transaction is not executed as a clean cross and the options transaction is exposed to the market, there is an additional risk that a 3rd party could join the transaction on MIAX Options and purchase 5,000 SPIKES options, which would leave Firm B with a long position of 5,000 SPIKES option combos, but a short position of 1,000 VIX futures, leaving a portion of the transaction unhedged.

Therefore, the Exchange now proposes to amend Interpretations and Policies of Exchange Rule 518, to adopt new Policy .08, Related Futures Cross (''RFC'') Orders. The Exchange proposes to adopt rule text that will provide that:

(a) An EEM[8] may execute an RFC order, which is comprised of a SPIKES options combo coupled with a contra-side order or orders totaling an equal number of option combo orders, which is identified to the Exchange as being part of an exchange of option contracts for related futures positions. For purposes of RFC orders:

(1) In order to execute an RFC order an EEM must submit the RFC to the System,[9] which may execute automatically on entry without exposure.

(2) An EEM may execute an RFC order pursuant to subparagraph (1) above only if: (i) Each option leg executes at a price that complies with Exchange Rule 518(c), provided that no option leg executes at the same price as a Priority Customer Order[10] in the Simple Book; (ii) each option leg executes at a price at or between the NBBO[11] for the applicable series; and (iii) the execution price is better than the price of any complex order resting in the Strategy Book,[12] unless the RFC order is a Priority Customer Order and the resting complex order is a non-Priority Customer Order, in which case the execution price may be the same as or better than the price of the resting complex order. The System cancels an RFC order if it cannot execute.

(3) An RFC order may only be entered in the standard increment applicable to the class under Rule 518(c)(1).

(4) For purposes of this subparagraph (a), a SPIKES options combo is a two-

[7] A deep in the money option has an exercise, or strike price, significantly below (for a call option) or above (for a put option) the market price of the underlying asset. James Chen, *Deep In The Money,* Investopedia (April 30, 2019), *https://www.investopedia.com/terms/d/deepinthemoney.asp.*

[8] The term ''Electronic Exchange Member'' or ''EEM'' means the holder of a Trading Permit who is not a Market Maker. Electronic Exchange Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100.

[9] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

[10] The term ''Priority Customer'' means a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). *See* Exchange Rule 100.

[11] The term ''NBBO'' means the national best bid or offer as calculated by the Exchange based on market information received by the Exchange from OPRA. *See* Exchange Rule 100.

[12] The ''Strategy Book'' is the Exchange's electronic book of complex orders and complex quotes. *See* Exchange Rule 518(a)(17).

legged order with one leg to purchase (sell) SPIKE calls and another leg to sell (purchase) the same number of SPIKE puts with the same expiration date and strike price.

(5) For purposes of this subparagraph (a), an exchange of option contracts for related futures positions is a transaction entered into by market participants seeking to swap option positions with related futures positions with related exposures.

(a) A related futures position is a position in a futures contract with either the same underlying as, or a high degree of price correlation to, the underlying of the option combo in the RFC order so that the execution of the option combos in the RFC order would serve as an appropriate hedge for the related future positions.

(b) In an exchange of contracts for related positions, one party(ies) must be the buyer(s) of (or the holder(s) of) the long market exposure associated with the options positions and the seller(s) of corresponding futures contracts and the other party(ies) must be the seller(s) of (or holder(s) of) the short market exposure associated with the options positions and the buyer(s) of the corresponding futures contracts.[13] The quantity of the option contracts executed as part of the RFC order must correlate to the quantity represented by the related futures position portion of the exchange.

(6) An RFC order may be executed only during Regular Trading Hours and contemporaneously with the execution of the related futures position portion of the exchange.

(7) The transaction involving the related futures position of the exchange must comply with all applicable rules of the designated contract market on which the futures are listed for trading.

A ''clean cross'' transaction which is not broken up is the optimal transaction for executing this type of transaction because it allows both components of the transaction to be executed in their entirety.[14] If the trade is exposed on the Exchange it is subject to an additional risk that it is broken up, leaving one party with an unhedged position. These types of exchanges are permitted for products listed on the Cboe Futures Exchange LLC (''CFE'') pursuant to CFE Rule 414. The Exchange understands from customers that the need to reduce risk is prevalent in SPIKES based on current market conditions. The proposed rule change will provide market participants with the ability to exchange a corresponding futures position with a SPIKES options position, and also to exchange a SPIKES options position for a corresponding futures position, depending upon the position being held by the participant and the current market circumstances, provided that the transaction involving the related futures position complies with all applicable rules of the designated contract market on which the futures are listed for trading. This will allow market participants to reduce the basis risk, or better manage capital requirements, in their hedged portfolios while maintaining the same risk exposure.

The proposed rule will require that the executing EEM identify these crosses as related to an exchange for related positions. As a result, the Exchange's Regulatory Department has put in place a regulatory review plan that will permit it to ensure that any RFC orders that are executed are done in conjunction with an exchange of contract for related positions as required by the proposed rule. This proposed rule is substantially based upon the functionality described in Cboe Exchange Rule 5.24(e)(1)(D).[15]

2. Statutory Basis

MIAX believes that its proposed rule change is consistent with Section 6(b) of the Act[16] in general, and furthers the objectives of Section 6(b)(5) of the Act[17] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general protect investors and the public interest. The proposed rule change will provide market participants with the ability to exchange SPIKES options positions with corresponding futures positions, or exchange corresponding futures positions with SPIKES options positions. This will allow market participants to reduce basis risk, or better manage capital requirements, in their hedged portfolios while maintaining the same risk exposure.

The Exchange believes that the proposed rule change is consistent with the Act as it promotes just and equitable principles of trade and facilitates transactions in securities. The Exchange believes that because these orders must be executed on separate exchanges that executing these orders as a clean cross is justified as it allows them to achieve their intended purpose to reduce basis risk or better manage capital and margin requirements. Additionally, as the purpose of these trades is an exchange of risk in a hedged position, the Exchange believes it is appropriate to not expose these orders, as exposing these orders to the market introduces the risk that one side of the hedged transaction could be broken up, leaving one party with an unhedged position.

The Exchange believes that the proposed rule change, which is limited to a single class of a proprietary product listed only on the Exchange, is narrowly tailored for the specific purpose of exchanging a corresponding futures positions with a SPIKES options position, or to exchange a SPIKES options positions with a corresponding futures positions, to reduce basis risk and/or better manage capital requirements. The proposed rule change provides the Exchange with substantially the same functionality currently permitted on the Cboe Exchange.[18] The Exchange believes that this proposal does not present any novel or unique issues because at least one other exchange has a substantially similar rule.[19]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intra-market competition, as the Rules of the Exchange apply equally to all Exchange Members,[20] and any Member of the Exchange may use the RFC order type.

[13] As proposed, one side of the cross will consist of one party, and the other side may consist of multiple parties.

[14] A Qualified Contingent Cross Order is similarly executed as a clean cross. *See* Exchange Rule 516(j).

[15] *See* Securities Exchange Release No. 88447 (March 20, 2020) 85 FR 17129 (March 26, 2020) (SR–CBOE–2020–023).

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

[18] *See* Cboe Exchange Rule 5.24(e)(1)(D).

[19] *Id.*

[20] The term ''Member'' means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100.

The Exchange does not believe the proposed rule change will impose any burden on inter-market competition because the proposed rule change applies only to products listed on the Exchange. Additionally, the proposed order type is intended to accommodate riskless transactions for parties that are not seeking price improvement, but rather looking to swap risk exposure, and therefore is not intended to have a competitive impact. Further, the proposed rule is substantially similar to a rule on the Cboe Exchange and may promote inter-market competition.[21]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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–MIAX–2020–11 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–MIAX–2020–11. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 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–MIAX–2020–11, and should be submitted on or before June 10, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–10815 Filed 5–19–20; 8:45 am]

BILLING CODE 8011–01–P

[21] *See supra* note 19. [sic]

[22] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16452 and #16453; Louisiana Disaster Number LA–00102]

Administrative Declaration of a Disaster for the State of Louisiana

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Louisiana dated 05/13/2020.

Incident: Severe Storms and Tornadoes.

Incident Period: 04/12/2020.

DATES: Issued on 05/13/2020.

Physical Loan Application Deadline Date: 07/13/2020.

Economic Injury (EIDL) Loan Application Deadline Date: 02/16/2021.

ADDRESSES: Submit completed loan applications to:

U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Parish: Ouachita

Contiguous Parishes:

Louisiana: Caldwell, Jackson, Lincoln, Morehouse, Richland, Union.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	3.125
Homeowners Without Credit Available Elsewhere	1.563
Businesses With Credit Available Elsewhere	7.500
Businesses Without Credit Available Elsewhere	3.750
Non-Profit Organizations With Credit Available Elsewhere	2.750
Non-Profit Organizations Without Credit Available Elsewhere	2.750
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	3.750
Non-Profit Organizations Without Credit Available Elsewhere	2.750

The number assigned to this disaster for physical damage is 16452 B and for economic injury is 16453 0.

The State which received an EIDL Declaration # is Louisiana.

(Catalog of Federal Domestic Assistance Number 59008)

Jovita Carranza,

Administrator.

[FR Doc. 2020–10806 Filed 5–19–20; 8:45 am]

BILLING CODE 8026–03–P

DEPARTMENT OF STATE

[Public Notice 11119]

Bureau of Political-Military Affairs; Rescission of Policy of Denial Concerning BAE Systems Saudi Arabia Limited (BAES SAL) a Subsidiary of BAE Systems plc Under the International Traffic in Arms Regulations

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of State has rescinded the policy of denial concerning BAES SAL, a subsidiary of BAE Systems plc, included in **Federal Register** notice of May 23, 2011 (76 FR 29814).

DATES: This notice is effective on May 20, 2020.

FOR FURTHER INFORMATION CONTACT: Jae Shin, Director, Office of Defense Trade Controls Compliance, Bureau of Political-Military Affairs, Department of State (202) 632–2107.

SUPPLEMENTARY INFORMATION: On March 2, 2010, a judgment was filed against BAE Systems plc (BAES) for conspiring to commit offenses against the United States in violation of 18 U.S.C. 371, including conspiring to violate the Arms Export Control Act (AECA) and the International Traffic in Arms Regulations (ITAR). Subsequent to this conviction, the Department and BAES agreed to enter into a Consent Agreement in order to settle and dispose of all potential civil charges and penalties.

Upon signature of the agreement in 2011, BAES was statutorily debarred, and a rescission of debarment was concurrently issued. However, the Department chose to impose a policy of denial on the business units responsible for the majority of the violations: BAE Systems CS&S International, Red Diamond Trading Ltd., and Poseidon Trading Investments Ltd., including their divisions and business units, and successor entities. The Department announced the policy of denial by **Federal Register** notice in May 2011 (76 FR 29814, May 23, 2011).

According to BAES, sometime after the announcement of the policy of denial, BAE Systems CS&S International, Red Diamond Trading Ltd., and Poseidon Trading Investments Ltd. have ceased to exist. However, BAE SAL is a successor entity to BAE Systems CS&S International and remains subject to the policy of denial.

In response to a request from BAES for rescission of this policy of denial, the Department has conducted a thorough review of the circumstances surrounding the conviction and the imposition of the policy of denial. The Department has determined that it is in the national security and foreign policy interests of the United States to rescind the policy of denial concerning BAE SAL, including its divisions and business units, and successor entities.

R. Clarke Cooper,

Assistant Secretary, Bureau of Political-Military Affairs, Department of State.

[FR Doc. 2020–10863 Filed 5–19–20; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

[Public Notice 11118]

Statutory Debarment Under the Arms Export Control Act and the International Traffic in Arms Regulations

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of State has imposed statutory debarment under the International Traffic in Arms Regulations (''ITAR'') on persons convicted of violating, or conspiracy to violate, Section 38 of the Arms Export Control Act (AECA).

DATES: Debarment imposed as of May 20, 2020.

FOR FURTHER INFORMATION CONTACT: Jae Shin, Director, Office of Defense Trade Controls Compliance, Bureau of Political-Military Affairs, Department of State (202) 632–2107.

SUPPLEMENTARY INFORMATION: Section 38(g)(4) of the AECA, 22 U.S.C. 2778(g)(4), restricts the Department of State from issuing licenses for the export of defense articles or defense services where the applicant, or any party to the export, has been convicted of violating certain statutes, including section 38 of the AECA. The statute permits the President to make certain exceptions on a case-by-case basis. Section 127.7(b) of the ITAR also provides for ''statutory debarment'' of any person who has been convicted of violating or conspiring to violate the AECA. Under this policy, persons subject to statutory debarment are prohibited from participating directly or indirectly in any activities that are regulated by the ITAR.

Statutory debarment is based solely upon conviction in a criminal proceeding, conducted by a United States court, and as such the administrative debarment procedures outlined in Part 128 of the ITAR are not applicable.

It is the policy of the Department of State that statutory debarment lasts for a three year period following conviction. Unless export privileges are reinstated, however, the person remains debarred. Reinstatement is not automatic, and in all cases the debarred person must submit a request for reinstatement to the Department of State and be approved for reinstatement before engaging in any activities subject to this subchapter.

Department of State policy permits debarred persons to apply to the Director, Office of Defense Trade Controls Compliance, for reinstatement beginning one year after the date of the debarment. Any decision to grant reinstatement can be made only after the statutory requirements of Section 38(g)(4) of the AECA have been satisfied. Certain exceptions, known as transaction exceptions, may be made to this debarment determination on a case-by-case basis. However, such an exception would be granted only after a full review of all circumstances, paying particular attention to the following factors: Whether an exception is warranted by overriding U.S. foreign policy or national security interests; whether an exception would further law enforcement concerns that are consistent with the foreign policy or national security interests of the United States; or whether other compelling circumstances exist that are consistent with the foreign policy or national security interests of the United States, and that do not conflict with law enforcement concerns. Even if exceptions are granted, the debarment continues until subsequent reinstatement.

Pursuant to Section 38(g)(4) of the AECA and Section 127.7(c) of the ITAR, the following persons, having been convicted in a U.S. District Court, are statutorily debarred as of the date of this notice (Name; Date of Judgment; Judicial District; Case No.; Month/Year of Birth):

(1) Asad-Ghanem, Rami Najm (aka Ghanem, Rami Najm); August 19, 2019; Central District of California; 2:15–cr–00704; June 1966.

(2) Boyko, Gennadiy; December 7, 2018; Northern District of Georgia; 1:16–cr–00338; February 1970.

(3) Browning, Scott Douglas; August 9, 2019; Eastern District of North Carolina; 5:18–cr–00036; April 1977.

(4) Brunt, Paul Stuart; March 1, 2019; Western District of Washington; 2:18–cr–00025; February 1966.

(5) Chehade, Walid; May 8, 2019; Western District of Michigan; 1:17–cr–00263; July 1981.

(6) Dequarto, Dominick; December 5, 2018; Middle District of Florida; 8:18–cr–00320; December 1965.

(7) Diab, Hicham, June 11, 2019; Western District of Washington; 2:18–cr–00282; July 1976.

(8) El Mir, Nafez; June 11, 2019; Western District of Washington; 2:18–cr–00282; November 1967.

(9) Heubschmann, Andy Lloyd; December 17, 2019; Eastern District of Wisconsin; 1:19–cr–00119; November 1959.

(10) Joseph, Junior Joel; April 12, 2019; Southern District of Florida; 9:18–cr–80139; February 1978.

(11) Peterson, John James; November 18, 2019; Southern District of Florida; 1:19–cr–20442; February 1959.

(12) Prezas, Julian; November 3, 2017; Western District of Texas; 5:16–cr–00040; January 1980.

(13) Rodriguez, Chris; October 18, 2019; Eastern District of Virginia; 1:19–cr–00153; April 1962.

(14) Ruchtein, Sergio; October 29, 2019; Eastern District of Pennsylvania; 2:19–cr–00309; October 1967.

(15) Saiag, Allexander (aka Saiag, Alexandre); November 22, 2019; Eastern District of New York; 1:19–cr–00129; September 1986.

(16) Saidi, Abdul Majid; March 15, 2019; Western District of Michigan; 1:17–cr–00263; March 1976.

(17) Shapovalov, Michael (aka Mikhail Shapovalov); May 29, 2018; District of Connecticut; 3:17–cr–00272; November 1986.

(18) Sheng, Zimo; December 14, 2018; Eastern District of Wisconsin; 2:18–cr–00108; August 1989.

(19) Srivaranon, Apichart, April 15, 2019; District of Maryland; 8:16–cr–00542; February 24, 1985.

(20) Taylor, Maurice; July 22, 2019; Southern District of Mississippi; 3:18–cr–00260; October 1985.

(21) Tishchenko, Oleg Mikhaylovich; June 21, 2019; District of Utah; 1:16–cr–00034; April 1977.

(22) Zamarron-Luna, Carlos Antonio; October 19, 2019; Southern District of Texas; 7:18–cr–01043; March 1967.

(23) Zuppone, Brunella; November 18, 2019; Southern District of Florida; 1:19–cr–20442; May 1952.

As noted above, at the end of the three-year period following the date of this notice, the above named persons/entities remain debarred unless export privileges are reinstated. Debarred persons are generally ineligible to participate in activity regulated under the ITAR (see *e.g.,* sections 120.1(c) and (d), and 127.11(a)). Also, under Section 127.1(d) of the ITAR, any person who has knowledge that another person is subject to debarment or is otherwise ineligible may not, without disclosure to and written approval from the Directorate of Defense Trade Controls, participate, directly or indirectly, in any ITAR-controlled transaction where such ineligible person may obtain benefit therefrom or have a direct or indirect interest therein.

This notice is provided for purposes of making the public aware that the persons listed above are prohibited from participating directly or indirectly in activities regulated by the ITAR, including any brokering activities and any export from or temporary import into the United States of defense articles, technical data, or defense services in all situations covered by the ITAR. Specific case information may be obtained from the Office of the Clerk for the U.S. District Courts mentioned above and by citing the court case number where provided.

R. Clarke Cooper,

Assistant Secretary, Bureau of Political-Military Affairs, Department of State.

[FR Doc. 2020–10862 Filed 5–19–20; 8:45 am]

BILLING CODE 4710–25–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 882 (Sub-No. 4X)]

Minnesota Commercial Railway Company—Discontinuance of Trackage Rights Exemption—in Anoka, Hennepin, Ramsey, and Washington Counties, Minn.

Minnesota Commercial Railway Company (MNNR) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* to discontinue trackage rights over approximately 36.1 miles of contiguous railroad lines, extending generally from BNSF Railway Company's (BNSF) Northtown Yard in Minneapolis, Minn., to Bayport, Minn. (the Line).[1] The Line consists of: (1) A line segment approximately 11.1 miles in length owned by BNSF extending from milepost 12.5 at Northtown Yard (on BNSF's Staples Subdivision) to milepost 1.4 at Westminster Junction, Minn. (on BNSF's Midway Subdivision); (2) a line segment approximately 3.5 miles in length owned by BNSF extending from milepost 11.4 at University (on BNSF's Staples Subdivision) to milepost 7.9 at Park Junction, Minn. (on BNSF's St. Paul Subdivision);[2] and (3) a line segment approximately 21.5 miles in length owned by Union Pacific Railroad Company (UP) extending from BNSF milepost 1.4 (Midway Subdivision)/UP milepost 1.0 (on UP's Altoona Subdivision) at Westminster Junction to milepost 2.5 at Bayport (on UP's Stillwater Industrial Lead). The Line traverses U.S. Postal Service Zip Codes 55003, 55042, 55082, 55101, 55103, 55104, 55106, 55108, 55114, 55117, 55119, 55128, 55130, 55413, 55414, 55418, 55421, and 55455.

MNNR has certified that: (1) It has handled no local traffic over the Line for at least two years; (2) it has handled no overhead traffic over the Line for at least two years (and thus there is none to be rerouted over other lines); (3) no formal complaint by a user of MNNR rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service on the Line is pending either with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of such complainant within the two-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA)[3] to subsidize continued rail service has been received, this exemption will be effective on June 19, 2020, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues must be filed by May 29, 2020, and formal expressions of intent to file an OFA to subsidize continued rail service under 49 CFR 1152.27(c)(2)[4] must be filed by June 1, 2020.[5] Petitions

[1] These trackage rights were acquired by MNNR as part of a larger bundle of trackage rights from Burlington Northern Railroad Company, for which MNNR obtained authority in 1990. *Minn. Commercial Ry.—Trackage Rights Exemption—Burlington N. R.R.,* FD 31603 (ICC served Feb. 26, 1990). In 2005, MNNR obtained authority to discontinue trackage rights over one of the line segments for which it had acquired trackage rights. *Minn. Commercial Ry.—Discontinuance of Trackage Rights Exemption—in Wash. Cty., Minn,* AB 882 (Sub-No. 2X) (STB served Dec. 13, 2005).

[2] MNNR states that a discrepancy in the milepost description for this segment appears to have existed since its original filings in Docket No. FD 31603. *See also Minnesota Commercial Railway,* FD 31603, slip op. at 1 (describing trackage rights between "Northtown Yard (milepost 12.5) and Park Junction (milepost 7.9), approximately 4.6 miles").

[3] Persons interested in submitting an OFA to subsidize continued rail service must first file a formal expression of intent to file an offer, indicating the intent to file an OFA for subsidy and demonstrating that they are preliminarily financially responsible. *See* 49 CFR 1152.27(c)(2)(i).

[4] The filing fee for OFAs can be found at 49 CFR 1002.2(f)(25).

[5] Because this is a discontinuance proceeding and not an abandonment, interim trail use/rail banking and public use conditions are not appropriate.

to reopen must be filed by June 9, 2020, with the Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to MNNR's representative, Robert A. Wimbish, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606–3208.

If the verified notice contains false or misleading information, the exemption is void ab initio.

Board decisions and notices are available at *www.stb.gov.*

Decided: May 14, 2020.

By the Board, Allison C. Davis, Director, Office of Proceedings.

Brendetta Jones,

Clearance Clerk.

[FR Doc. 2020–10803 Filed 5–19–20; 8:45 am]

BILLING CODE 4915–01–P

TENNESSEE VALLEY AUTHORITY

Charter Renewal of the Regional Resource Stewardship Council

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Renewal of Federal Advisory Committee.

SUMMARY: Pursuant to the Federal Advisory Committee Act (FACA), the TVA Board of Directors has renewed the Regional Energy Resource Council (RRSC) charter for an additional two-year period beginning on April 28, 2020.

FOR FURTHER INFORMATION CONTACT: Cathy Coffey, 865–632–4494, *ccoffey@tva.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to FACA and its implementing regulations, and following consultation with the Committee Management Secretariat, General Services Administration (GSA) in accordance with 41 CFR 102–3.60(a), notice is hereby given that the RRSC has been renewed for a two-year period beginning April 28, 2020. The RRSC will provide advice to TVA on its issues affecting natural resource stewardship activities. The RRSC was originally established in 2000 to advise TVA on its natural resource activities and the priority to be placed among competing objectives and values. It has been determined that the RRSC continues to be needed to provide an additional mechanism for public input regarding natural resource stewardship issues.

Because there will be an environmental review during abandonment, this discontinuance does not require an environmental review.

Dated: April 27, 2020.

Joseph J. Hoagland,

Vice President, Tennessee Valley Authority.

[FR Doc. 2020–10858 Filed 5–19–20; 8:45 am]

BILLING CODE 8120–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. 2020–20]

Petition for Exemption; Summary of Petition Received; Embry Riddle Aeronautical University

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

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before June 9, 2020.

ADDRESSES: Send comments identified by docket number FAA–2020–0191 using any of the following methods:

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

Privacy: 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 *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Linda Lane (202) 267–7280, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on May 15, 2020.

Brandon Roberts,

Acting Executive Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2020–0191.

Petitioner: Embry-Riddle Aeronautical University (ERAU).

Section(s) of 14 CFR Affected: Appendix C, paragraph 4(c)(1) to Part 141 and/or § 61.65(d)(2)(ii)(C).

Description of Relief Sought: The petitioner seeks relief from the Instrument rating flight training requirements of Appendix C, paragraph 4(c)(1) to Part 141 and/or § 61.65(d)(2)(ii)(C), which requires an applicant to complete three different kinds of approaches with the use of navigation systems on a 250 nautical mile cross country flight.

[FR Doc. 2020–10882 Filed 5–19–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2020–0011]

Proposed Fourth Renewed Memorandum of Understanding (MOU) Assigning Certain Federal Environmental Responsibilities to the State of Utah, Including National Environmental Policy Act (NEPA) Authority for Certain Categorical Exclusions (CEs)

AGENCY: Federal Highway Administration (FHWA), U.S. Department of Transportation (DOT).

ACTION: Notice of proposed MOU and request for comments.

SUMMARY: The FHWA and the State of Utah, acting by and through its Department of Transportation (State), propose a renewal of the State's participation in the State Assumption of Responsibility for Categorical Exclusions. This program allows FHWA to assign to States its authority and responsibility for determining whether certain designated activities within the geographic boundaries of the State, as specified in the proposed Memorandum of Understanding (MOU), are categorically excluded from preparation of an environmental assessment or an environmental impact statement under the National Environmental Policy Act. An amended MOU would renew the State's participation in the program. The MOU will be amended by incorporating the following changes: Clarifying that this assignment applies to highway projects; and including provisions for UDOT's use of the Federal Transit Administration (FTA) and the Federal Transit Administration's (FRA) CEs for highway projects. In order to use FTA or FRA's CEs, UDOT will consult with FTA or FRA, as appropriate, and report to FHWA at the end of the calendar year the instances where it applied a CE using this provision.

DATES: Comments must be received on or before June 19, 2020.

ADDRESSES: You may submit comments, identified by DOT Document Management System (DMS) Docket Number [FHWA–2020–0011], by any of the methods described below. Electronic comments are preferred because Federal offices experience intermittent mail delays from security screening.

- *Website: http://www.regulations.gov/.* Follow the instructions for submitting comments on the DOT electronic docket site.
- *Facsimile (Fax):* 1–202–493–2251.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Ave. SE, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Ave. SE, Washington, DC 20590 between 9:00 a.m. and 5:00 p.m. e.t., Monday through Friday, except Federal holidays.

For access to the docket to view a complete copy of the proposed MOU, or to read background documents or comments received, go to *http://www.regulations.gov/* at any time or to 1200 New Jersey Ave. SE, Washington, DC 20590, between 9 a.m. and 5 p.m. e.t., Monday through Friday, except for Federal holidays. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: FHWA: Mr. Edward Woolford, Environmental Program Manager, Federal Highway Administration, 2520 West 4700 South, Suite 9A, Salt Lake City, UT 84129; by email at *edward.woolford@dot.gov* or by telephone at 801–955–3524. The FHWA Utah Division Office's normal business hours are 7 a.m. to 4:30 p.m. (Mountain), Monday–Friday, except for Federal holidays. Mr. Jay Payne, Office of the Chief Counsel, (202) 366–4241, *James.o.Payne@dot.gov,* Federal Highway Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590. For the State: Mr. Brandon Weston, Environmental Services Director, Utah Department of Transportation, 4501 South 4700 West, Salt Lake City, UT 84129; by email at *brandonweston@utah.gov* or by telephone at 801–965–4603. The Utah Department of Transportation's normal business hours are 8 a.m. to 5 p.m. (Mountain), Monday–Friday, except for State and Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users may reach the Office of the Federal Register's home page at: *http://www.archives.gov/* and the Government Printing Office's database: *http://www.fdsys.gov/.* An electronic version of the proposed MOU may be downloaded by accessing the DOT DMS docket, as described above, at *http://www.regulations.gov.*

Background

Section 326 of title 23, U.S. Code, creates a program that allows the Secretary of the DOT (Secretary) to assign, and a State to assume, responsibility for determining whether certain highway projects are included within classes of action that are categorically excluded (CE) from requirements for environmental assessments or environmental impact statements pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* (NEPA). In addition, this program allows the assignment of other environmental review requirements applicable to these actions. The FHWA is authorized to act on behalf of the Secretary with respect to these matters.

Through an amended MOU, FHWA would renew Utah's participation in this program for a fourth time. The original MOU became effective on July 1, 2008, for an initial term of three (3) years and the first renewal followed on July 1, 2011, the second renewal followed on June 30, 2014, and the third renewal followed on June 23, 2017. The proposed fourth MOU revision is set to supersede the third renewed MOU prior to its expiration date on June 23, 2020. Stipulation I(B) of the MOU describes the types of actions for which the State would assume project-level responsibility for determining whether the criteria for a CE are met. Statewide decision-making responsibility would be assigned for all activities within the categories listed in 23 CFR 771.117(c), those listed as examples in 23 CFR 771.117(d), and for activities that are highway projects within the categories listed in 23 CFR 771.116 and 23 CFR 771.118. In addition to the NEPA CE determination responsibilities, the MOU would assign to the State the responsibility for conducting Federal environmental review, consultation, and other related activities for projects that are subject to the MOU with respect to the following Federal laws and Executive Orders:

1. Clean Air Act (CAA), 42 U.S.C. 7401–7671q (determinations of project-level conformity if required for the project).
2. Noise Control Act of 1972, 42 U.S.C. 4901–4918.
3. Compliance with the noise regulations in 23 CFR part 772.
4. Section 7 of the Endangered Species Act of 1973, 16 U.S.C. 1531–1544, and Section 1536.
5. Fish and Wildlife Coordination Act, 16 U.S.C. 661–667d.
6. Migratory Bird Treaty Act, 16 U.S.C. 703–712.
7. Section 106 of the National Historic Preservation Act of 1966, as amended, 54 U.S.C. 300101, *et seq.*
8. Section 4(f) Requirements, 23 U.S.C. 138 and 49 U.S.C. 303; 23 CFR part 774.
9. Title 54, Chapter 3125—Preservation of Historical and Archeological Data, 54 U.S.C. 312501–312508.
10. Native American Grave Protection and Repatriation Act, 25 U.S.C. 3001–3013; 18 U.S.C. 1170.
11. American Indian Religious Freedom Act, 42 U.S.C. 1996.
12. Farmland Protection Policy Act, 7 U.S.C. 4201–4209.
13. Clean Water Act, 33 U.S.C. 1251–1377 (Section 401, 404, and Section 319).
14. Coastal Barrier Resources Act, 16 U.S.C. 3501–3510.
15. Coastal Zone Management Act, 16 U.S.C. 1451–1465.
16. Safe Drinking Water Act, 42 U.S.C. 300f–300j–6.
17. Rivers and Harbors Act of 1899, 33 U.S.C. 403.
18. Wild and Scenic Rivers Act, 16 U.S.C. 1271–1287.

19. Emergency Wetlands Resources Act, 16 U.S.C. 3921–3931.

20. TEA–21 Wetlands Mitigation, 23 U.S.C. 103(b)(6)(m), 133(b)(11).

21. Flood Disaster Protection Act, 42 U.S.C. 4001–4128.

22. Wetlands Mitigation, 23 U.S.C. 119(g), 133(b)(14).

23. FHWA wetland and natural habitat mitigation regulations, 23 CFR 777.

24. Land and Water Conservation Fund Act, 54 U.S.C. 200301 *et seq.* (known as Section 6(f)).

25. Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601–9675.

26. Superfund Amendments and Reauthorization Act of 1986 (SARA).

27. Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6901–6992k.

28. Landscaping and Scenic Enhancement (Wildflowers), 23 U.S.C. 319.

29. Planning and Environment Linkages, 23 U.S.C. 168, with the exception of those FHWA responsibilities associated with 23 U.S.C. 134 and 135.

30. Programmatic Mitigation Plans, 23 U.S.C. 169, with the exception of those FHWA responsibilities associated with 23 U.S.C. 134 and 135.

31. E.O. 11990, Protection of Wetlands; E.O. 11988, Floodplain Management (except approving design standards and determinations that a significant encroachment is the only practicable alternative under 23 CFR 650.113 and 650.115); E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 13007, Indian Sacred Sites; E.O. 13175, Consultation and Coordination with Indian Tribal Governments; E.O. 13112, Invasive Species.

The MOU allows the State to act in the place of FHWA in carrying out the functions described above, except with respect to government-to-government consultations with federally recognized Indian Tribes. The FHWA will retain responsibility for conducting formal government-to-government consultation with federally recognized Indian Tribes, which is required under some of the above-listed laws and executive orders. The State also may assist the FHWA with formal consultations, with consent of a Tribe, but FHWA remains responsible for the consultation. This assignment includes transfer to the State of Utah the obligation to fulfill the assigned environmental responsibilities on any proposed projects meeting the criteria in Stipulation I(B) of the MOU that were determined to be CEs prior to the effective date of the proposed MOU but that have not been completed as of the effective date of the MOU.

This is the proposed fourth renewal of the State's participation in the program and incorporates changes to clarify that this assignment applies to highway projects, as defined in 23 CFR 773.103; and to include provisions for UDOT's use of the Federal Transit Administration's (FTA) and the Federal Transit Administration's (FRA) CEs (23 CFR 771.116 and 23 CFR 771.118, respectively) for highway projects, as provided for in 23 CFR 771.117(h). In order to use FTA or FRA's CEs, UDOT will consult with FTA or FRA, as appropriate, and report to FHWA at the end of the calendar year the instances where it applied a CE using this provision.

The FHWA will consider the comments submitted on the proposed MOU when making its decision on whether to execute this renewal MOU. The FHWA will make the final, executed MOU publicly available.

(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.)

(Authority: 23 U.S.C. 326; 42 U.S.C. 4331, 4332; 23 CFR 771.117; 40 CFR 1507.3, 1508.4)

Ivan Marrero,

Division Administrator, Salt Lake City, Utah, Federal Highway Administration.

[FR Doc. 2020–10780 Filed 5–19–20; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF VETERANS AFFAIRS

Joint Biomedical Laboratory Research and Development and Clinical Science Research and Development Services Scientific Merit Review Board, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Federal Advisory Committee Act that a meeting of the Joint Biomedical Laboratory Research and Development and Clinical Science Research and Development Services Scientific Merit Review Board (JBL/CS SMRB) will be held Wednesday, June 24, 2020, by teleconference. The meeting will begin at 3:00 p.m. and end at 5:00 p.m. EDT. The meeting will have an open session from 3:00 p.m. until 3:30 p.m. EDT and a closed session from 3:30 p.m. until 5:00 p.m. EDT.

The purpose of the open session is to meet with the JBL/CS Service Directors to discuss the overall policies and process for scientific review as well as disseminate information among the Board members regarding the VA research priorities.

The purpose of the closed session is to provide recommendations on the scientific quality, budget, safety and mission relevance of investigator-initiated research applications submitted for VA merit review evaluation. Applications submitted for review include various medical specialties within the general areas of biomedical, behavioral and clinical science research. The JBL/CS SMRB meeting will be closed to the public for the review, discussion, and evaluation of initial and renewal research applications, which involve reference to staff and consultant critiques of research applications. Discussions will deal with scientific merit of each application and qualifications of personnel conducting the studies, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Additionally, premature disclosure of research information could significantly obstruct implementation of proposed agency action regarding the research applications. As provided by subsection 10(d) of Public Law 92–463, as amended by Public Law 94–409, closing the subcommittee meetings is in accordance with Title 5 U.S.C. 552b(c)(6) and (9)(B).

Members of the public who wish to attend the open JBL/CS SMRB teleconference should call 1–800–767–1750 using the passcode 50064#. Those who would like to obtain a copy of the minutes from the closed subcommittee meetings and rosters of the subcommittee members should contact Holly Krull, Ph.D., Designated Federal Officer, (10X2B), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, at (202) 632–8522 or email at *holly.krull@va.gov*.

Dated: May 15, 2020.

LaTonya L. Small,

Federal Advisory Committee Management Officer.

[FR Doc. 2020–10873 Filed 5–19–20; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0045]

Agency Information Collection: VA Request for Determination of Reasonable Value

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Refer to ''OMB Control No. 2900–0045.

FOR FURTHER INFORMATION CONTACT: Danny S. Green, (202) 421–1354 or email *Danny.Green2@va.gov.* Please refer to ''OMB Control No. 2900–0041'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 44 U.S.C. 3501–3521.

Title: VA Request for Determination of Reasonable Value (VA Forms 26–1805, and 26–1805–1).

OMB Control Number: 2900–0045.

Type of Review: Extension of a currently approved collection.

Abstract: WebLGY automatically generates an appraisal request on VA Form 26–1805–1 for the requester. The requester, usually a lender or agent, following the prompts in the computer system inputs the required information. Upon completion, the requester enters ''submit'' and VA Form 26–1805–1 is generated which contains the case number, appraiser assignment, and property information which is automatically emailed to the appraiser and requester.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on March 6, 2020, Vol. 85, No. 45, pages 13238–13239.

Affected Public: Individuals or households.

Estimated Annual Burden: 51,400 hours.

Estimated Average Burden per Respondent: 12 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 257,000.

By direction of the Secretary.

Danny S. Green,

VA PRA Clearance Officer, Office of Quality, Performance and Risk, Department of Veterans Affairs.

[FR Doc. 2020–10852 Filed 5–19–20; 8:45 am]

BILLING CODE 8320–01–P

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Part II

Department of Commerce

National Oceanic and Atmospheric Administration

15 CFR Part 960

Licensing of Private Remote Sensing Space Systems; Final Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 960

[Docket No.: 200407–0101]

RIN 0648–BA15

Licensing of Private Remote Sensing Space Systems

AGENCY: National Environmental Satellite, Data, and Information Service (NESDIS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (Commerce).

ACTION: Final rule; request for comments.

SUMMARY: The Department of Commerce (Commerce), through the National Oceanic and Atmospheric Administration (NOAA), licenses the operation of private remote sensing space systems under the Land Remote Sensing Policy Act of 1992. NOAA's existing regulations implementing the Act were last updated in 2006. Commerce is now substantially revising those regulations, as described in detail below, to reflect significant changes in the space-based remote sensing industry since that time and to modernize its regulatory approach.

DATES: This rule has been classified as a major rule subject to Congressional review. The effective date is July 20, 2020. However, at the conclusion of the Congressional review, if the effective date has been changed, Commerce will publish a document in the **Federal Register** to establish the actual effective date or to terminate the rule. Additionally, Commerce will accept comments on this final rule until June 19, 2020.

ADDRESSES: You may send comments by the following methods:

Federal eRulemaking Portal: Go to: *www.regulations.gov* and search for the docket number NOAA–NESDIS–2018–0058. Click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

Mail: NOAA Commercial Remote Sensing Regulatory Affairs, 1335 East-West Highway, G101, Silver Spring, Maryland 20910.

Instructions: The Department of Commerce and NOAA are not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. All submissions received must include the agency name and docket number or RIN for this rulemaking. All comments received will be posted without change to *www.regulations.gov,* including any personal or commercially proprietary information provided.

FOR FURTHER INFORMATION CONTACT: Tahara Dawkins, Commercial Remote Sensing Regulatory Affairs, at 301–713–3385, or Glenn Tallia, NOAA Office of General Counsel, at 301–628–1622.

SUPPLEMENTARY INFORMATION: Article VI of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (Outer Space Treaty), provides that the activities of non-governmental entities require authorization and continuing supervision by states that are parties to the treaty. This responsibility falls to the United States (U.S.) Government with respect to the activities in outer space of private entities subject to U.S. jurisdiction. In the Land Remote Sensing Policy Act of 1992, codified at 51 U.S.C. 60101 *et seq.* (Act), Congress authorized the Secretary of Commerce (Secretary) to fulfill this responsibility for private remote sensing space activities, by authorizing the Secretary to issue and enforce licenses for the operation of such systems. The Secretary's authority under the Act has been delegated to the NOAA Assistant Administrator for Satellite and Information Services. NOAA issues licenses under its regulations implementing the Act, found at 15 CFR part 960, most recently updated in 2006 and now replaced in their entirety with this final rule.

Through the National Space Council, this Administration recognizes that long-term U.S. national security and foreign policy interests are best served by ensuring that U.S. industry continues to lead the rapidly maturing and highly competitive private space-based remote sensing market. Towards that end, the Administration seeks to establish a regulatory approach that ensures the United States remains the ''flag of choice'' for operators of private remote sensing space systems.

The President signed Space Policy Directive-2, Streamlining Regulations on Commercial Use of Space (SPD–2), on May 24, 2018. This directive required Commerce to review its private remote sensing licensing regulations in light of SPD–2's stated policy and rescind or revise them accordingly. Commerce began that review by publishing an advance notice of proposed rulemaking (ANPRM) (83 FR 30592, June 29, 2018), seeking public comment on five topics related to the Act. Commerce received nine detailed responses and used that input to inform the drafting of the proposed rule, which Commerce issued last year (84 FR 21282, May 14, 2019).

Commerce's proposed rule laid out a detailed regulatory proposal that attempted to increase transparency and certainty, and to reduce regulatory burdens, without impairing essential governmental interests in preserving U.S. national security, protecting foreign policy interests, and adhering to international obligations. To meet these goals, the proposed rule included a two-category framework, where the license conditions applied to proposed systems were commensurate with the potential risk posed by such systems to the national security and international obligations and foreign policies of the United States. The proposed rule also provided for conducting a full interagency review and the potential for custom license conditions, but only when a proposed system was novel and in the higher risk category. Additionally, the proposed rule published many existing license conditions for the first time and provided a public process for periodically updating such conditions. This meant that the public had a new opportunity to shape the conditions through public comment, whereas in the past, the conditions would be known only to existing licensees and to the U.S. Government before being included in a new license. In short, the proposed rule brought the process for setting new, operational license conditions into the public rulemaking space for the first time, and proposed substantive changes that would help reduce the regulatory burden on licensees.

Commerce received 27 public comments on the proposed rule, and thanks all commenters for their time and consideration. While the public comments on the proposed rule generally supported increased transparency and the two-category system in theory, they nevertheless characterized the proposed rule as overly restrictive and a disincentive to operating in the United States. Despite the procedural benefits (increased transparency, certainty, and public input) that the proposed rule offered, the commenters explained that the proposed rule did not deliver the desired dramatic substantive benefits—namely, immediately reducing the current regulatory restrictions and license conditions imposed on industry-leading remote sensing systems. For example, the proposed rule would have subjected the high-risk conditions (which, as drafted, were liberalized versions of existing conditions) to public scrutiny for the first time. But even with Commerce's liberalizations of

these conditions, public commenters objected to the conditions' continued stringency and the permanency implied by including them in regulations. As another example, Commerce proposed an objective set of criteria that would distinguish low-risk systems from high-risk systems, as a means to provide predictability to potential applicants. Commenters objected to this approach, however, arguing that the criteria were far too conservative, resulting in almost all commercial systems being categorized as high-risk, and moreover that including such a specific list in regulations was too rigid an approach.

Commerce took these concerns very seriously and revised the proposed rule in two key ways in response, resulting in a dramatically less burdensome final rule. First, Commerce will retain the notion of categories of systems, but rather than categorizing systems by a set of objective criteria that could be incrementally modified through future rulemakings, Commerce will adopt a proposal made by several commenters and the Advisory Committee on Commercial Remote Sensing (ACCRES). Specifically, Commerce will categorize systems based on an analysis of whether the unenhanced data to be generated by the proposed system are already available in the United States or in other nations.

Second, Commerce will eliminate most of the permanent license conditions existing in current licenses, license appendices, and included in the proposed rule, retaining only the bare minimum of permanent license conditions (generally only those required by the Act or other laws). Further conditions could be included in a license if, in Commerce's analysis, an application proposes to collect unenhanced data that are entirely novel (*i.e.,* unenhanced data are not available from any source). In this limited case, Commerce would work with the Department of Defense or the Department of State, as appropriate, and the applicant, to craft narrowly tailored license conditions that would be temporary. These temporary conditions would remain in effect for one to three years from the time the licensee begins operations. Such temporary conditions could be extended beyond three years, but only upon a request specifically from the Secretary of Defense or State.

This move to temporary license conditions for novel technologies would shift the burdens under the regulations. The 2006 regulations place burdens of protecting national security and international obligations on private remote sensing systems through extensive and permanent license conditions. Under this final rule, by contrast, temporary conditions are designed to allow the U.S. Government time to adapt its operations to the novel technology where possible. Unlike in 2006, foreign space-based capabilities are significant and constantly increasing, requiring the U.S. Government to adapt regardless of how it regulates U.S. systems. Commerce's approach recognizes this new reality and gives U.S. industry the best chance to continue to innovate and to lead this global market.

Commerce provides a more detailed explanation of its reasoning behind these and other changes to the proposed rule below. Commerce reiterates its gratitude to all persons who commented on the ANPRM and the proposed rule. These comments have been invaluable as Commerce has assessed the best way to modernize and streamline these regulations.

General Overview

Problems With Existing Regulatory Approach

Under the existing regulations, license condition-setting procedures are largely outside of the public rulemaking process: License conditions are set through interagency discussions, without the opportunity for public comment, even when the conditions would apply to all systems. In addition to lacking transparency, this regulatory approach is based on the mechanism of relying on license conditions to address U.S. national security and international obligation and policy concerns: By imposing conditions on certain types of imagery produced by U.S. remote sensing systems, the expectation is that the restriction contributes to protection of the interests in question.

Initially, this combination of setting conditions through a non-public, application-specific process and including restrictive conditions in licenses to protect U.S. national security and meet international obligations was effective. The U.S. remote sensing industry was small and had limited foreign competition, so it was generally believed that there was little risk that the regulatory environment in the United States would disadvantage U.S. industry in relation to any foreign competitors. In addition, restricting the capabilities of U.S. industry through license conditions largely did protect national security, as it was often the only source of such data. But as time has passed, foreign commercial capabilities have emerged—at times, arguably, because U.S. regulations are too restrictive, resulting in some operators establishing their remote sensing businesses overseas.

To illustrate the dramatic changes that now motivate the Administration to take a different approach, Commerce provides the following statistics. When the Act was passed in 1992, there were no private remote sensing space systems. In 2006, when Commerce last updated its regulations, there were 25 U.S. licenses and roughly 29 non-U.S. systems. Today, there are 73 U.S. licenses held by 51 U.S. licensees, and over 80 U.S. licenses have been closed due to the system's end. Stated differently, Commerce issued roughly 25 licenses in the 14 years from the passage of the Act in 1992 until the last update to the regulations in 2006, but in the 14 years since that last update, Commerce has issued well over 100 licenses.

At the same time, since 2006, more than an estimated 250 non-U.S. remote sensing systems have either become operational or are planned (a figure that does not include foreign systems that are not public knowledge). Today, more than 40 countries other than the United States have remote sensing space systems. And since 2006, foreign remote sensing capabilities have extended to advanced phenomenologies such as synthetic aperture radar (SAR) and hyperspectral imaging (HSI), of which there are dozens of foreign systems each.

The pace of foreign competition has intensified, and Commerce anticipates that these trends will continue. Now, any U.S. company with a license restriction is at a disadvantage if a foreign competitor is not subject to the same restriction, all else being equal. The end result is that U.S. operators may not meet, let alone surpass, the capabilities of such foreign competitors. Moreover, even if Commerce loosens license restrictions as soon as it learns that foreign competitors have caught up to a restricted U.S. phenomenology, U.S. industry is guaranteed to be no better than tied for first place.

Take, for example, the U.S. SAR industry. Commerce license conditions prevent such licensees from imaging at finer than 0.5 meters impulse response (IPR), while some foreign competitors sell data at .24 meters IPR. Even a regulatory approach that allows U.S. licensees to sell data at .24 meters IPR would only let U.S. industry meet, not exceed, their foreign competition. This creates a market opportunity for foreign entities to sell data at finer than .24 meters IPR. The U.S. Government has no control over such foreign SAR systems and must adapt to protect its operations, making such a regulatory

approach ultimately ineffective and counterproductive. This approach is also reactive: It presumes that the most highly capable U.S. remote sensing licenses should be conditioned until circumstances render the condition obsolete, rather than presuming that U.S. industry's capabilities should not be conditioned at the outset. This situation is likely to continue so long as the U.S. Government perpetuates current practices.

Such license conditions, of course, have a valid goal: Most often, to protect national security. But Commerce cannot restrict the operation of non-U.S. remote sensing operators. Many national security conditions placed on U.S. remote sensing operators have become or will become ineffective due to uncontrollable foreign competition, and may have in fact encouraged such foreign competition. The emergence of intensifying and uncontrollable foreign competition requires reassessment of the way Commerce licenses remote sensing operators. Commerce believes that it must adapt its regulatory approach to be better able to respond to these changes and help ensure continued U.S. leadership in the global market for space-based remote sensing data.

Final Rule's Approach

As previewed above, two changes in the final rule, as compared with the proposed rule, take the development of foreign competition and commenters' concerns into account. First, the final rule categorizes applicants based on the availability of their unenhanced data from other sources. The proposed rule created categories, but would have instead grouped applicants based on an objective set of criteria that assessed the risk they would pose to national security. This worked under the assumption that remote sensing systems would be regulated so as to prevent them from causing harm to national security: The more risk a system posed to national security, the more restrictive its license would be. But in view of the development of foreign competition that is uncontrollable, regardless of its risk, the final rule takes a different approach to categorizing applicants. Based on suggestions from several commenters, the final rule categorizes applicants based on the degree to which the unenhanced data to be generated by their proposed system are already available (rather than based on the amount of risk they pose to national security).

- If an applicant proposes a system that is capable only of producing unenhanced data substantially the same as unenhanced data available from sources not regulated by Commerce, such as foreign sources, the system will be ''Tier 1,'' and receive the bare minimum of conditions. This is because Commerce cannot prevent the harm that such systems might cause to national security, regardless of how strictly they are regulated, because substantially the same unenhanced data are available from sources outside Commerce's control.
- If an applicant proposes a system that is capable of producing unenhanced data that are substantially the same as unenhanced data available from U.S. sources only, the system will be ''Tier 2.'' As there is no foreign competition for that unenhanced data, a U.S. license restriction *could* be effective.
- If an applicant proposes a system that is capable of producing unenhanced data that are substantially the same as no available unenhanced data—that is, if the applicant has no competitors, foreign or domestic—the system will be ''Tier 3,'' and more stringent controls logically may be applied.

Commerce will also consult with the Departments of Defense and State during the process of assigning a tier to ascertain whether there are national security or international obligations or policy concerns that would recommend a different tier than the tier resulting from the availability analysis.

In addition, the final rule makes a second philosophical change in response to commenters' stated concerns about the stringency of the operating conditions. Instead of formalizing the existing permanent operating conditions for low- and high-risk systems, the final rule eliminates almost all such permanent operating conditions. ''Tier 1'' systems (those which produce unenhanced data available from sources outside Commerce's control) will receive only those conditions required by statute and will not be required to comply with limited-operations directives (colloquially known as ''shutter control'' and referred to in the relevant interagency memorandum of understanding (MOU) as ''modified operations''). This is because where the same capability exists outside the United States, a limited-operations directive would be less effective: even if all U.S. licensees complied fully with a directive restricting certain data, some foreign systems (lying beyond U.S. licensing jurisdiction) would be able to continue to generate such data without restriction. Therefore, Commerce will not require systems whose unenhanced data capabilities are substantially the same as those of entities not licensed by Commerce (such as foreign entities) to comply with shutter control, or with any operational limitations including restrictions on non-Earth imaging (NEI), nighttime imaging, and the like.

In contrast, ''Tier 2'' systems (those with only U.S.-licensed competition) will receive the same minimal conditions as Tier 1, with the addition of one NEI requirement—to obtain the consent of the owner of any Artificial Resident Space Object (ARSO) orbiting the Earth and to notify the Secretary five days before conducting resolved imaging operations of the ARSO—and the requirement to comply with limited-operations directives. Where a certain capability exists only in systems subject to U.S. jurisdiction, a limited-operations directive applying to those licensees will be effective at restricting the dissemination of data. Therefore, to protect national security or meet international obligations, Commerce will continue to require these licensees to be prepared to comply with limited-operations directives.

Finally, with respect to the consent and notification requirement for resolved ARSO imaging, Commerce will reevaluate the necessity of such requirement in approximately two years, in consultation with the Department of Defense. Should such reevaluation conclude that the underlying national security concerns necessitating the requirement have been abated, Commerce will consider appropriate action, including a rulemaking to modify or remove the requirement.

The logic underlying this distinction between Tier 1 and Tier 2 means that these categories are not fixed. As soon as a non-U.S.-licensed entity (such as a foreign commercial entity) has the capability to collect unenhanced data substantially the same as a Tier 2 system, the Secretary may re-categorize the system as Tier 1, removing the requirements addressing the resolved imaging of ARSO and to comply with limited-operations directives. This makes sense because where foreign competition exists, these requirements would be less effective for the type of data at issue.

Finally, the final rule creates a third tier of systems, as requested by several commenters. Tier 3 systems are those having a completely novel capability, such that no foreign or U.S. entity can produce substantially the same unenhanced data. Tier 3 systems will have the same standard conditions as Tier 2, including the requirements addressing resolved imaging of ARSO

and to comply with limited-operations directives, but will also have the potential for temporary, custom license conditions. As provided in the final rule, these temporary conditions will be developed by the Department of Defense or State, as appropriate, and then carefully analyzed by Commerce in consultation with the applicant to determine compliance with legal requirements. These temporary conditions will last only one year (generally starting from initial spacecraft operations), with the possibility of two one-year extensions if the Department requesting the condition meets a burden of proof, following review by Commerce and notification of licensees. The only possible extension beyond three years is if the Secretary of Defense or State requests an additional extension. The authority to request additional extensions may not be delegated below the Secretary of Defense or State.

Temporary conditions on Tier 3 systems shift away from primarily protecting national security by restricting the capabilities of U.S. private remote sensing systems indefinitely, and toward ensuring that the U.S. Government takes timely action to mitigate any harm that could result from remote sensing operations where possible. These temporary restrictions are intended to provide the U.S. Government time to adopt measures to mitigate the harm. Then, once the temporary restriction expires, the system can operate unimpeded by those temporary restrictions, and the U.S. Government will have learned how to protect itself from new technology that, in time, is likely to spread to foreign operators, out of Commerce's control.

Apart from any temporary conditions on Tier 3 systems and the consent and notification requirements for resolved ARSO imaging and limited-operations directives for Tiers 2 and 3, there are no permanent operating conditions. Previously required operating conditions specifically addressing SAR, night-time imaging (NTI), short-wave infrared (SWIR), and other capabilities, are no longer in the rule and will not be automatically included in licenses (except if warranted as a temporary condition for a Tier 3 license). NEI conditions are eliminated for Tier 1 systems, eliminated for unresolved NEI, and greatly reduced for Tiers 2 and 3. Licensees will be free, therefore, to operate under the minimal conditions found in § 960.8 for Tier 1 systems, and in §§ 960.9 and 960.10 for Tier 2 and Tier 3 systems, respectively.

To illustrate how this approach would work, imagine a hypothetical applicant seeking to operate a SAR system. Under the previous (2006) regulations, the applicant would have waited up to 120 days (or more, if the U.S. Government required additional review time), then received a license including conditions restricting its SAR operations in terms of data downlink locations, resolution thresholds, and the like. The applicant, then licensee, would have been guaranteed no prior notice of these conditions. Under the proposed rule, by contrast, the applicant would have known that it would be categorized as ''high-risk'' due to its SAR capabilities; it would have been able to read the SAR conditions in the public rulemakings; and it would have received its license in 90 days. But under the final rule, the applicant's system would likely be categorized as Tier 1 (if it was capable of producing unenhanced data substantially the same as foreign unenhanced data) or Tier 2 (if it was capable of producing unenhanced data that are only available from U.S. sources regulated by Commerce). Accordingly, the license would contain *no* permanent operational conditions restricting its SAR operations. The licensee would only be under the obligation to comply with the consent and notification requirements for resolved ARSO imaging and a limited-operations directive, if it were categorized as Tier 2. Its SAR operations, otherwise, would be unencumbered by regulation.

The final rule also reduces other regulatory burdens. For example, regarding cybersecurity: Under the existing regulations, there are requirements relating to data uplink, downlink, transmission, and storage, and licensees are required to complete, update, and comply with lengthy data protection plans. The proposed rule would have required encryption and industry best practices for protection of tracking, telemetry, and control (TT&C) for all licensed systems; with higher level encryption and protection for both TT&C and mission data transmissions, along with completion of a National Institute of Standards and Technology (NIST) Cybersecurity Framework for ''high-risk'' systems. Under the final rule, the only cybersecurity requirements are that licensees operating spacecraft with propulsion affirm that they have measures in place to ensure positive control of those spacecraft; and for Tier 2 and 3 systems, if a limited-operations directive is issued, the licensee will be required to protect data as specified in the directive, which may include encrypting satellite TT&C and mission data transmissions. Commerce notes that this license condition requires the immediate ability to encrypt data and transmissions in the event of a limited-operations directive. This means that, during an inspection or investigation, Commerce may require a demonstration of the licensee's ability to immediately come into compliance with this requirement, as though a shutter control order had just been issued. But at all other times when a directive has not been issued, the licensee will be free to protect their data as they see fit, in accordance with their own, self-developed plan to manage cybersecurity risk. This shift in approach recognizes that Commerce cannot continue to place the burden of mitigating national security risks posed by data largely on licensees, and also that licensees already have market incentives to protect their data and operations from interference.

While Commerce is not mandating a specific approach to licensees' self-developed plan to manage cybersecurity risk, the following are best practice factors licensees should consider when developing one:

- Incorporating design features and operational measures, consistent with satellite constellation size, sophistication, and propulsion, that protect against current and evolving malicious cyber threats that can disrupt, deny, degrade, or destroy their systems and data. This should include the ability to:
  - Prevent unauthorized access to the system,
  - Identify any unauthorized access,
  - Ensure positive control of spacecraft with propulsion at all times, and
  - Where practicable, use encryption for all communications to and from the on-orbit components of the system related to tracking, telemetry, and control.

In short, the final rule represents a philosophical shift away from a purely risk-based approach. No longer will the U.S. Government assess systems based on the risk they may pose to national security and burden them accordingly to protect against such risk. Nor will the U.S. Government place conditions on licensees when a source of substantially the same unenhanced data exists outside Commerce's control. Instead, the U.S. Government will shift more of the burden of protecting national security to itself, focusing on mitigating the risk posed by the global remote sensing industry. This will help effectuate the President's policy in SPD–2 of encouraging American leadership in space: American industry will never be restricted more than foreign competition. In addition, this new approach will provide additional

incentive to the U.S. Government to change its own operations to minimize the risk from growing domestic and foreign remote sensing capabilities.

Other Alternatives

Commerce considered other alternatives to the approach it took in the final rule. One such alternative was to proceed with the substance of the proposed rule. However, many commenters noted that the proposed rule appeared so rigid as to actually set the commercial remote sensing industry back—perhaps even by decades. Commerce understood based on these comments that a significant change to the substance of the rule was needed.

One way of attempting to create such a significant change would have been to incrementally shift the proposed rule to a more industry-favorable position. For example, Commerce could have adjusted the objective considerations in the proposed rule's § 960.6, which described the difference between low- and high-risk systems. Commerce could have set a less conservative threshold for low-risk systems, as some commenters suggested. In addition, Commerce could have adjusted the permanent license conditions in the proposed rule's §§ 960.13 and 960.20, making them less stringent. However, both of these changes would have further enshrined the risk-based approach that the final rule rejects, and required regular, repeated updates through future rulemaking processes to keep up with changes in foreign competition, imaging technologies, risks, and mitigation techniques.

Other Major Changes

In addition to the shift in how Commerce categorizes and conditions the operation of systems described above, Commerce made additional important changes to the proposed rule. Commerce was not required to make these changes due to its interpretation of the Act, but has chosen to do so based on public comments and to advance the Administration's policy objectives. These are described in greater detail in the Subpart-by-Subpart Overview below, but include:

- Defining remote sensing such that the final rule applies only to systems in orbit of the Earth, capable of producing imagery of the Earth, and clearly excluding instruments used for mission assurance or other technical purposes;
- Defining the scope of remote sensing space systems under this final rule, such that Commerce's requirements apply to the remote sensing instrument and only those additional components that support its operation, receipt of unenhanced data, and data preprocessing, excluding higher-level processing and data storage;
- Eliminating the possibility of conditions imposed unilaterally by Commerce on a licensee after license issuance (colloquially known as ''retroactive conditions'');
- Reducing the timeline for application review to 60 days for all systems, regardless of categorization; and
- Clarifying definitions and expectations, most notably related to foreign investment and agreements.

For space-based activities not requiring a license from Commerce under this final rule, Commerce continues to consider a more comprehensive space regulatory regime for space activities not currently addressed by federal regulatory frameworks. Vice President Pence has directed the Secretary to ''report to the President, through the National Space Council staff, on the authorization of commercial space operations not currently regulated by any other Federal agency; and, in coordination with the Secretary of Transportation, provide a roadmap to enable all current and evolving United States commercial space activities to receive authorization under appropriate Federal regulatory frameworks.'' [1] This report will incorporate this final rule's parameters and provide insight into ensuring that U.S. space operations are, in conformity with treaty obligations, authorized and continuously supervised.

Summary

In summary, Commerce believes the final rule advances the policy of SPD–2 in three areas compared to the previous (2006) regulations. As in the proposed rule, (1) the processes in the final rule are more transparent and more compliant with the Administrative Procedure Act. Additionally, based on public comment on the proposed rule, under the final rule (2) applicants and licensees are categorized into tiers based on unenhanced data availability, rather than a risk assessment; and (3) permanent license conditions are set at an absolute minimum, primarily only those needed to comply with statutory requirements, and only in very narrow circumstances can further conditions be added—which must be temporary. This third group of changes modernizes the remote sensing licensing regime by ensuring that the U.S. Government takes more responsibility for safeguarding U.S. national security, rather than continuing to place this burden largely on the U.S. remote sensing industry. Commerce anticipates that these changes will unleash U.S. innovation and allow it to compete in the global remote sensing industry.

Response to Comments

Commerce received 27 comments on the proposed rule. These comments originated from industry groups; commercial entities who are currently licensed and will be subject to the final rule; commercial entities who are not licensed or who will not likely be subject to the final rule; academics; an anonymous commenter; and two individual commenters. Commerce thanks each of these commenters, as well as those who commented on the earlier ANPRM, for their time and input.

Many comments were broadly in agreement on desired changes to the proposed rule. As a result, in the interest of clarity, Commerce will not lay out comments one-by-one and respond to them individually. Instead, Commerce has responded to the general tenor of comments above, including the major changes to the final rule that respond to the comments. Below, Commerce describes the final rule's provisions of note. This description includes, where appropriate, responses to comments. Furthermore, as mentioned above, Commerce welcomes further comments on this final rule with comment period in the 30-day period following publication and before this rule becomes effective.

Subpart-by-Subpart Overview

Subpart A—General

Subpart A sets out the purpose, jurisdictional scope, grandfathering mechanisms, and definitions for the final rule. The following provisions are of particular note.

Section 960.1 Purpose

As suggested by a commenter, this section emphasizes Commerce's goal in issuing the final rule: Ensuring U.S. industry continues to lead the global remote sensing market.

960.2 Jurisdiction

Section 960.2(a): The Secretary's jurisdiction attaches in two ways: (1) When the operation of a system occurs within the United States, and (2) when a U.S. person operates a system (see definitions of ''operate,'' ''private remote sensing space system,'' and ''U.S. person'' in § 960.4). Thus, a non-U.S. person falls under the Secretary's jurisdiction by operating within the

[1] ''Recommendations Approved by the National Space Council to President Trump,'' National Space Council (Aug. 20, 2019) available at: *https://www.space.commerce.gov/secretary-ross-remarks-from-6th-national-space-council-meeting/.*

United States, and a U.S. person falls within the Secretary's jurisdiction when they operate a system (no matter where they operate it). In response to comments, Commerce has changed the title of this definition from ''U.S. citizen'' to ''U.S. person,'' and has added lawful permanent residents.

Section 960.2(b): Commerce created a list of technical capabilities that it has determined should be exempt from this regulation based on policy and other considerations. Instruments used primarily for mission assurance purposes or other technical purposes are not considered remote sensing instruments under this final rule; therefore, a system that contains only such instruments will not require a Commerce license. Public commenters appreciated the proposed rule's attempt to exempt certain technical capabilities from the definition of ''remote sensing,'' but the details of that exemption confused some readers. In response, Commerce removed the portion of the definition of ''remote sensing'' in the proposed rule that would have exempted certain cameras from the rule's jurisdiction. Instead, to achieve the desired effect of reducing the scope of this final rule's application, Commerce created this paragraph including a nonexclusive list of exceptions. These exceptions are focused on the actual use of the instrument (*e.g.,* mission assurance), rather than the instrument's objective description.

Many of these capabilities are found on space systems that are already regulated by another Federal agency, including the Federal Aviation Administration for instruments on launch vehicles and the Federal Communications Commission for instruments on communications satellites. As noted earlier, Commerce is continuing, separately from this final rule, to work with the National Space Council toward a comprehensive authorizing regime to facilitate space commerce, including non-traditional space activities not currently regulated by another Federal agency.

Section 960.3 Application to Existing Licensees, ''Grandfathering''

Many commenters requested clarification of the grandfathering provisions. Commenters also requested, variously, that the new final rule only apply to existing licensees in part, or apply only to the extent that the licensee so desired, or apply only to the extent that the final rule was more favorable to the licensee than the status quo. Commerce has attempted to provide the public the assurances they asked for by clarifying that the Secretary will retain any applicable waivers or modifications in a new license. Also, the final rule provides 30 days in which the licensee can object to their new draft license. Commerce's decision to replace a license with a new one is appealable. It will be incumbent upon each licensee to specify which conditions, if any, they object to, as part of this process. Examples:

- A licensee with an existing Commerce license would receive a new license on the effective date. The new license would reflect the licensee's tier and include all applicable conditions. The licensee would have 30 days from the delivery of this new license to object to this new license.
- A licensee with an existing license containing waivers or amendments would receive a new license on the effective date. The new license would carry over any waivers or amendments that would still be relevant under the final rule. For example, if the licensee had a waiver from a specific NEI requirement, and that requirement is found in the standard conditions in this final rule, the waiver would carry over into the new license. However, if the licensee had a waiver from one or more of the NTI conditions, the waiver would likely not be applicable simply because the new license would contain no permanent NTI conditions, as permanent NTI conditions are not found in the standard conditions in this final rule.
- A licensee whose system no longer falls under the final rule will receive a notification that their Commerce license has been terminated as moot. Of course, this termination does not mean that the former licensee is prohibited from any activity or that it is not subject to any regulation by the U.S. Government; instead, it means that the system's activities no longer require a Commerce license.

Section 960.4 Definitions

Anomaly: In response to commenters, Commerce narrowed the definition of ''anomaly'' to events that ''could indicate a significant technical malfunction or security threat,'' and clarified that anomalies ''include any significant deviation from the orbit and data collection characteristics of the system.'' This narrowed definition is intended to reduce licensees' burdens by eliminating the requirement to report minor anomalies.

Available: This definition affects the categorization of licenses into tiers (see § 960.6(a)) and the license condition implementing the Kyl-Bingaman Amendment (see § 960.8(a)(9)). It is intended to be akin to the existing Kyl-Bingaman standard as articulated in the 2006 final rule (71 FR 24473, April 25, 2006), but modified slightly. Under this final rule when the term ''available'' is used by itself, Commerce will deem something to be ''available'' if it is readily and consistently obtainable by an entity other than the U.S. Government or a foreign government—but not necessarily only from commercial sources. For example, if certain unenhanced data (see ''unenhanced data'' definition) are routinely made available from a foreign government to the general public (for example, Copernicus Sentinel data), Commerce would deem that they are available. Note that, under the Kyl-Bingaman condition found at § 960.8(a)(9), the data must be available specifically from commercial sources, because the Kyl-Bingaman Amendment requires this. Section 1064, Public Law 104–201.

Days: In response to comments, Commerce removed the definition of ''days.'' Commerce intends that references to ''days'' throughout the rule will now refer to the ordinary meaning of a calendar day. Under the proposed rule, any number of days shorter than ten days referred to working days (*i.e.,* not counting weekends and holidays). Because all days are now calendar days, Commerce lengthened some of the shorter time periods in the final rule. For example, in § 960.8, reporting periods of five (working) days under the proposed rule are now seven (calendar) days under the final rule.

Material fact: Many commenters were confused by the proposed rule's ''material fact'' definition. Under the proposed rule and in the final rule, Commerce intends that a ''material fact'' is *any* fact contained in the application or license. This definition is broad because Commerce is only requesting information that is critically important in the application (see Appendix A), and will only carry over critically important information into the license (see Appendix C). In other words, all facts are material, because Commerce will not request any immaterial facts. But because every fact in the application and license is critically important, every one of those facts—if changed—will require a license modification.

Some commenters asked Commerce to change ''material fact'' to ''a fact the Secretary relied upon in issuing the license.'' Commerce disagrees with this suggestion because it would make it subjective when a license modification is required. The licensee cannot know what facts the Secretary relied upon. Commerce hopes that this revised

definition is clear: To determine whether a fact is material (and therefore whether changing it after license issuance will require a license modification), simply review your license to confirm whether the fact is included therein. If it is, it is a material fact.

Memorandum of Understanding or MOU: In response to comments raising concerns about the potential for the U.S. Government to amend the MOU without notice-and-comment rulemaking, Commerce has clarified in this definition that ''MOU'' refers only to the version of the MOU that was signed on April 25, 2017, which is included as appendix D to the final rule. Even if the U.S. Government amends the MOU at some later date, those amendments would have no effect on this final rule absent a rulemaking, because Commerce will continue to use the 2017 version for all purposes under this rule. Furthermore, it is important to note that if any terms of the MOU conflict with this rule, the definition clarifies that the rule will govern.

Operate: Commerce narrowed the definition of ''operate'' to clarify which activities qualify. The revised definition makes clear that the entity with decision-making authority over the remote sensing instrument's functioning is operating the system. This would include the entity deciding what to image and how to accomplish the desired imaging, but not an individual or service provider merely implementing those commands. This is true regardless of how the commands technically pass to the satellite. In most cases, Commerce anticipates that the instrument owner will be the one who operates, but this may not always be the case.

In addition, Commerce intends that activities such as operating a ground station as a service or operating a spaceborne platform as a service, without more, are not ''operating'' a remote sensing space system. Examples:

- Company A operates a ground station in the United States. Company B owns a spacecraft with a remote sensing instrument. Through a contract, Company B uses Company A's ground station to send command and control communications to and from Company B's spacecraft. Company B is operating the remote sensing system and would require a license, but Company A would not require a Commerce license.
- Company C operates a spacecraft that does not conduct remote sensing. Through a contract, Company C hosts Company D's remote sensing instrument on the same spacecraft. Company D decides what to image with its remote sensing instrument. Commands are sent to Company C for uplink, and unenhanced data are routed back to Company D through Company C's system. Company D is operating the remote sensing system and would require a license, but Company C would not require a Commerce license.

Private remote sensing space system or system: The proposed rule contained separate definitions for ''remote sensing instrument,'' ''remote sensing space system,'' and ''private remote sensing space system.'' Of these, in the interests of clarity and simplicity, the final rule contains only ''private remote sensing space system or system.'' Of particular note, this definition retains the proposed rule's requirement that the system not be owned by an agency or instrumentality of the U.S. Government (which would not be ''private''). It makes clear that every private remote sensing space system consists, at the very least, of a remote sensing instrument (see below). Nothing can be considered a system without such an instrument. A ground station or satellite bus without a remote sensing instrument is not a system.

The definition covers remote sensing instruments that are capable of conducting remote sensing (see ''remote sensing'' definition) and are not otherwise excluded from this rule due to being used primarily for technical or mission assurance purposes (see § 960.2(b)). The definition also limits the scope of the system: It includes components that support the remote sensing instrument's operation, plus receipt of unenhanced data (see ''unenhanced data'' definition); and data preprocessing. This is intended to capture the ground stations from which the remote sensing instrument is commanded, as well as ground stations where data are initially received, but not facilities that conduct only higher-level data processing or storage. This is also intended to capture items such as the satellite bus and all components through which commands and unenhanced data flow, because all these components relate directly to the remote sensing instrument and to remote sensing.

Finally, this definition retains the proposed rule's clarification that the system may include components that are owned or managed by persons or entities other than the licensee. To clarify in response to comments, Commerce intends this to mean that a ground station operated as a service by a third party will be part of a licensed system if it sends operational commands or receives unenhanced data, but it will not constitute a system on its own, and operating it alone will not constitute ''operating'' (see ''operate'' definition). If a licensee chooses to use third parties for some of its operations, it will be responsible for ensuring that those third parties comply with any relevant license conditions (such as through contract terms). If the licensee is unable to do so, then it may not use that third party to support its licensed system. Commerce notes that, due to the dramatic reduction in the number of license conditions, the practical effect of this requirement to ensure third-party compliance with license conditions is minimal. This approach allows maximum flexibility for licensees to contract with the growing number of providers of ground station services, cloud processing, hosted payloads platforms, etc., but does not encourage such use as a means to evade regulation or disadvantage entities that choose to conduct those activities themselves.

Remote sensing: After considering public comments and pertinent policy considerations, this definition now applies only to (1) remote sensing conducted when in orbit of the Earth, rather than in orbit of any celestial body; and (2) to collecting data that can be processed into imagery of the surface features of the Earth. This definition is based on the definition of ''land remote sensing'' found at 51 U.S.C. 60101(4). Therefore, systems that can only produce data that cannot be processed into Earth-surface imagery are not required to obtain a license under this final rule. For example, a system in Earth orbit designed to conduct NEI would likely be conducting remote sensing for the purpose of this rule, because the instruments used for such missions typically are capable of collecting data that can be processed into imagery of the surface features of the Earth. Please see ''Jurisdiction,'' § 960.2, for technical capabilities that are specifically not licensed under this final rule.

Significant or substantial foreign agreement: In response to comments, Commerce clarifies that this definition is intended to cover only foreign agreements the execution of which would add or otherwise change material facts (see ''material fact'' definition and explanation above) and therefore would already require a license modification. In other words, this definition is intended to articulate that ''significant or substantial foreign agreement'' are only agreements that, when executed, will change something about the license.

Some commenters misunderstood the proposed rule's wording, believing that it meant that a change in any fact

involving a foreign country (even a low-value data sale to a foreign country) would require a license modification due to this definition. Commerce has changed the wording of this definition to attempt to eliminate this confusion. The rewording is intended to carry out the proposed rule's intent: That something is a significant or substantial foreign agreement only if its execution would add or otherwise change a material fact. This definition is intended to reduce licensees' compliance burdens by requiring only one process—license modification—rather than including a separate process for review of foreign agreements that do not add or otherwise change material facts.

Some commenters requested that Commerce create a list of favorable nations, transactions with which would not require a significant or substantial foreign agreement process. Commerce disagrees because of the likelihood that national security or foreign policy concerns would outpace Commerce's ability to update this list. One commenter noted that the Act requires only a notification—not a license modification—for a significant or substantial foreign agreement. But as explained above, Commerce has effectively collapsed the significant or substantial foreign agreement process with the license modification process, such that there are *no* significant or substantial foreign agreements that do not separately require a license modification. Commerce believes that it cannot further reduce this regulatory burden. Examples:

- Licensee contracts with a foreign company or government to sell unenhanced data, to be delivered through a cloud service provider. The license (as shown in appendix C) does not list recipients of unenhanced data, whether foreign or within the United States. Therefore, this contract is not a significant or substantial foreign agreement because it does not require a license modification. The Licensee can sign the contract without any approval by or notification to Commerce.
- Licensee contracts with a foreign company or government to sell unenhanced data, to be delivered directly to a ground station at the foreign entity's location. The license lists the location of ground stations that receive unenhanced data. If the license does not already list this ground station, delivering unenhanced data to it would require approval of a license modification. Therefore, it is technically a significant or substantial foreign agreement. However, practically speaking, it would be processed as a license modification request, regardless of whether the ground station in question is foreign or domestic.

Unenhanced data: This definition, based on the definitions of ''unenhanced data'' and ''data preprocessing'' in the Act, attempts to capture all data that are unique to remote sensing operators, including basic imagery products, rather than higher-level products and analyses that could be created by third parties who are not conducting remote sensing themselves. This applies to the definitions of ''operate'' and ''remote sensing space system;'' the categorization process in § 960.6; and the Kyl-Bingaman condition found in § 960.8(a)(9), having the effect of limiting the scope of those definitions.

U.S. person: Some commenters requested that Commerce define ''U.S. person'' rather than ''U.S. citizen.'' Commerce has made this change. Commerce makes a distinction between ''person'' and ''U.S. person.'' As defined in this part, a ''person'' includes anyone, whether foreign or domestic and including juridical persons, who is not the U.S. Government. A ''person'' is required to obtain a license from Commerce to operate a private remote sensing space system in the United States.

By contrast, a ''U.S. person'' is a United States national, either natural or juridical. A ''U.S. person'' must obtain a license from Commerce to operate anywhere in the world, inside or outside the United States. The definition of ''U.S. person'' does *not* limit who may apply for and receive a license from Commerce. Any person who desires to operate a system from within the United States is eligible to apply for a license. ''U.S. person,'' instead, only determines who must obtain a license from Commerce to operate anywhere outside the United States.

Subpart B—License Application Submission and Categorization

Subpart B contains application and license review procedures, and the analysis the Secretary will use for assigning systems to a tier. The following provisions are of particular note.

Section 960.5 Application Submission

Section 960.5(d): In response to comments, Commerce included a seven-day time limit on the Secretary's review of whether an updated application constitutes a new application. If it does, the application review timeline begins afresh.

Section 960.6 Application Categorization

Section 960.6(a): In response to comments and as discussed in detail in the General Overview section above, Commerce eliminated the technical criteria in the proposed rule (which separated ''low-risk'' systems from ''high-risk'' systems) in favor of criteria based solely on unenhanced data availability. Commerce refers to the resulting groups as ''tiers,'' partly due to commenters who suggested that the proposed rule's category names were pejorative, but primarily because the new tier system is not based on risk. A major benefit of this approach is that the tier determination in the final rule is a quintessentially commercial question suited to the Secretary of Commerce. Accordingly, under the final rule, the Secretary makes the determination of the appropriate category, and will consult with other agencies, as appropriate, to resolve a difficult categorization. The Secretary of Defense or State may notify the Secretary of Commerce if they disagree with Commerce's determination of availability, including taking into account matters of national security or international obligations or policies not considered in availability, but such notification must be sent by an official at least as senior as an Assistant Secretary.

This approach to categorization is also akin to some commenters' request for applications to be ''deemed granted'' if they proposed to collect data that were already available; under the final rule, these applications will be Tier 1, receive minimal conditions (see § 960.8), and the Secretary may only deny them if there is a high degree of evidence that they are not eligible for a license (see § 960.7(a)). Finally, this tier determination is appealable after the license is granted (because making it appealable before license grant, as some commenters requested, would unduly slow the application review process, which is quite short (see § 960.7)).

Section 960.6(a)(1): Tier 1 consists of systems which, in the Secretary's analysis, have the capability to collect unenhanced data substantially the same (see definition of ''substantially the same'' in § 960.4 and discussion below) as unenhanced data already available from entities not licensed under this part. If the Secretary determines that unenhanced data outside the Secretary's control are available, and a proposed system's unenhanced data will be substantially the same (in a holistic sense) as that available data, the Secretary will categorize the system as

Tier 1. Primarily, the Secretary will examine what unenhanced data are available from foreign sources when making this determination. More details about the Secretary's analysis are below.

Capability: The Secretary's determination will focus on the system's capability, rather than its business plans or planned mission. For example, if a system's technical specifications demonstrate that it is capable of collecting unenhanced data at 1 meter spatial resolution, but the application states that the operator plans only to collect data at 5 meters spatial resolution, the Secretary will evaluate the system as though it were planning to collect its best technical capability (1 meter data).

Unenhanced data: The Secretary's analysis under § 960.6(a) looks to the system's ability to collect unenhanced data, including preprocessed data and basic imagery products, rather than any processed data or products that will be possible to create with the unenhanced data (see ''unenhanced data'' definition in § 960.4). For example, if a foreign remote sensing space system produces imagery with a spatial resolution of 5 meters, but when combined with data from non-space based sources it can result in imagery with a spatial resolution of 1 meter, the Secretary would consider the spatial resolution of 5 meters for the characterization analysis in § 960.6.

Substantially the same: The Secretary will use a holistic approach when comparing data, taking into account factors such as the spatial resolution, temporal resolution (how frequently data collected over a given spot on the Earth will be available), spectral bands used, collection volume, etc. (see ''substantially the same'' definition in § 960.4). In other words, the Secretary's inquiry is whether the unenhanced data are a market substitute for unenhanced data from other sources, rather than the risk-focused question of whether the unenhanced data pose the same national security risks as other data.

Available: When considering the availability of unenhanced data outside the Secretary's control, the Secretary will consider whether they are ''readily and consistently obtainable by an entity or individual other than the U.S. Government or a foreign government'' (see definition of ''available'' at § 960.4, and discussion above). For purposes of Tier 1, Commerce will consider whether such an entity or individual is able, readily and consistently, to obtain unenhanced data from sources outside the Secretary's control, including foreign sources. This standard is intended to capture arm's-length transactions—essentially, where unenhanced data are available on the open market on ordinary commercial terms. Commerce will perform a thorough analysis using all information at its disposal, and broadly welcomes information from U.S. Government agencies and others to inform this analysis. Commerce also invites applicants to include evidence of the availability of relevant data along with their application (see Appendix A).

Section 960.6(a)(2): Tier 2: The analysis for whether a system is Tier 2 is similar as the analysis for Tier 1; please see above for discussion of the terms ''capable,'' ''unenhanced data,'' ''substantially the same,'' and ''available.'' However, a system is Tier 2 if the Secretary determines that it is capable of producing unenhanced data substantially the same as unenhanced data available only from systems licensed under this part. In other words, Tier 2 will consist only of Commerce-licensed remote sensing systems. Where a certain capability exists only among this group, it belongs in Tier 2 (see discussion of Tier 2 license conditions below) because a restriction placed on this group, such as a limited-operations directive, could effectively limit all access, globally, to such data.

Section 960.6(a)(3): Tier 3: Like with Tiers 1 and 2, the Secretary will determine whether a system is Tier 3 based on whether it is capable of producing unenhanced data substantially the same as otherwise available unenhanced data (see above discussions about those terms). Tier 3 consists of systems that are capable of producing unenhanced data that are not available from any sources. Essentially, Tier 3 consists of entirely novel capabilities. These must be treated differently than systems from which unenhanced data are already available (whether only from Commerce-controlled entities or otherwise), because the U.S. Government is unlikely to have had a chance yet to evaluate how to mitigate any risks the new capability will pose (see discussion below on § 960.10). Note that this does not mean that no such data exist—merely that they are not available as defined in this final rule. For example, if such data only exist due to another Tier 3 system, and that Tier 3 system is still operating under a temporary license condition (see discussion of § 960.10) that prohibits all dissemination of certain data, then a new system proposing to produce such data would also be Tier 3, because the only other such data in the world are not ''available.'' However, as soon as such data are ''available'' due to the expiration of the temporary condition, then the production of that data would no longer make a system Tier 3. All such systems would become Tier 2. Note also that a system's novelty (and therefore its categorization in Tier 3) is tied only to its unenhanced data. A system cannot be categorized as Tier 3 simply because the combination of its unenhanced data with other data, or the post-processing of its unenhanced data, would result in novel products. Commerce will look only to whether the system's unenhanced data alone are not substantially the same as any unenhanced data available anywhere in the world.

Section 960.6(c): The shift to ''tiers'' is also responsive to commenters who raised the concern that Commerce would not be able to update the technical categorization criteria in the proposed rule frequently enough to keep up with technological advances. As this paragraph demonstrates, the tiers in the final rule are dynamic and do not require rulemaking updates to reflect technological advances. Instead, as explained in this paragraph, systems will automatically move to lower-numbered tiers as the unenhanced data they are capable of producing become available. For example, a system might belong in Tier 2 if it is capable of collecting unenhanced SWIR data at 10 meters spatial resolution, and the only other 10-meter unenhanced SWIR data in the world are available only from U.S. remote sensing licensees. As soon as a system outside the Secretary's control (most likely a foreign remote sensing space system) makes substantially the same 10-meter SWIR unenhanced data available, this licensee would receive a Tier 1 license under the procedures in this paragraph. The licensee would no longer be required to comply with limited-operations directives. However, if the reverse happens (a system is Tier 1 due to a single foreign competitor producing the same unenhanced data, but the foreign competitor goes out of operation), the Tier 1 license would *not* become a Tier 2 license. The dynamic nature of this adjustment goes only in the direction of reducing the burdens to industry.

See § 960.13 for a discussion of how a system's tier may change to a higher-numbered tier if the Secretary grants the licensee's voluntary request for a license modification. Note, too, that it is possible that a license application that is significantly altered such that it is deemed withdrawn and refiled under § 960.5(d) may be categorized into a different tier (including a higher tier) than the original application.

Subpart C—License Application Review and License Conditions

Subpart C contains the standard for license grants and denials; license conditions that will apply to each tier, including how temporary license conditions will be set; compliance and monitoring; license modification and waiver procedures; and details about how licenses are terminated. The following provisions are of particular note.

Section 960.7 License Grant or Denial

Describes the application review process, which is now generally the same for all applications.

Section 960.7(a): Consistent with public comment, a presumption of approval applies equally to all applications. Applications are granted or denied based on the Secretary's determination whether the applicant will comply with all legal obligations, and applicants are presumed to comply unless the Secretary has specific, credible evidence to the contrary. The Secretary cannot deny a license based on the capabilities of the proposed system or any determination of risk to national security.

Section 960.7(b): Consistent with public comment, the Secretary will make a grant or denial determination on all applications within 60 days. If no determination is made within that time, the applicant can request a determination, which must be provided within three days unless the Secretary and applicant agree to extend the review period in unusual circumstances.

Section 960.8 Standard License Conditions for All Tiers

This section contains conditions that will be included in licenses for all tiers of systems. It primarily consists of those required to be included in licenses by the Act or other law.

Section 960.8(a)(3): One commenter raised privacy and civil liberty concerns regarding the condition requiring the licensee to provide unenhanced data of a government's territory to that government, noting the potential use of such data. The Act requires Commerce to include this condition, so Commerce cannot lawfully omit this condition. Commerce also notes that the origin of this is a resolution adopted in 1986 by the United Nations General Assembly: ''Principles Relating to Remote Sensing of the Earth from Outer Space.''

Commenters were split on the proposed rule's decision not to designate any data under 51 U.S.C. 60121(e), which resulted in licensees not being required to make any unenhanced data available to the Department of the Interior before deleting any such data. One suggested that the requirement under the existing regulations (that all data must be made available before deletion) is not burdensome and should be retained, while others disagreed. Commerce is choosing to keep the proposed rule's approach designating no data required to be offered, but to avoid any confusion, Commerce removed the standard condition found in the proposed rule. Licensees will not be required to notify Commerce or offer unenhanced data to Interior before purging such data. Commerce believes there is a burden to requiring licensees to store and archive data that they may not otherwise wish to retain, and to seek permission before purging it. However, licensees may offer to donate such data, especially archived data, if they so choose. Commerce can provide any interested licensees with appropriate contacts at the Department of the Interior.

Section 960.8(a)(4): The ANPRM raised the issue of whether Commerce should require liability insurance, perhaps as an alternative to specifying acceptable means of satellite disposal in the regulations, as either option would address the U.S. Government's policy of minimizing orbital debris and reduce the U.S. Government's potential liability for damages caused by licensees under the Convention on International Liability for Damage Caused by Space Objects. In response to ANPRM comments, the proposed rule did not require liability insurance. While one commenter noted that the proposed rule, by not requiring licensees to obtain liability insurance, places risk on the U.S. Government and taxpayers, other commenters supported the decision to require compliance with generally accepted disposal guidelines instead.

However, as a commenter noted, nearly all Commerce-licensed systems are also licensed by the Federal Communications Commission (FCC), and FCC licenses already address orbital debris and disposal issues in a comprehensive manner (and are in the process of being revised, subject to a separate public rulemaking process (84 FR 4742, February 19, 2019)). To avoid duplicative regulation, Commerce has opted to defer to FCC license requirements regarding orbital debris and spacecraft disposal, and therefore there is no longer any license condition requiring specific orbital debris or spacecraft disposal practices in this final rule, and Commerce licenses will not include any such condition. § 960.8(a)(4) simply contains the text required by the Act: That ''upon termination of operations under the license, [the licensee shall] make disposition of any satellites in space in a manner satisfactory to the President.'' Commerce clarifies that, until further updates, the disposition manner satisfactory to the President is to follow the relevant FCC license.

Note, however, that Commerce may issue guidance or undertake a separate, narrow rulemaking to revise this license condition as future developments may warrant.

Section 960.8(a)(5): Commerce consolidated all reporting requirements into one condition and increased the time to report to seven days. As noted above, Commerce revised the definition of anomaly in response to comments so fewer anomalies would fall under this condition and require reporting.

Section 960.8(a)(7): In response to a comment, all systems now require only annual certification of the continued accuracy of material facts in the license, as opposed to semiannual reporting as required for some systems in the proposed rule. See discussion of § 960.14 for more details about this certification.

Section 960.8(a)(8): The rule retains the possibility of physical site inspections, but does not require them. It now provides a minimum of 48 hours' notice, but does not require any prior evidence to suggest non-compliance or risk, as some commenters requested. This is an important tool to ensure compliance. Commerce disagrees with comments suggesting that physical inspections are always outdated and cost-ineffective, but Commerce will continually evaluate whether particular inspections are necessary. Note that in response to comments, Commerce greatly restricted the definition of a system, which has the effect of limiting the facilities that could be subject to inspection. For example, because data storage facilities are now excluded from the definition of a system, if system data are stored in a commercial cloud, Commerce will not require the ability to inspect those physical data centers.

Section 960.8(a)(9): In response to comments, the rule does not specify a resolution threshold for imagery over the State of Israel. Instead, Commerce will regularly evaluate the resolution available from commercial sources, using the definition of ''available'' found in this part, and specify the requirement in the **Federal Register**. Commerce encourages the public to provide evidence of data available from commercial sources of the State of Israel at a resolution finer than our latest **Federal Register** notice. At the time of

issuance of this final rule, the latest such notice sets this resolution threshold at 2 meters spatial resolution (83 FR 51929, October 15, 2018).

Section 960.9 Additional Standard License Conditions for Tier 2 Systems

Tier 2 systems have no conditions restricting the operation of the system apart from the requirements to: (1) Obtain the written consent of the owner of an Artificial Resident Space Object (ARSO) before conducting resolved imaging of the ARSO and providing the Secretary notification five days in advance of such imaging and, (2) comply with limited-operations directives. The proposed rule contained significantly restrictive conditions on specific types of imaging, including NTI, SWIR, and SAR. Future updates to the regulations could have revised or removed some of these restrictions, but also could have added new restrictions for other imaging types. Commenters were strongly opposed to these conditions as they applied to high-risk systems in the proposed rule. Accordingly, Commerce has removed them altogether. There are no permanent conditions restricting any imaging techniques in this final rule. Furthermore, because Commerce has previously licensed all of the above techniques, all such systems would either be Tier 1 or Tier 2 and therefore have no possibility of additional conditions, unless they produce unenhanced data that are novel in some way, in which case they would be categorized as Tier 3.

Section 960.9(a)(1): To ensure compliance if a limited-operations directive is issued in an emergency, Tier 2 systems must be capable of encrypting telemetry tracking and control and data specified in the limited-operations directive. Tier 2 systems must also be capable of implementing other best practice measures to prevent unauthorized access to the system. For the purposes of complying with this condition, however, such encryption and other measures need not be active in the absence of a current limited-operations directive, so long as the system can immediately comply with a directive when it is issued. Note that during an inspection or investigation, Commerce may require the licensee to demonstrate that sufficient encryption and other measures could become active immediately as though a limited-operations directive had just been issued. If the licensee is unable to demonstrate this ability, the licensee would be out of compliance with this condition even absent a real-world limited-operations directive. Through this structure, Commerce is striking a balance between some commenters' request that Commerce not require specific encryption, and the legitimate need to encrypt sensitive data in the event of a national-security emergency.

It is Commerce's understanding, at the time of this writing, that encryption of data in some or all cases cannot be turned on and off. Therefore, Commerce believes that, in those cases, licensees will in practice be required to encrypt data at all times; otherwise, they will not be able to turn encryption on immediately in the event of a limited-operations directive, which means they would already be in violation of this license condition. However, Commerce welcomes updated information about the technical capabilities in this area.

While some comments supported the proposed rule's approach requiring National Institute of Standards and Technology (NIST)-approved encryption, one commenter suggested this was overly prescriptive. Commerce believes that this approach provides some benchmark of what encryption will be acceptable during an emergency, which provides a ''safe harbor'' for licensees who want to ensure that their preparation for a limited-operations directive will suffice. However, Commerce notes that applicants and licensees can always seek a waiver or modification if they prefer to take a different approach. Also in response to comments, Commerce will no longer require completion of a NIST Cybersecurity Framework document, and industry best practice is relative to the system operator's business size. Nonetheless, Commerce has provided some best practice factors above in the preamble to this final rule for licensees to consider regarding cybersecurity.

Section 960.10 Additional Standard and Temporary License Conditions for Tier 3 Systems

In addition to the standard license conditions in § 960.9 applicable to Tier 2, Tier 3 systems will need to comply with possible temporary conditions. This section describes the process for imposing such temporary conditions.

Section 960.10(b): The first step in setting a temporary license condition on a Tier 3 system is Commerce's notification to the Secretaries of Defense and State. The notified Secretaries will have 21 days from that notification to craft any temporary conditions. This limited time frame will avoid the long delays that have regularly occurred during the review of applications for novel phenomenologies. Importantly, the temporary condition must be designed to expire within one year from the date the Secretary obtains data suitable for evaluating the system's capabilities (generally, the date of initial operating capabilities). As explained above, temporary conditions are designed to give the U.S. Government an opportunity to mitigate the risk it foresees from novel technology; Commerce anticipates that one year will be sufficient, in many cases, to allow the U.S. Government to understand how to mitigate such risk (see discussion of § 960.10(e) for information about extensions).

Section 960.10(c): Commerce will not simply impose the Secretary of Defense or State's proposed temporary condition directly in a Tier 3 license. Instead, this paragraph lays out the stringent criteria and process through which Commerce will evaluate the proposed condition. The relevant criteria include considerations of applicable law, with the intent to ensure that the condition is as narrowly tailored to the risk as possible. Also, this paragraph specifies that Commerce will consult with the Secretary requesting the condition and with the applicant or licensee. This consultation is aimed at resulting in the least restrictive possible temporary condition. Of particular note, the paragraph considers whether the applicant or licensee can mitigate the concern another way: This is intended to give the applicant or licensee an opportunity to creatively alter their technical or business plan, if possible, to avoid the identified risk.

Section 960.10(e): Commerce recognizes that, in some cases, an extension of the temporary condition beyond one year may be necessary. However, Commerce also recognizes that indefinite extensions would render temporary conditions effectively permanent, meaning that applicants would have no certainty that the conditions will actually expire at some point and allow them to fully exploit their system's capabilities. This paragraph attempts to strike an appropriate balance between those concerns. It sets out stringent requirements for Commerce to extend a temporary condition at the request of the Secretary of Defense or State. These requirements include notification no less than 60 days before the expiration of the condition (to give licensees fair notice of a potential extension) and a showing of the necessity of continuing the condition under paragraph (c). If Commerce finds these requirements are met, it may extend the temporary condition for one year. With the exception of a request specifically from the Secretary of Defense or State and the requisite showing of need, Commerce

may not grant more than two one-year extensions. Therefore, a temporary condition will, absent an approved Secretarial request, last for an absolute maximum of three years. Commerce anticipates that no more than three years should be needed for the U.S. Government to take necessary steps to protect itself from a new technology. Even if the U.S. Government is unable to mitigate to the level it would like to, by this point, it is likely that foreign capabilities would be under development, and allowing temporary conditions to possibly become permanent would only encourage the development of such foreign capabilities.

Section 960.10(f): Some comments raised concerns with the number of times in the proposed rule that Commerce would consult with the Secretaries of Defense and State, because each consultation required any disagreement to be resolved via the MOU, potentially resulting in prolonged delays. Due to the philosophical changes described above, Commerce does not need to consult with other agencies under the final rule nearly as often as it would under the proposed rule. Moreover, most of the consultations that remain do not require interagency concurrence. Temporary conditions, as discussed further below, are a unique exception that require the expertise and authority of the Departments of Defense and State. Accordingly, § 960.10(e) is the sole provision to use the MOU's complete interagency dispute resolution procedures in the final rule. Note that § 960.6(b) uses the MOU's interagency dispute resolution procedures as well, but only the higher level procedures, and only after an Assistant Secretary has asked the Secretary to reconsider a system categorization.

Section 960.11 No Additional Conditions

This confirms that neither Commerce nor the Departments of Defense or State may impose any conditions on a system other than those described in §§ 960.8, 960.9, 960.10, and temporary conditions developed pursuant to the process in § 960.10. Therefore, existing conditions (including Geographic Exclusion Areas, license appendices, and Data Protection Plan requirements) will not automatically or permanently be included in any license. This inability to impose any additional conditions also includes a ban on ''retroactive'' conditions (that is, conditions required by the U.S. Government after license issuance, other than due to a licensee's voluntary request for a license modification), which is consistent with many comments which indicated the possibility of such conditions were very harmful to individual companies, investment, and the reputation of the U.S. business environment. The Act still contains an authority for retroactive conditions: 51 U.S.C. 60147(d) allows Commerce to require the Secretary of Defense to reimburse a licensee for imposing a technical modification. However, because § 960.11 now prohibits Commerce from imposing any retroactive conditions, the question of reimbursing licensees for any such conditions is moot.

Note that additional conditions may be necessary if a licensee voluntarily requests a license modification, and the modification would require the system's re-categorization to Tier 3, which can involve temporary conditions (see § 960.13(b)). But in that case, the licensee will have an opportunity to withdraw or revise the modification request if the licensee wishes to avoid any such conditions.

Section 960.12 Applicant-Requested Waiver Before License Issuance

For clarity, Commerce moved these provisions into their own section, whereas the proposed rule included them along with the standard license conditions for low- and high-risk conditions. On a related note, some commenters requested that Commerce eliminate the provision that certain standard conditions in the proposed rule could not be waived. Commerce notes that those conditions were largely ones that were required by the Act (51 U.S.C. 60122) or other law, so Commerce may not have the authority to waive them. Nevertheless, Commerce now addresses this issue in § 960.12 by requiring the Secretary to determine, before granting a waiver (or perhaps adjusting a condition, rather than waiving it altogether), that granting the waiver or adjustment would not violate the Act or other law. Consequently, Commerce has removed the distinction between inherently waivable and non-waivable conditions.

Section 960.13 Licensee-Requested Modifications After License Issuance

This section contains the process for requesting a modification to a license. Such a modification could be to change a material fact in the license or to amend a license condition. As described in the definitions, ''waiver'' will exclusively refer to a request to amend a license condition prior to license issuance, while ''modification'' will refer to a request to amend the text of the license after license issuance.

Section 960.14 Routine Compliance and Monitoring

Commerce notes that the minimal compliance and monitoring requirements in this section are intended to streamline, to the greatest extent possible, all paperwork burdens for licensees. But licensees must understand how critical it is to comply with this requirement carefully. Once each year, licensees will be required to certify that each material fact in their license remains true (see ''material fact'' definition in § 960.4). The annual certification is not a substitute for a license modification request; instead, if a material fact is no longer true at the time of the annual certification, the licensee is already out of compliance with the requirement to obtain approval for a license modification prior to a change in any material fact (see § 960.16(d)).

Subpart D—Prohibitions and Enforcement

Subpart D contains prohibitions and enforcement mechanisms. The following provisions are of particular note.

Section 960.16 Prohibitions

Section 960.16(a): This clarifies that a person (whether an individual or a legal entity; see definition of ''person'' in § 960.4) is prohibited from operating a remote sensing space system (see definition of ''private remote sensing space system'' in § 960.4) without a Commerce license, if (1) the person operates a system from a location within the United States, regardless of their nationality, or (2) the person is a U.S. person (see definition of ''U.S. person'' in § 960.4) who operates a system from any location.

Section 960.16(d): This clarifies that a licensee must not only refrain from violating license conditions (per § 960.16(b)), but must also obtain approval of a license modification before taking any action that would change a material fact in the license. For example, the location of the system's mission control center is a material fact included in the license template in appendix C. Prior to changing the location from the one listed in the license, the licensee must obtain approval of a license modification. Failing to do so violates the prohibition described in this paragraph.

Section 960.17 Investigations and Enforcement

This provision simply notes Commerce's statutory investigation and enforcement authorities without restating them. These authorities

include conducting investigations, issuing civil penalties, seizing objects pursuant to a warrant, and seeking an injunction from a U.S. district court to terminate, modify, or suspend licenses in order to investigate, penalize noncompliance, and prevent future noncompliance.

Subpart E—Appeals Regarding Licensing Decisions

Subpart E describes administrative appeals. The following provisions are of particular note.

Section 960.18 Grounds for Adjudication by the Secretary

This provision describes the types of actions subject to administrative appeal and the legal grounds for appeal of those actions.

Section 960.18(c): One commenter expressed concern with the exception for an appeal ''to the extent that there is involved a military or foreign affairs function of the United States.'' This exception, however, is required by the Administrative Procedure Act, 5 U.S.C. 554(a)(4). To clarify, a person may appeal an action that involves such a function, but any portion of the appeal that involves that function cannot be considered during the appeal. For example, the rationale for a temporary license condition under § 960.10 may involve a military function. A licensee may appeal to determine whether Commerce followed the correct administrative procedures, such as those in § 960.10, and considered the factors in paragraph (c), but the appellant could not appeal the military rationale itself.

Per multiple comments, Commerce has added the categorization of the system and the Secretary's failure to make a final determination on an application or modification request to the list of actions subject to appeal.

Section 960.19 Administrative Appeal Procedures

This provision describes the process for appealing one of the actions described in § 960.18.

Appendices

The appendices include (A) a sample application, (B) application instructions, (C) a sample license, and (D) the MOU.

Appendix A: Application

Note that all responses to questions in this application constitute material facts (see definition of ''material fact'' at § 960.4, and discussion of the importance of material facts in the preamble sections describing §§ 960.14 and 960.16 above).

In response to comments, Commerce dramatically increased the threshold for reporting foreign ownership: The proposed rule required reporting of *any* foreign ownership, but the final rule requires only the reporting of foreign ownership interests of 10 percent or greater, and only if the overall U.S. ownership is not at least 50 percent. Examples:

- Company A is 51 percent owned by a U.S. entity and 49 percent owned by a foreign entity. Company A does not need to list the foreign entity in its application (but it would need to list the U.S. entity, as it is a single owner with greater than 50 percent ownership).
- Company B is 40 percent owned by U.S. entities, and twelve foreign entities own 5 percent each. Although Company B is below majority U.S. ownership, none of the foreign owners have at least 10 percent ownership, so Company B does not need to list the foreign entities in its application.
- Company C is 25 percent owned by U.S. entities, 25 percent owned by foreign entity X, and ten other foreign entities own 5 percent each. Company C must report only foreign entity X.
- Company D is 40 percent owned by two different U.S. entities, and 10 percent owned by six different foreign entities. Company D must report those six foreign entities.

Because the final rule does not use the objective criteria the proposed rule used to categorize systems as low- or high-risk, Commerce will no longer consider whether there is ''no'' foreign investment when categorizing applicants. Many commenters raised concerns with this criterion. Instead, as discussed above, Commerce will only consider the availability of substantially the same unenhanced data when categorizing applicants. To aid this analysis, the application includes a number of questions about the technical capabilities of the proposed system.

Because the scope of the definition of ''private remote sensing space system'' (see § 960.4) is greatly reduced, the application now requests much less information about downstream components of the system. For example, there is no need to report the location of or any other details about any cloud storage facilities.

Appendix C: Sample License

As with the application, all facts included in the license will be material facts. Any deviation from these material facts requires approval of a license modification request.

Appendix D: 2017 Memorandum of Understanding (MOU)

Commerce appreciated the comments raising concerns about the frequent use of the MOU's dispute resolution and escalation procedures in the proposed rule. Due to these comments, and due to the dramatically decreased role of interagency consultation in the final rule, the final rule uses the MOU's dispute resolution procedures only twice: In § 960.10, and in an abbreviated manner in § 960.6. Under all other circumstances, Commerce will make regulatory determinations, consulting with another agency as appropriate, as specified in the rule. Please also see the discussion of the refined definition of ''MOU'' in § 960.4.

Other Comments

Some commenters requested that Commerce address privacy concerns. However, such concerns are outside the scope of the Act. These requests are better addressed to Congress.

Some commenters asked for an explicit statement that Commerce would respect the protections afforded under the Freedom of Information Act for proprietary information. Commerce understands the concern, but wishes to reassure the public that regardless of any explicit statement in the final rule, Commerce will follow all legal requirements to protect trade secrets and commercial proprietary information. Commerce believes that it is superfluous to say so in the final rule.

Conversely, at least two commenters asked Commerce to make applications and licenses publicly available. Due to the risk of exposing proprietary information, Commerce cannot make full applications or licenses available. Additionally, due to the philosophical approach that the rule should impose as few requirements on licensees as possible, Commerce will not require licensees to prepare publicly releasable summaries. However, Commerce may make non-privileged summaries of licensed systems available in its discretion.

Classification

Background

Commerce has evaluated whether this rule is a logical outgrowth of the proposed rule as required by the Administrative Procedure Act (APA, 5 U.S.C. 500 *et seq.*). Commerce has also examined the impacts of this rule as required by E.O. 12866 on Regulatory Planning and Review (September 30, 1993), E.O. 13563 on Improving Regulation and Regulatory Review (January 18, 2011), E.O. 13771 on

Reducing Regulation and Controlling Regulatory Costs (January 30, 2017), the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Paperwork Reduction Act (PRA, 44 U.S.C. 3501 *et seq.*), the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*), E.O. 13132 (August 10, 1999), E.O. 13175 (November 9, 2000), and the Congressional Review Act (5 U.S.C. 801 *et seq.*).

Logical Outgrowth—APA

Commerce acknowledges that some of the changes between the proposed rule and the final rule may appear dramatic to some. However, Commerce believes that the changes are logical outgrowths of the proposed rule, as required by the APA. The APA's logical outgrowth requirement is directed at ensuring that the public had adequate notice of the final rule that could result from a proposed rule, so that the public had an opportunity to comment on all matters. As a result, a final rule is a logical outgrowth of a proposed rule if the public should have anticipated that certain changes were possible.

In this case, the two most significant changes between the proposed rule and the final rule are: (1) The elimination of nearly all permanent operational license conditions, and (2) the revised approach to categorizing systems. Importantly, Commerce specifically called attention to these two areas and requested comment on them. The proposed rule's preamble reads: ''Of particular note, Commerce seeks feedback on the proposed rule's criteria used to distinguish between low- and high-risk systems, and the standard license conditions proposed for low- and high-risk systems, respectively (including cost of complying with such conditions and suggested alternative approaches).'' 84 FR 21283.

As for the first major change, removing most operational conditions: Public comments were in nearly unanimous agreement that the proposed rule's operational conditions were too stringent. Commerce believes that it was foreseeable that Commerce might remove these proposed conditions, and courts have recognized that it is always foreseeable that an agency may drop a portion of a proposed rule. See *Mid Continent Nail Corp.* v. *United States,* 846 F.3d 1364, 1374 (Fed. Cir. 2017).

The second major change was from categorizing systems into high-risk and low-risk categories, based on an objective set of technical criteria to evaluate risk, to the final rule's approach of categorizing systems into tiers based on commercial availability. Commerce believes that this change was foreseeable to commenters. First, several commenters, including NOAA's Advisory Committee on Commercial Remote Sensing, specifically requested this change, which suggests that the public in fact foresaw that possibility.

Moreover, this change may appear larger than it truly is from an APA perspective: Under both the proposed rule's and final rule's approach, Commerce would treat categories of licensees proportionally, in a predictable, uniform way. Under the proposed rule, Commerce proposed to do this by looking only to risk: The logic was that a system should have conditions commensurate to the amount of risk that the system posed to U.S. Government. But commenters pointed out that the U.S. Government would act illogically if it looked at U.S. systems in a vacuum, not considering the capabilities of comparable systems abroad. As a result, some commenters suggested categorizing systems based on commercial availability, and Commerce accepted this suggestion.

This approach does not abandon the consideration of risk. Instead, the final rule logically tailors the U.S. Government's consideration of risk to those types of capabilities that the U.S. Government can uniquely control. Specifically, the final rule distinguishes between Tiers 1 (no exclusive U.S. control) and 2 (exclusive U.S. control) systems, and it creates Tier 3 (exclusive U.S. control over completely novel capability), recognizing the potential for unforeseeable risk posed by truly novel systems. In other words, the new tiering approach is conceptually derived from the proposed rule's risk-focused approach, but it is informed by public comment and results in a rational outcome, wherein the categories (now called tiers) are tied to the amount of control over a system that the U.S. Government realistically can exert. Therefore, Commerce believes that this change, like the changes to the permanent operating conditions, is a logical outgrowth of the proposed rule.

The other, more minor, changes in the draft final rule as compared with the proposed rule are all the direct result of public comment. For example, Commerce reduced the scope of its jurisdiction over remote sensing in the orbit of celestial bodies other than Earth; scoped down the definition of ''anomaly;'' and scoped down the definition of ''remote sensing'' and ''remote sensing space system.'' All of these changes were specifically requested by public comments to the proposed rule, as invited by the proposed rule. Commerce believes that these changes, therefore, were reasonably foreseeable and meet the requirements of logical outgrowth.

For these reasons, Commerce believes that the final rule represents a logical outgrowth of the proposed rule. However, because Commerce recognizes that the final rule is substantially revised from the proposed rule, Commerce is issuing this final rule as a final rule with comment period. This will provide 30 days for additional public comment. After this point, assuming the public does not provide comments that justify further revising the final rule, the final rule will go into effect after 60 days from publication.

Regulatory Planning and Review—E.O.s 12866 and 13563

E.O.s 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Section 3(f) of E.O. 12866 defines a ''significant regulatory action'' as an action that is likely to result in a rule (1) having an annual effect on the economy of $100 million or more in any single year, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local or tribal governments or communities (also referred to as ''economically significant''); (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities or the principles set forth in the E.O. This rule is significant under E.O. 12866.

E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The E.O. directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for

public participation and an open exchange of ideas. Commerce has developed this rule in a manner consistent with these requirements.

This rule is consistent with E.O. 13563, and in particular with the requirement of retrospective analysis of existing rules, designed ''to make the agency's regulatory program more effective or less burdensome in achieving the regulatory objectives.'' The final rule is dramatically less burdensome for the regulated community because it eliminates most permanent license conditions and makes any specialized license conditions temporary. Additionally, it greatly reduces paperwork burdens and associated administrative costs. For example, while the proposed rule required much of the regulated community to file a certification of compliance biannually, the final rule only requires such filing annually.

Commerce believes that there is substantial information demonstrating the need for and consequences of the proposed action because it has engaged with the industry and the public in recent years, including through ACCRES, to study changes in the industry. Through direct contact with the remote sensing space industry, ACCRES, and other fora, Commerce is well informed about the growth in the industry and the challenges imposed by the existing regulations. Commerce also sought public input on the proposed rule to obtain even more information about the need for and consequences of its proposed course of action. Commerce has incorporated the public comments to the greatest extent feasible to reduce the regulatory burden.

Commerce believes that the rule will reduce the monetary and non-monetary burdens imposed by the regulation of remote sensing. Moreover, Commerce believes that the potential benefits to society resulting from the rule are large relative to any potential costs, primarily because it is the longstanding policy of the United States to endeavor to keep the United States as the world leader in the strategic remote sensing industry. Because the final rule is structured to ensure that U.S. remote sensing licensees cannot be subject to greater burdens than their foreign counterparts, Commerce believes that the final rule will promote this policy.

In Commerce's view, the benefit to society of this regulatory program is that it promotes the growth and continued innovation of the U.S. remote sensing industry, which is a significant component of the U.S. commercial space sector. Another benefit to society is to preserve long-term U.S. national security, which is admittedly difficult to quantify. Due to the national security benefits that accrue, it is critical that the most innovative and capable remote sensing systems be licensed to do business from within the United States. A regulatory approach that is less burdensome to industry and thereby encourages businesses not to leave the United States, therefore, is a benefit to U.S. national security. In addition, a regulatory approach that encourages potential foreign operators of private remote sensing systems to choose to be licensed in and operate from the United States also significantly benefits U.S. national security.

Commerce believes that the rule will result in no incremental costs to society as compared with the status quo. Generally, the costs to society that might be expected from regulations implementing the Act would be additional barriers to entry in the remote sensing field, and increased costs to operate in this industry. However, the rule takes a significantly lighter regulatory approach than the existing regulations, eliminating most permanent license conditions, and increases certainty, transparency, and predictability, while still allowing Commerce to preserve U.S. national security and observe international obligations as required by the Act. For these reasons, Commerce believes that the benefits of the proposed rule vastly outweigh its costs, which are expected to be reduced by the rule.

E.O. 13771

As described in the preamble, the rule dramatically decreases regulatory burdens. For example, the rule eliminates most license conditions, and makes all license-specific license conditions temporary. It also decreases administrative burdens associated with compliance, such as by eliminating much of the paperwork burden (see below section on Paperwork Reduction Act impacts) and by decreasing the amount and frequency of reporting requirements. Accordingly, Commerce has determined that the rule is a deregulatory action under E.O. 13771.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), whenever a Federal agency is required to publish a notice of rulemaking for any proposed rule, it must prepare a regulatory flexibility analysis (RFA) that describes the effect of the rule on small entities (*i.e.,* small businesses, small organizations, and small government jurisdictions). Accordingly, Commerce has prepared the below RFA for this rule.

This RFA describes the economic impact this rule is anticipated to have on small entities in the space-based remote sensing industry (NAICS 336414, defined as having fewer than 1,250 employees). A description of the reasons for the action, the objectives of and legal basis for this action are contained in the preamble. The reporting, recordkeeping, and compliance requirements are described in the Paperwork Reduction Act analysis below and the Subpart-by-Subpart Overview. Commerce does not believe there are other relevant Federal rules that duplicate, overlap, or conflict with this rule.

At the time of the last issuance of a final rule on this subject, Commerce found that the rule would not have a significant economic impact on a substantial number of small entities due to the ''extraordinary capitalization required'' to develop, launch, and operate a private remote sensing space system. Since that time, significant technological developments have greatly reduced these costs: For example, such developments have resulted in reduced costs to launch partly due to greater competition, and small satellites have become cheaper to produce due to standardization. These changes and others have enabled small businesses, universities, secondary and elementary school classes, and other small entities to enter this field. Based on an analysis of the last decade's license applications and an attempt to project those trends into the future, Commerce estimates that several dozen and up to a couple hundred small entities may be affected by this rule in the years to come.

Commerce received public comment on the question of whether economic benefits would accrue to small businesses under the proposed rule. A major difference between the proposed rule and the final rule is that the proposed rule would have categorized entities not based on whether their unenhanced data are available, but based on the objective risk they posed to national security. The objective criteria for this analysis in the proposed rule were so stringent that, according to public comment, very few businesses (including small businesses) would have benefited from the light regulatory touch of the proposed rule's ''low risk'' category. Commerce has taken into account these public comments, and believes that the final rule will be much more economically advantageous for small businesses than the proposed rule would have been.

Commerce has attempted to minimize the economic impact to small businesses in its final rule. Most notably, Commerce will evaluate applicants and licensees on the basis of whether the unenhanced data their system can collect is substantially the same as unenhanced data otherwise available, and not under the control of Commerce. If it is, Commerce will treat that system with a very light regulatory touch, applying the bare minimum of regulatory requirements. For example, if an applicant proposes to collect panchromatic imagery at a spatial resolution of 2 meters, and substantially the same unenhanced data are available from foreign sources on the open market Commerce will treat that system as ''Tier 1,'' resulting in the system being granted a license with very few conditions and regulatory requirements. Commerce anticipates that most small businesses will fall into this category. Therefore, Commerce anticipates that small businesses will receive a significant economic benefit under this rule, as compared with the status quo.

Even if small businesses operate systems that would be categorized as Tier 2 or Tier 3 under the final rule, the majority of them will nevertheless receive significant benefits compared to the status quo. These systems will receive the same bare minimum license conditions as those categorized as Tier 1, with the addition of the consent and notification requirement for conducting resolved ARSO imaging and requirement to comply with limited-operations directives, and some associated requirements to be able to protect sensitive data. Additionally, Tier 3 licensees may receive temporary, system-specific license conditions. As compared with the status quo, even systems such as these will have far fewer regulatory requirements.

Commerce considered five alternatives to the proposed rule. The first four alternatives, none of which garnered support in the public comments, were to:

1. Retain the status quo and not update the regulations;
2. Retain the bulk of the existing regulations and edit them in minor ways only to account for technological changes since 2006;
3. Repeal the status quo regulations and not replace them, instead relying solely on the terms of the Act; or
4. Update the status quo regulations to provide an expanded role for the Departments of Defense and State, and the Office of the Director of National Intelligence, in recognition of the threat to national security posed by some of the latest technological developments.

A fifth alternative became clear after the proposed rule: Commerce could have gone forward with the proposed rule's approach of categorizing systems based on risk and imposing permanent license conditions. However, that approach would have been less responsive to public comment, which favored a lighter regulatory touch and more flexible categorization of systems (not based on objective technical criteria).

Paperwork Reduction Act

This rule contains a revised collection-of-information requirement subject to the Paperwork Reduction Act (PRA, 44 U.S.C. 3501 *et seq.*) that will modify the existing collection-of-information requirement that was approved by OMB under control number 0648–0174 in January 2017. This revised requirement will be submitted to OMB for approval along with the rule.

Public reporting burden for this requirement is estimated to average: 15 hours for the submission of a license application; 1 hour for the submission of a notification of each deployment to orbit; 1 hour for the submission of notification of a system anomaly or disposal; 1 hour for notification of financial insolvency; 1 hour for a license modification request (if the licensee desires one); and 2 hours for an annual compliance certification. Commerce estimates that this burden is less than a fifth of the existing paperwork burden (an estimated 21 hours compared with 110). It is also less than the proposed rule's collection-of-information requirement, because the Cybersecurity Framework is no longer required, and all systems must only complete one annual compliance certification (whereas under the proposed rule, high-risk systems had to complete two certifications each year).

The public burden for this collection of information includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Regardless of any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

For ease of comparison between the existing, proposed rule's, and final rule's paperwork burdens, Commerce provides the following table:

TABLE 1

Document	Existing burden (hrs)	Proposed rule (hrs)	Final rule (hrs)
Application	40	20	15
Data Protection Plan	23	n/a	n/a
Cybersecurity Framework	n/a	10	n/a
License Amendment (Modification)	10	1	1
Public summary	2	n/a	n/a
Foreign agreement notification	2	n/a	n/a
Completion of Pre-ship review	1	n/a	n/a
Information when Spacecraft Launches or Deploys; Disposal of Spacecraft; Detection of Anomaly; or Financial Insolvency or Dissolution.	8	5	5
Orbital Debris Mitigation Standard Practices Plan	Comparable to existing part of application	10	n/a
Planned Information Purge	2	n/a	n/a
Operational Quarterly Report	3	n/a	n/a
Semiannual Compliance Certification (high-risk only)	n/a	2	n/a
Annual compliance audit (certification)	8	2	2
Annual Operational audit	10	n/a	n/a
Total	110	48	21

National Environmental Policy Act

Publication of this rule does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required.

Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments.

E.O. 13132: Federalism

This action does not have federalism implications, as specified in E.O. 13132 (64 FR 43255, August 10, 1999).

E.O. 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in E.O. 13175 (65 FR 67249, November 9, 2000).

Congressional Review Act (CRA)

This action is subject to the CRA, 5 U.S.C. 801 *et seq.,* and Commerce will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 15 CFR Part 960

Administrative practice and procedure, Confidential business information, Penalties, Reporting and record keeping requirements, Satellites, Scientific equipment, Space transportation and exploration.

Dated: May 13, 2020.

Stephen Volz,

Assistant Administrator for Satellite and Information Services, National Oceanic and Atmospheric Administration, Department of Commerce.

■ For the reasons set forth above, 15 CFR part 960 is revised to read as follows:

PART 960—LICENSING OF PRIVATE REMOTE SENSING SPACE SYSTEMS

Subpart A—General

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960.1 Purpose.
960.2 Jurisdiction.
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Subpart B—License Application Submission and Categorization

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960.8 Standard license conditions for all tiers.
960.9 Additional standard license conditions for Tier 2 systems.
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Appendix D to Part 960—Memorandum of Understanding

Authority: 51 U.S.C. 60124.

Subpart A—General

§ 960.1 Purpose.

(a) The regulations in this part implement the Secretary's authority to license the operation of private remote sensing space systems under the Land Remote Sensing Policy Act of 1992, as amended, codified at 51 U.S.C. 60101 *et seq.,* and are intended to promote continued U.S. private sector innovation and leadership in the global remote sensing industry.

(b) In carrying out this part, the Secretary takes into account the following considerations:

(1) Technological changes in remote sensing;

(2) Non-technological changes in the remote sensing space industry, such as to business models and practices;

(3) The relative burden to licensees and benefits to national security and international policies of license conditions;

(4) Changes in the methods to mitigate risks to national security and international policies;

(5) International obligations of the United States;

(6) The availability of data from sources in other nations;

(7) The remote sensing regulatory environment in other nations; and

(8) The potential for overlapping regulatory burdens imposed by other U.S. Government agencies.

§ 960.2 Jurisdiction.

(a) The regulations in this part set forth the requirements for the operation of private remote sensing space systems within the United States or by a U.S. person.

(b) Instruments used primarily for mission assurance or other technical purposes, including but not limited to navigation, attitude control, monitoring spacecraft health, separation events, or payload deployments, such as traditional star trackers, sun sensors, and horizon sensors, shall not be subject to this part.

(c) In the case of a system that is used for remote sensing and other purposes, as determined by the Secretary, the scope of the license issued under this part will not extend to the operation of instruments that do not support remote sensing.

(d) The Secretary does not authorize the use of spectrum for radio communications by a private remote sensing space system.

§ 960.3 Applicability to existing licenses.

(a) After reviewing each license existing prior to July 20, 2020, on July 20, 2020, the Secretary will either:

(1) Replace the existing license with one developed in accordance with this part, retaining any applicable waivers and modifications; or

(2) If the Secretary determines that an existing licensee no longer requires a license under this part the Secretary will notify the existing licensee that the license is terminated.

(b) The replacement license or termination determination will be effective 30 days after delivery by the Secretary to existing licensees. Existing licensees who object to their existing license being replaced or terminated must notify the Secretary in writing within those 30 days, and specify their objection in the notification.

§ 960.4 Definitions.

For purposes of this part, the following terms have the following meanings:

Act means the Land Remote Sensing Policy Act of 1992, as amended, codified at 51 U.S.C. 60101, *et seq.*

Anomaly means an unexpected event or abnormal characteristic affecting the operations of a system that could indicate a significant technical malfunction or security threat. Anomalies include any significant deviation from the orbit and data collection characteristics of the system.

Appellant means a person to whom the Secretary has certified an appeal request.

Applicant means a person who submits an application to operate a private remote sensing space system.

Application means a document submitted by a person to the Secretary that contains all the information described in appendix A of this part.

Available means readily and consistently obtainable by an entity or individual other than the U.S. Government or a foreign government.

Ground sample distance or *GSD* refers to the common measurement for describing the spatial resolution of unenhanced data created from most remote sensing instruments, typically measured in meters. A resolution ''finer than'' X meters GSD means the resolution is a number lower than X. For example, 5 meters GSD is finer than 10 meters GSD.

In writing or *written* means written communication, physically or electronically signed (if applicable), transmitted via email, forms submitted on the Secretary's website, or traditional mail.

License means a license granted by the Secretary under the Act.

Licensee means a person to whom the Secretary has granted a license under the Act.

Material fact means a fact an applicant provides in the application, or a fact in Parts C or D of a license.

Memorandum of Understanding or *MOU* means the April 25, 2017 version of the ''Memorandum of Understanding Among the Departments of Commerce, State, Defense, and Interior, and the Office of the Director of National Intelligence, Concerning the Licensing and Operations of Private Remote Sensing Satellite Systems,'' which is included as appendix D of this part. In the event that any provisions of the MOU conflict with this part, this part shall govern.

Modification means any change in the text of a license after issuance.

Operate means to have decision-making authority over the functioning of a remote sensing instrument. If there are multiple entities involved, the entity with the ultimate ability to decide what unenhanced data to collect with the instrument and to execute that decision, directly or through a legal arrangement with a third party such as a ground station or platform owner, is considered to be operating that system.

Person or *private sector party* means any entity or individual other than agencies or instrumentalities of the U.S. Government.

Private remote sensing space system or *system* means an instrument that is capable of conducting remote sensing and which is not owned by an agency or instrumentality of the U.S. Government. A system must contain a remote sensing instrument and all additional components that support operating the remote sensing instrument, receipt of unenhanced data, and data preprocessing, regardless of whether the component is owned or managed by the applicant or licensee, or by a third party through a legal arrangement with the applicant or licensee.

Remote sensing means the collection of unenhanced data by an instrument in orbit of the Earth which can be processed into imagery of surface features of the Earth.

Secretary means the Secretary of Commerce, or his or her designee.

Significant or substantial foreign agreement means a contract or legal arrangement with a foreign national, entity, or consortium involving foreign nations or entities, only if executing such contract or arrangement would require a license modification under § 960.13.

Subsidiary or affiliate means a person who directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with, the applicant or licensee.

Substantially the same means that one item is a market substitute for another, taking into account all applicable factors. When comparing data, factors include but are not limited to the data's spatial resolution, spectral bandwidth, number of imaging bands, temporal resolution, persistence of imaging, local time of imaging, geographic or other restrictions imposed by foreign governments, and all applicable technical system factors listed in the application in appendix A of this part.

Unenhanced data means the output from a remote sensing instrument, including imagery products, which is either unprocessed or preprocessed. Preprocessing includes rectification of system and sensor distortions in data as it is received directly from the instrument in preparation for delivery to a user, registration of such data with respect to features of the Earth, and calibration of spectral response with respect to such data, but does not include conclusions, manipulations, or calculations derived from such data, or a combination of such data with other data.

U.S. person means:

(1) Any individual who is a citizen or lawful permanent resident of the United States; and

(2) Any corporation, partnership, joint venture, association, or other entity organized or existing under the laws of the United States or any State, the District of Columbia, Puerto Rico, American Samoa, the United States Virgin Islands, Guam, the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States.

Waiver means any change from the standard license text in § 960.8, § 960.9, or § 960.10, which change is included in a license upon license issuance, in response to a request by the applicant pursuant to § 960.12.

Subpart B—License Application Submission and Categorization

§ 960.5 Application submission.

(a) Before submitting an application, a person may consult informally with the Secretary to discuss matters under this part, including whether a license is likely to be required for a system.

(b) A person may submit an application for a license in accordance with the specific instructions found in appendix B of this part. The application must contain fully accurate and responsive information, as described in appendix A of this part. Responses an applicant provides to each prompt in the application constitute material facts.

(c) Within seven days of the submission, the Secretary shall determine, after consultation with the Secretaries of Defense and State, whether the submission is a complete application meeting the requirements of appendix A of this part. If the submission is a complete application, the Secretary shall immediately notify the applicant in writing. If the submission is not a complete application, the Secretary shall inform the applicant in writing of what additional information or clarification is required to complete the application.

(d) If any information the applicant submitted becomes inaccurate or incomplete at any time after submission to the Secretary but before license grant or denial, the applicant must contact the Secretary and submit correct and updated information as instructed by the Secretary. The Secretary will determine whether the change is significant. If the Secretary determines that the change is significant, the Secretary will notify the applicant within seven days of receipt of the correct and updated information that the revision constitutes a new application submission under paragraph (b) of this section, and that the previous application is deemed to have been withdrawn.

(e) Upon request by the applicant, the Secretary shall provide an update on the status of their application review.

§ 960.6 Application categorization.

(a) Within seven days of the Secretary's notification to the applicant under § 960.5(c) that the application is complete, the Secretary shall determine, after consultation with the Secretaries of Defense and State as appropriate, the category for the system as follows:

(1) If the application proposes a system with the capability to collect unenhanced data substantially the same as unenhanced data already available from entities or individuals not licensed under this part, such as foreign entities, the Secretary shall categorize the application as Tier 1;

(2) If the application proposes a system with the capability to collect unenhanced data substantially the same as unenhanced data already available, but only from entities or individuals licensed under this part, the Secretary shall categorize the application as Tier 2; and

(3) If the application proposes a system with the capability to collect unenhanced data not substantially the same as unenhanced data already available from any domestic or foreign entity or individual, the Secretary shall categorize the application as Tier 3.

(b) If the Secretary of Defense or State disagrees with the Secretary's determination in paragraph (a) of this section, the Secretary of Defense or State may notify the Secretary and request the Secretary's reconsideration. Such a request for reconsideration may not be delegated below the Assistant Secretary level. If the Secretary of Defense or State disagrees with the Secretary's reconsideration decision, the Secretary of Defense or State may appeal that tier categorization pursuant to the interagency dispute resolution procedures in Section IV(B) of the MOU, but only at the Advisory Committee on Private Remote Sensing Space Systems level or higher. The Secretary shall categorize the system in accordance with the decision resulting from such MOU procedures.

(c) The system shall remain in the tier assigned to it under paragraph (a) in this section until such time as the Secretary determines, after consultation with the Secretaries of Defense and State as appropriate, that the system belongs in a lower-numbered tier due to the advancement of non-U.S. commercial remote sensing capabilities or due to other facts, or until the Secretary grants the licensee's request for a license modification that results in re-categorization under § 960.13. When the Secretary determines that a lower-numbered tier is appropriate due to reasons other than a modification under § 960.13, the Secretary will notify the applicant or licensee in writing that the system falls under a lower-numbered tier than the one previously assigned under this section. Upon receiving that notification, the applicant or licensee will be responsible for complying only with the license conditions applicable to the new tier.

Subpart C—Application Review and License Conditions

§ 960.7 License grant or denial.

(a) Based on the Secretary's review of the application, the Secretary must determine whether the applicant will comply with the requirements of the Act, this part, and the license. The Secretary will presume that the applicant will comply, unless the Secretary has specific, credible evidence to the contrary. If the Secretary determines that the applicant will comply, the Secretary shall grant the license.

(b) The Secretary shall make the determination in paragraph (a) of this section within 60 days of the notification under § 960.5(c), and shall notify the applicant in writing whether the license is granted or denied.

(c) If the Secretary has not notified the applicant whether the license is granted or denied within 60 days, the applicant may submit a request that the license be granted. Within three days of this request, the Secretary shall grant the license, unless the Secretary determines with specific, credible evidence that the applicant will not comply with the requirements of the Act, this part, or the license, in which case the Secretary will deny the license, or the Secretary and the applicant mutually agree to extend this review period.

§ 960.8 Standard license conditions for all tiers.

All licenses granted under this part shall specify that the licensee shall:

(a) Comply with the Act, this part, the license, applicable domestic legal obligations, and the international obligations of the United States;

(b) Operate the system in such manner as to preserve the national security of the United States and to observe international obligations and policies, as articulated in the other conditions included in this license;

(c) Upon request, offer to the government of any country (including the United States) unenhanced data collected by the system concerning the territory under the jurisdiction of such government without delay and on reasonable terms and conditions, unless doing so would be prohibited by law or license conditions;

(d) Upon termination of operations under the license, make disposition of any satellites in space in a manner satisfactory to the President;

(e) Notify the Secretary in writing of each of the following events, no later than seven days after the event:

(1) The launch and deployment of each system component, to include confirmation that the component matches the orbital parameters and data collection characteristics of the system, as described in Part D of the license;

(2) Each disposal of an on-orbit component of the system;

(3) The detection of an anomaly; and

(4) The licensee's financial insolvency or dissolution;

(f) Request and receive approval for a license modification before taking any action that would change a material fact in the license;

(g) Certify that all material facts in the license remain accurate pursuant to the procedures in § 960.14 no later than October 15th of each year;

(h) Cooperate with compliance, monitoring, and enforcement authorities described in the Act and this part, and permit the Secretary to access, at all reasonable times and with no shorter notice than 48 hours, any component of the system for the purpose of ensuring compliance with the Act, this part, and the license; and

(i) Refrain from disseminating unenhanced data, or processed data or products derived from the licensee's system, of the State of Israel at a resolution finer than the resolution most recently specified by the Secretary in the **Federal Register** as being available from commercial sources.

§ 960.9 Additional standard license conditions for Tier 2 systems.

If the Secretary has categorized the system as Tier 2 under § 960.6, the license shall specify that the licensee shall comply with the conditions listed in § 960.8 and further shall comply with the following conditions until the Secretary notifies the licensee that the system belongs in a lower-numbered tier:

(a) Comply with limited-operations directives issued by the Secretary, in accordance with a determination made by the Secretary of Defense or the Secretary of State pursuant to the procedures in Section IV(D) of the MOU, that require licensees to temporarily limit data collection and/or dissemination during periods of increased concerns for national security and where necessary to meet international obligation or foreign policy interests; and:

(1) Be able to comply with limited-operations directives at all times. This includes:

(i) The ability to implement National Institute of Standards and Technology-approved encryption, in accordance with the manufacturer's security policy, wherein the key length is at least 256 bits, for communications to and from the on-orbit components of the system related to tracking, telemetry, and control and for transmissions throughout the system of the data specified in the limited-operations directive; and

(ii) Implementing measures, consistent with industry best practice for entities of similar size and business operations, that prevent unauthorized access to the system and identify any unauthorized access in the event of a limited-operations directive;

(2) Provide and continually update the Secretary with a point of contact and an alternate point of contact for limited-operations directives; and

(3) During any such limited-operations directive, permit the Secretary to immediately access any component of the system for the purpose of ensuring compliance with the limited-operations directive, the Act, this part, and the license.

(b) Conduct resolved imaging of other artificial resident space objects (ARSO) orbiting the Earth only with the written consent of the registered owner of the ARSO to be imaged and with notification to the Secretary at least five days prior to imaging. For purposes of this paragraph (b), ''resolved imaging'' means the imaging of another ARSO that results in data depicting the ARSO with a resolution of 3 x 3 pixels or greater.

§ 960.10 Additional standard and temporary license conditions for Tier 3 systems.

(a) If the Secretary has categorized the system as Tier 3 under § 960.6, the license shall specify that the licensee shall comply with the conditions listed in § 960.8 and further shall comply with the following conditions until the Secretary notifies the licensee that the system belongs in a lower-numbered tier for which the following conditions are not required:

(1) Comply with limited-operations directives issued by the Secretary, in accordance with a determination made by the Secretary of Defense or the Secretary of State pursuant to the procedures in Section IV(D) of the MOU, that require licensees to temporarily limit data collection and/or dissemination during periods of increased concerns for national security and where necessary to meet international obligations or foreign policy interests; and:

(i) Be able to comply with limited-operations directives at all times. This includes:

(A) The ability to implement National Institute of Standards and Technology-approved encryption, in accordance with the manufacturer's security policy, wherein the key length is at least 256 bits, for communications to and from the on-orbit components of the system related to tracking, telemetry, and control and for transmissions throughout the system of the data specified in the limited-operations directive; and

(B) Implementing measures, consistent with industry best practice for entities of similar size and business operations, that prevent unauthorized access to the system and identify any unauthorized access in the event of a limited-operations directive;

(ii) Provide and continually update the Secretary with a point of contact and an alternate point of contact for limited-operations directives; and

(iii) During any such limited-operations directive, permit the Secretary to immediately access any component of the system for the purpose of ensuring compliance with the limited-operations directive, the Act, this part, and the license.

(2) Conduct resolved imaging of other artificial resident space objects (ARSO) orbiting the Earth only with the written consent of the registered owner of the ARSO to be imaged and with notification to the Secretary at least five days prior to imaging, or as may otherwise be provided in a temporary license condition developed under paragraphs (b) and (c) of this section. For purposes of this paragraph (a)(2), ''resolved imaging'' means the imaging of another ARSO that results in data depicting the ARSO with a resolution of 3 x 3 pixels or greater.

(3) Comply with any temporary license conditions developed in accordance with paragraphs (b) and (c) of this section until their specified expiration date, including any extensions of the expiration date.

(b) To determine whether additional temporary license conditions are necessary, the Secretary shall notify the Secretaries of Defense and State of any system categorized as Tier 3 under § 960.6. The Secretaries of Defense and State shall determine whether any temporary license conditions are necessary (in addition to the standard license conditions in § 960.8) to meet national security concerns or international obligations and policies of the United States regarding that system. Within 21 days of receiving the notification, the Secretary of Defense or State shall notify the Secretary of any such conditions and the length of time such conditions should remain in place, which shall not exceed one year from the earlier of either when the licensee first delivers unenhanced data suitable for evaluating the system's capabilities to the Secretary (under reasonable terms and conditions or other mutually agreed arrangement with the Secretary of Defense or State), or when the Secretary of Defense or State first obtains comparably suitable data from another source, unless the length of such condition is extended in accordance with paragraph (e) of this section.

(c) The Secretary shall review the notification from the Secretary of Defense or State under paragraph (b) of this section and aim to craft the least restrictive temporary license condition(s) possible, before the expiration of the 60-day application review period under § 960.7(b). In crafting such conditions the Secretary shall consult, as appropriate, with the Secretaries of Defense and State and the applicant or licensee, to determine whether the proposed condition would be consistent with applicable laws. In making this determination, the Secretary shall consider whether:

(1) The risk addressed by the proposed condition is specific and compelling;

(2) The proposed condition would be effective against the risk;

(3) The proposed condition addresses only the data proposed to be collected that are not available from any domestic or foreign source;

(4) The U.S. Government cannot currently mitigate the risk without the proposed condition;

(5) The U.S. Government cannot address the risk by some less restrictive means than the proposed condition; and

(6) The applicant or licensee can mitigate the risk by taking alternative action.

(d) When considering the factors under paragraphs (c)(1) through (6) of this section, the Secretary shall accept as final the determinations made by the Secretary of Defense or State as appropriate, in such Secretary's notification to the Secretary of the need for such conditions. If the Secretary determines that a condition proposed by the Secretary of Defense or State would be consistent with applicable law, the Secretary shall include such condition in the license, absent any elevation of a dispute under paragraph (f) of this section.

(e) The Secretary will notify the Secretaries of Defense and State 90 days before the expiration of a temporary condition imposed under this section. If, within 30 days after such notification, either the Secretary of Defense or State notifies the Secretary that an extension is needed, the Secretary shall consult with the Secretary of Defense or State about the ongoing need for the temporary condition. The Secretary may extend the expiration date of the temporary condition for a maximum of one year, and may extend the condition no more than two times unless requested by the Secretary of Defense or State. The authority to request such additional extensions shall not be delegated by the Secretary of Defense or State. Therefore, absent a request specifically from the Secretary of Defense or State, any temporary condition may exist for no more than a total of three years. The Secretary shall grant an extension if the Secretary determines that:

(1) The Secretary requesting the extension has shown that the considerations in paragraph (c) of this section justify an extension; and

(2) The Secretary has notified the affected licensee no less than 60 days before the expiration of the temporary condition that an extension is being sought.

(f) If, at any point during the procedures in this section, the Secretary, the Secretary of Defense, or the Secretary of State objects to any determination, they may elevate the objection pursuant to the interagency dispute resolution procedures in Section IV(B) of the MOU.

§ 960.11 No additional conditions.

No other conditions shall be included in a license granted under this part, or imposed in such a license after the license has been issued, except in accordance with the provisions of § 960.13 or § 960.17.

§ 960.12 Applicant-requested waiver before license issuance.

As part of the application, the applicant may request that any condition listed in § 960.8, § 960.9, or § 960.10 be waived or adjusted. The Secretary may approve the request to waive or adjust any such condition if the Secretary determines, after consultation with the Secretaries of Defense and State as appropriate, that the Secretary may waive or adjust the condition without violating the Act or other law, and:

(a) The requirement is not applicable due to the nature of the applicant or the proposed system;

(b) The applicant will achieve the goal in a different way; or

(c) There is other good cause to waive or adjust the condition.

§ 960.13 Licensee-requested modification after license issuance.

(a) The licensee may request in writing that the Secretary modify the license after the license is issued. Such requests should include the reason for the request and relevant supporting documentation.

(b) If the Secretary determines that the requested modification of a license would result in its re-categorization from Tier 1 to Tier 2 under § 960.6, the Secretary shall notify the licensee that approval would require issuance of the conditions in § 960.9, and provide the licensee an opportunity to withdraw or revise the request.

(c) If the Secretary determines that the requested modification of a license would result in its re-categorization from Tier 1 or 2 to Tier 3 under § 960.6, the Secretary shall consult with the Secretaries of Defense or State, as appropriate, to determine whether approval of the request would require additional temporary conditions in accordance with the procedures in § 960.10. If so, the Secretary shall notify the licensee that approval would require such additional temporary conditions, and provide the licensee an opportunity to withdraw or revise the request.

(d) The Secretary shall approve or deny a modification request after consultation with the Secretaries of Defense and State as appropriate, and shall inform the licensee of the approval or denial within 60 days of the request, unless the Secretary and the applicant mutually agree to extend this review period.

§ 960.14 Routine compliance and monitoring.

(a) Annually, by the date specified in the license, the licensee will certify in writing to the Secretary that each material fact in the license remains accurate.

(b) If any material fact in the license is no longer accurate at the time the certification is due, the licensee must:

(1) Provide all accurate material facts;

(2) Explain the reason for any discrepancies between the terms in the license and the accurate material fact; and

(3) Seek guidance from the Secretary on how to correct any errors, which may include requesting a license modification.

§ 960.15 Term of license.

(a) The license term begins when the Secretary transmits the signed license to the licensee, regardless of the operational status of the system.

(b) The license is valid until the Secretary confirms in writing that the license is terminated, because the Secretary has determined that one of the following has occurred:

(1) The licensee has successfully disposed of, or has taken all actions necessary to successfully dispose of, all on-orbit components of the system, and is in compliance with all other requirements of the Act, this part, and the license;

(2) The licensee never had system components on orbit and has requested to end the license term;

(3) The license is terminated pursuant to § 960.17; or

(4) The licensee has executed one of the following transfers, subsequent to the Secretary's approval of such transfer:

(i) Ownership of the system, or the operations thereof, to an agency or instrumentality of the U.S. Government; or

(ii) Operations to a person who is not a U.S. person and who will not operate the system from the United States.

Subpart D—Prohibitions and Enforcement

§ 960.16 Prohibitions.

Any person who operates a system from the United States and any person who is a U.S. person shall not, directly or through a subsidiary or affiliate:

(a) Operate a system without a current, valid license for that system;

(b) Violate the Act, this part, or any license condition;

(c) Submit false information, interfere with, mislead, obstruct, or otherwise frustrate the Secretary's actions and responsibilities under this part in any form at any time, including in the application, during application review, during the license term, in any compliance and monitoring activities, or in enforcement activities; or

(d) Fail to obtain approval for a license modification before taking any action that would change a material fact in the license.

§ 960.17 Investigations and enforcement.

(a) The Secretary may investigate, provide penalties for noncompliance, and prevent future noncompliance, by using the authorities specified at 51 U.S.C. 60123(a).

(b) When the Secretary undertakes administrative enforcement proceedings as authorized by 51 U.S.C. 60123(a)(3) and (4), the parties will follow the procedures provided at 15 CFR part 904.

Subpart E—Appeals Regarding Licensing Decisions

§ 960.18 Grounds for adjudication by the Secretary.

(a) In accordance with the procedures in this subpart, a person may appeal the following adverse actions for adjudication by the Secretary:

(1) The denial of a license;

(2) The categorization of a system in a tier;

(3) The failure to make a final determination on a license grant or denial or a licensee's modification request within the timelines provided in this part;

(4) The imposition of a license condition;

(5) The denial of a licensee-requested license modification; and

(6) The replacement of an existing license with a license granted under § 960.3(a)(1) or termination of an existing license under § 960.3(a)(2).

(b) The only acceptable grounds for appeal of the actions in paragraph (a) of this section are as follows:

(1) The Secretary's action was arbitrary, capricious, or contrary to law; or

(2) The action was based on a clear factual error.

(c) No appeal is allowed to the extent that there is involved the conduct of military or foreign affairs functions.

§ 960.19 Administrative appeal procedures.

(a) A person wishing to appeal an action specified at § 960.18(a) may do so within 21 days of the action by submitting a written request to the Secretary.

(b) The request must include a detailed explanation of the reasons for the appeal, citing one of the grounds specified in § 960.18(b).

(c) Upon receipt of a request under paragraph (a) of this section, the Secretary shall review the request to certify that it meets the requirements of this subpart and chapter 7 of title 5 of the United States Code. If it does, the Secretary shall coordinate with the appellant to schedule a hearing before a hearing officer designated by the Secretary. If the Secretary does not certify the request, the Secretary shall notify the person in writing that no appeal is allowed, and this notification shall constitute a final agency action.

(d) The hearing shall be held in a timely manner. It shall provide the appellant and the Secretary an opportunity to present evidence and arguments.

(e) Hearings may be closed to the public, and other actions taken as the Secretary deems necessary, to prevent the disclosure of any information required by law to be protected from disclosure.

(f) At the close of the hearing, the hearing officer shall recommend a decision to the Secretary addressing all factual and legal arguments.

(g) Based on the record of the hearing and the recommendation of the hearing officer, and after consultation, as appropriate, with the Secretaries of Defense and State in decisions implicating national security and international obligations and policy, respectively, the Secretary shall make a decision adopting, rejecting, or modifying the recommendation of the hearing officer. This decision constitutes a final agency action, and is subject to judicial review under chapter 7 of title 5 of the United States Code.

Appendix A to Part 960—Application Information Required

To apply for a license to operate a remote sensing space system under 51 U.S.C. 60101, *et seq.* and this part, you must provide:

1. Material Facts: Fully accurate and responsive information to the following prompts under ''Description of Applicant (Operator)'' and ''Description of System.'' If a question is not applicable, write ''N/A'' and explain, if necessary.

2. Affirmation: Confirm by indicating below that there will be, at all times, measures in place to ensure positive control of any spacecraft in the system that have propulsion, if applicable to your system. Such measures include encryption of telemetry, command, and control communications or alternative measures consistent with industry best practice.

3. Your response to each prompt below constitutes a material fact. If any information you submit becomes inaccurate or incomplete before a license grant or denial, you must promptly contact the Secretary and submit correct and updated information as instructed by the Secretary.

Part A: Description of Applicant (Operator)

1. General Applicant Information

a. Name of Applicant (entity or individual):

b. Location and address of Applicant:

c. Applicant contact information (for example, general corporate or university contact information):

d. Contact information for a specific individual to serve as the point of contact with Commerce:

e. Contact information for a specific individual to serve as the point of contact with Commerce for limited-operations directives, if different than main point of contact, in the event that the applicant will receive a license in Tier 2 or Tier 3:

f. Place of incorporation and, if incorporated outside the United States, an acknowledgement that you will operate your system within the United States and are therefore subject to the Secretary's jurisdiction under this part:

2. Ownership interests in the Applicant:

a. If there is majority U.S. ownership: Report any domestic entity or individual with an ownership interest in the Applicant totaling at least 50 percent:

b. If there is not majority U.S. ownership: Report all foreign entities or individuals whose ownership interest in the Applicant is at least 10 percent:

c. Report any ownership interest in the Applicant by any foreign entity or individual on the Department of Commerce's Bureau of Industry and Security's Denied Persons List or Entity List or on the Department of the Treasury's Office of Foreign Asset Control's Specially Designated Nationals and Blocked Person List:

3. Identity of any subsidiaries and affiliates playing a role in the operation of the System, including a brief description of that role:

Part B: Description of System

1. General System Information

a. Name of system:

b. Brief mission description:

2. Remote Sensing Instrument(s) parameters

a. Sensor type (Electro Optical, Multi-Spectral (MSI), Hyperspectral (HSI), Synthetic Aperture Radar (SAR), Light Detection and Ranging (LIDAR), Thermal Infrared (TIR), etc.):

b. Imaging/frame rate in Hertz; pulse repetition frequency for SAR or LIDAR:

c. Spatial resolution in meters (show calculation for the anticipated finest ground spatial distance (GSD), impulse response (IPR), or other relevant appropriate unit of resolution):

d. Spectral range in nanometers:

e. Collection volume in area per unit time per spacecraft: Provide an estimate of the maximum number of square kilometers of which the system can provide data/imagery per hour or per minute. If this is a fast-framing system, consider each recorded frame as a separate image collected:

f. Ability of the remote sensing instrument to slew, point, or digitally look off-axis from the x, y, and z axes of travel:

3. If any entity or individual other than the Applicant will own, control, or manage any *remote sensing instrument* in the System:

a. Identity and contact information of that entity or individual:

b. Relationship to Applicant (*i.e.,* operating under Applicant's instructions under a contract):

4. Spacecraft Upon Which the Remote Sensing Instrument(s) is (are) Carried

a. Description:

b. Estimated launch date(s) in calendar quarter:

c. Number of spacecraft (system total and maximum in-orbit at one time):

d. For each spacecraft, provide the following (or if an entire constellation will have substantially the same orbital characteristics, provide these values for the entire constellation and note whether or not all spacecraft will be evenly spaced)

i. Altitude range in kilometers:

ii. Inclination range in degrees:

iii. Period (time of a single orbit):

iv. Longitude of the ascending node:

v. Eccentricity:

vi. Argument of perigee:

vii. Propulsion (yes/no). (If ''yes,'' you must complete the affirmation in the beginning of this application):

viii. Ability of the spacecraft to slew, point, or digitally look off-axis from the x, y, and z axes of travel:

5. If any entity or individual other than the Applicant will own, control, or manage any *spacecraft* in the System

a. Identity and contact information of that entity or individual:

b. Whether that entity or individual is a U.S. person:

c. Relationship to Applicant (*i.e.,* operating under Applicant's instructions under a contract):

6. Ground Components

a. Location of Mission Control Center(s) with the ability to operate the system, including where commands are generated:

b. Location of other Ground Station components of the system, meaning facilities that communicate commands to the instrument or receive unenhanced data from it, and facilities that conduct data preprocessing:

c. If any entity or individual other than the Applicant will own, control, or manage any *mission control center(s)* with the ability to operate the System

i. Identity and contact information of that entity or individual:

ii. Relationship to Applicant (*i.e.,* operating under Applicant's instructions under a contract):

7. Information Applicable to Multi-Spectral Imaging (MSI) and/or Hyper-Spectral Imaging (HSI). Applicants must complete this section only if the response in Part B section 2.a. is ''MSI'' and/or ''HSI.''

a. Number of spectral bands:

b. Individual spectral bandwidths (to include range of the upper and lower ends of each spectral band in nanometers):

8. Noise Equivalent Target (NET). Applicants must complete this section only if the response in Part B 2.c. is 5 meters or less, and the answer in Part B section 2.a. is neither ''SAR'' nor ''LIDAR.'' NET is the primary parameter used by the U.S. Government to describe an Electro Optical sensor's light sensitivity performance for a target at the same distance from the sensor as is specified as the minimum operating altitude in Part B section 4.d.i. If NET cannot be calculated, simply report the expected minimum detectable ground target radiance in watts:

9. Information Applicable to Light Detection and Ranging (LIDAR) if used for remote sensing. Responses should include the calculations used to derive the reported parameters. Applicants must complete this section only if the response in Part B section 2.a. is ''LIDAR.''

a. Type (linear scanning or flash LIDAR (Geiger)):

b. Laser wavelength and pulse frequency:

c. Laser pulse width:

d. Spectral linewidth:

e. Z/Elevation accuracy in meters:

10. Information Applicable to Synthetic Aperture Radar (SAR). Applicants must complete this section only if the response in Part B section 2.a. is ''SAR.''

a. Azimuth resolution (ground plane):

b. Range resolution (ground plane):

c. SAR Signal-To-Noise Ratio (SNR):

d. Polarization Capability (*i.e.* dual polarization, quad polarization):

e. Complex data: Preservation of phase history data in standard format? (yes/no):

f. Center frequency:

g. Squint and Graze angles (include maximum and minimum), or other parameters that determine the size and shape of the area of regard of the sensor collection footprint at the ground:

11. Information Applicable to Thermal Infrared (TIR). TIR is defined as collecting in the spectral range of 3.0–5.0 and/or 8.0–12.0-micrometers. Applicants must complete this section only if the response in Part B section 2.a. is ''TIR.''

a. Estimated relative thermometric accuracy in degrees Kelvin (+/− × degrees of actual):

b. Noise Equivalent Differential Temperature (NEDT), or if NEDT cannot be calculated, simply provide the expected temperature sensitivity in terms of minimum resolvable temperature difference in degrees [1]:

Part C: Requests for Standard License Condition Waivers or Adjustments

Standard license conditions are listed at §§ 960.8. 960.9, and 960.10 for Tier 1, Tier 2, and Tier 3 systems, respectively. If requesting that any of these be waived or adjusted, please identify the specific standard license condition and explain why one of the following circumstances applies:

1. The requirement is not applicable due to the nature of the Applicant or the proposed system;

2. The Applicant will achieve the goal in a different way; or

3. There is other good cause to waive or adjust the condition.

Optional: You may submit evidence of the availability of unenhanced data that is substantially the same as unenhanced data you propose to produce with your system. The Secretary will take any such evidence into account, in addition to other evidence of availability, when determining the appropriate tier for your system under § 960.6.

Appendix B to Part 960—Application Submission Instructions

A person may apply to operate a private remote sensing space system by submitting the information to the Secretary as described in appendix A of this part. This information can be submitted in any one of the following three ways:

1. Complete the fillable form at the Secretary's designated website, presently at *www.nesdis.noaa.gov/crsra.*

2. Respond to the prompts in appendix A of this part and email your responses to *crsra@noaa.gov.*

3. Respond to the prompts in appendix A of this part and mail your responses to: Commercial Remote Sensing Regulatory Affairs, 1335 East-West Highway SSMC–1/G–101, Silver Spring, MD 20910.

Appendix C to Part 960—License Template

Part A: Determination and License Grant

1. The Secretary determines that [licensee name], as described in Part C, will comply with the requirements of the Act, the regulations at this part, and the conditions in this license.

2. Accordingly, the Secretary hereby grants [licensee name] (hereinafter ''Licensee''), as described in Part C, this license to operate [system name] (hereinafter ''the System''), as described in Part D, subject to the terms and conditions of this license. This license is valid until its term ends in accordance with § 960.15. The Licensee must request and receive approval for a license modification before taking any action that would contradict a material fact listed in Part C or D of this license.

3. The Secretary makes this determination, and grants this license, under the Secretary's authority in 51 U.S.C. 60123 and regulations at this part. This license does not authorize the System's use of spectrum for radio communications or the conduct of any non-remote sensing operations that are proposed to be undertaken by the Licensee. This license is not alienable and creates no property right in the Licensee.

Part B: License Conditions

The Licensee (Operator) must, at all times:

[Depending upon the categorization of the application as Tier 1, 2, or 3, Commerce will insert the applicable standard license conditions, found at § 960.8, § 960.9, and/or § 960.10, and, for a Tier 3 license, any applicable temporary conditions resulting from the process in § 960.10, in this part of the license.]

Part C: Description of Licensee

Every term below constitutes a material fact. You must request and receive approval of a license modification before taking any action that would contradict a material fact.

1. General Licensee Information

a. Name of Licensee (entity or individual):

b. Location and address of Licensee:

c. Licensee contact information (for example, general corporate or university contact information):

d. Contact information for a specific individual to serve as the point of contact with Commerce:

e. If Tier 2 or Tier 3, contact information for a specific individual to serve as the point of contact with Commerce for limited-operations directives, if different than main point of contact:

f. Place of incorporation and, if incorporated outside the United States, confirmation that the Licensee acknowledged

[1] NEDT (noise equivalent differential temperature) is the key figure of merit which is used to qualify midwave (MWIR) and longwave (LWIR) infrared cameras. It is a signal-to-noise figure which represents *the temperature difference which would produce a signal equal to the camera's temporal noise.* It therefore represents approximately the minimum temperature difference which the camera can resolve. It is calculated by dividing the temporal noise by the response per degree (responsivity) and is usually expressed in units of milliKelvins. The value is a function of the camera's f/number, its integration time, and the temperature at which the measurement is made.

as part of the application that the Licensee will operate its system within the United States and is therefore subject to the Secretary's jurisdiction under this part:

2. Identity of any subsidiaries and affiliates playing a role in the operation of the System, including a brief description of that role:

Part D: Description of System

1. General System Information

a. Name of system:

b. Brief mission description:

2. Remote Sensing Instrument(s) parameters

a. Sensor type (Electro Optical, Multi-Spectral (MSI), Hyperspectral (HSI), Synthetic Aperture Radar (SAR), Light Detection and Ranging (LIDAR), Thermal Infrared (TIR), etc.):

b. Imaging/frame rate in Hertz; pulse repetition frequency for SAR; or number of looks for LIDAR:

c. Spatial resolution in meters:

d. Spectral range in nanometers:

e. Collection volume in area per unit time per spacecraft: An estimate of the maximum number of square kilometers of which the system can provide data/imagery per hour or per minute:

f. Ability of the remote sensing instrument to slew, point, or digitally look off-axis from the x, y, and z axes of travel:

3. If any entity or individual other than the Licensee will own, control, or manage any *remote sensing instrument* in the System:

a. Identity and contact information of that entity or individual:

b. Relationship to Licensee (*i.e.,* operating under Licensee's instructions under a contract):

4. Spacecraft Upon Which the Remote Sensing Instrument(s) is (are) Carried

a. Description:

b. Estimated launch date(s) in calendar quarter:

c. Number of spacecraft (system total and maximum in-orbit at one time):

d. For each spacecraft:

i. Altitude range in kilometers:

ii. Inclination range in degrees:

iii. Period (time of a single orbit):

iv. Longitude of the ascending node:

v. Eccentricity:

vi. Argument of perigee:

vii. Propulsion (yes/no):

viii. Ability of the spacecraft to slew, point, or digitally look off-axis from the x, y, and z axes of travel:

5. If any entity or individual other than the Licensee will own, control, or manage any *spacecraft* in the System

a. Identity and contact information of that entity or individual:

b. Whether that entity or individual is a U.S. person:

c. Relationship to Licensee (*i.e.,* operating under Licensee's instructions under a contract):

6. Ground Components

a. Location of Mission Control Center(s) with the ability to operate the system, including where commands are generated:

b. Location of other Ground Station components of the system, meaning facilities that communicate commands to the instrument or receive unenhanced data from it, and facilities that conduct data preprocessing:

c. If any entity or individual other than the Licensee will own, control, or manage any *mission control center(s)* with the ability to operate the System

i. Identity and contact information of that entity or individual:

ii. Relationship to Licensee (*i.e.,* operating under Licensee's instructions under a contract):

7. Information Applicable to Multi-Spectral Imaging (MSI) and/or Hyper-Spectral Imaging (HSI).

a. Number of spectral bands:

b. Individual spectral bandwidths (to include range of the upper and lower ends of each spectral band in nanometers):

Appendix D to Part 960—Memorandum of Understanding

Memorandum of Understanding Among the Departments of Commerce, State, Defense, and Interior, and the Office of the Director of National Intelligence, Concerning the Licensing and Operations of Private Remote Sensing Satellite Systems. April 25, 2017.

I. Authorities and Roles

This Memorandum of Understanding (MOU) is undertaken pursuant to the National and Commercial Space Programs Act, 51 U.S.C, 60101 *et seq.* (''the Act''), 15 CFR part 960, National Security Presidential Directive 27 (NSPD–27), and Presidential Policy Directive-4 PPD–4) (''applicable directives''), or to any renewal of, or successor to, the Act and the applicable directives.

The principal Parties to this MOU are the Department of Commerce (DOC), Department of State (DOS), Department of Defense (DOD), and Department of the Interior (DOI). The Office of the Director of National Intelligence (ODNI) and the Joint Chiefs of Staff (JCS) provide supporting advice pertaining to their areas of expertise. The Secretary of commerce is responsible for administering the licensing of private remote sensing satellite systems pursuant to the Act and applicable directives, and fulfills this responsibility through the National Oceanic and Atmospheric Administration (NOAA). For remote sensing issues, the Act also grants the authority to the Secretary of State to determine conditions necessary to meet international obligations and foreign policies, and to the Secretary of Defense to determine conditions necessary to meet the national security concerns raised by any remote sensing license application submitted pursuant to the Act and applicable directives, or to any amendment, renewal, or successor thereto. In addition, pursuant to this MOU, NOAA shall also consult with the Director of National Intelligence (DNI) for the views of the Intelligence Community (IC) and with the Chairman of the Joint Chiefs of Staff for the views of the DOD joint operational community.

II. Purpose

The purpose of this MOU is to establish the interagency consultation process for adjudicating remote sensing licensing actions, and the consultation process for the interruption of normal commercial operations pursuant to the Act and applicable directives.

III. Policy

In consultation with affected departments and agencies, including the DNI and JCS, the Secretary of Commerce will impose constraints on private remote sensing systems when necessary to meet the international obligations, foreign policy concerns, and/or national security concerns of the United States, and shall accord with the determinations of the Secretary of State and the Secretary of Defense, and with applicable laws and directives. Procedures for implementing this policy are established below, with each Party to this MOU separately establishing and documenting its internal timelines and decision authorities below the Cabinet level.

IV. Procedures for Department/Agency Review

A. Consultation During Review of Licensing Actions

Pursuant to the Act and applicable directives, or to any renewal thereof or successor thereto, the Secretary of Commerce shall review any application and make a determination within 120 days of receipt of such application. If final action has not occurred within such time, then the Secretary shall inform the applicant of any pending issues and of actions required to resolve them. The DOC will provide copies of requests for licensing actions to DOS, DOD, DOI, ODNl, and JCS within 3 working days. Each of these entities will inform DOC, through NOAA, of the office of primary responsibility, including primary and backup points of contact, for license action coordination.

(1) DOC will defer its decision on licensing requests until the other reviewing agencies have had a reasonable time to review them, as provided in this section. Within 10 working days of receipt, if DOS, DOD, DOI, ODNI, or JCS wants more information or time to review, then it shall notify, in writing, DOC/NOAA (a) of any additional information that it believes is necessary to properly evaluate the licensing action, or (b) of the additional time, not to exceed 10 working days, necessary to complete the review. This notification shall state the specific reasons why the additional information is sought, or why more time is needed.

(2) After receiving a complete license package, including any additional information that was requested as described above, DOS, DOD, DOI, ODNI and JCS will provide their final recommendations on the license package within 30 days, or otherwise may request from DOC/NOAA additional time necessary to provide a recommendation. If DOS determines that imposition of conditions on the actions being reviewed is necessary to meet the international obligations and foreign policies of the United States, or DOD determines that imposition of conditions are necessary to address the national security concerns of the United States, the MOU Party identifying the concern will promptly notify, in writing, DOC/NOAA and those departments and

agencies responsible for the management of operational land imaging space capabilities of the United States. Such notification shall: (a) Describe the specific national security interests, or the specific international obligations or foreign policies at risk, if the applicant's system is approved as proposed; (b) set forth the specific basis for the conclusion that operation of the applicant's system as proposed will not preserve the identified national security interests or the identified international obligations or foreign policies; and (c) either specify the additional conditions that will be necessary to preserve the relevant U.S. interests, or set forth in detail why denial is required to preserve such interests. All notifications under this paragraph must be in writing.

B. Interagency Dispute Resolution for Licensing Actions

(1) Committees. The following committees are established, described here from the lowest level to the highest, to adjudicate disagreements concerning proposed commercial remote sensing system licenses.

(a) Operating Committee on Private Remote Sensing Space Systems. An Operating Committee on Private Remote Sensing Space Systems (RSOC) is established. The Under Secretary of Commerce for Oceans and Atmosphere and NOAA Administrator shall appoint its Chair. Its other principal members shall be representatives of DOS, DOD, and DOI, or their subordinate agencies, who along with their subject matter experts, can speak on behalf of their department or agency. Representatives of the ODNI and the JCS shall participate as supporting members to provide independent advice pertaining to their areas of expertise. The RSOC may invite representatives of United States Government departments or agencies that are not normally represented in the RSOC to participate in the activities of that Committee when matters of interest to such departments or agencies are under consideration.

(b) Advisory Committee on Private Remote Sensing Space Systems. An Advisory Committee on Private Remote Sensing Space Systems (ACPRS) is established and shall have as its principal members the Assistant Secretary of Commerce for Environmental Observation and Prediction, who shall be Chair of the Committee, and Assistant Secretary representatives of DOS, DOD, and DOI. Appointed representatives of ODNI and JCS shall participate as supporting members to provide independent advice pertaining to their areas of expertise. Regardless of the department or agency representative's rank and position, such representative shall speak at the ACPRS on behalf of his/her department or agency. The ACPRS may invite Assistant Secretary level representation of United States Government departments or agencies that are not represented in the ACPRS to participate in the activities of that Committee when matters of interest to such departments or agencies are under consideration.

(c) Review Board for Private Remote Sensing Space Systems. The Board shall have, as its principal members, the Under Secretary of commerce for Oceans and Atmosphere, who shall be Chair of the Board, and Under Secretary or equivalent representatives of DOS, DOD, and DOI. The Director of National Intelligence and Chairman of the Joint Chiefs of Staff shall be represented at an appropriate level as supporting members to provide independent advice pertaining to their areas of expertise. The Board may invite the representatives of United States Government departments or agencies that are not represented on the Board, to participate in the activities of the Board when matters of interest to such departments or agencies are under consideration.

(2) Resolution Procedures.

(a) If, following the various intra-departmental review processes, the principal members of the RSOC do not agree on approving a license or on necessary conditions that would allow for its approval, then the RSOC shall meet to review the license application. The RSOC shall work to resolve differences in the recommendations with the goal of approving licenses with the least restrictive conditions needed to meet the international obligations, foreign policies, or national security concerns of the United States. If the issues cannot be resolved, then the Chair of the RSOC shall prepare a proposed license that reflects the Committee's views as closely as possible, and provide it to the principal members of the RSOC for approval. The proposed license prepared by the RSOC chair shall contain the conditions determined necessary by DOS or DOD. Principal members have 5 working days to object to the proposed license and seek a decision at a higher level. In the absence of a timely escalation, the license proposed by the RSOC Chair will be issued.

(b) If any of the principal Parties disagrees with the proposed license provided by the RSOC Chair, they may escalate the matter to the ACPRS for resolution, Principal Parties must escalate the matter within 5 working days of such a decision. Escalations must be in writing from the principal ACPRS member, and must cite the specific national security, foreign policy, or international obligation concern. Upon receipt of a request to escalate, DOC will suspend any further action on the license action until ACPRS resolution. The ACPRS shall meet to review all departments' information and recommendations, and shall work to resolve interagency disagreements. Following this meeting, the Chair of the ACPRS shall, within 11 working days from the date of receiving notice of escalation, provide the reviewing departments a proposed license that contains the conditions determined by DOS or DOD. Within 5 working days of receipt of the proposed license, an ACPRS principal member may object to the prepared license and seek to escalate the matter to the Review Board. In the absence of an escalation within 5 working days, the license prepared by the ACPRS Chair will be issued.

(c) If any of the principal Parties disagrees with the license prepared by the ACPRS Chair, it may escalate the matter to the Review Board for resolution. Principal Parties must escalate the matter within 5 working days of such a decision. Escalations must be in writing from the principal Review Board member, and must cite the specific national security, foreign policy, or international obligation concern. Upon receipt of a request to escalate, DOC will suspend any further action on the license action until Review Board resolution. The Review Board shall meet to review information and recommendations that are provided by the ACPRS, and such other private remote sensing matters as appropriate. The Chair of the Board shall provide reviewing departments and agencies a proposed license within 11 working days from the date of receiving notice of escalation. The proposed license prepared by the Review Board chair shall contain the conditions determined necessary by DOS or DOD. If no principal Parties object to the proposed license within 5 working days, it will be issued.

(d) If, within 5 working days of receipt of the draft license, a principal Party disagrees with any conditions imposed on the license, that Party's Secretary will promptly notify the Secretary of Commerce and the other principal Parties in writing of such disagreement and the reasons therefor, and a copy will be provided to the Assistant to the President for National Security Affairs and the Assistant to the President for Science and Technology.

(e) Upon notification of such a disagreement, DOC will suspend further action on the license that would be inconsistent with the Secretary of State or the Secretary of Defense determination. If the Secretary of Commerce believes the limits defined by another Secretary are inappropriate, then the Secretary of Commerce or Deputy Secretary shall consult with his or her counterpart in the relevant department within 10 working days regarding unresolved issues. If the relevant Secretaries are unable to resolve any issues, the Secretary of Commerce will notify the Assistant to the President for National Security Affairs, who, in coordination with the Assistant to the President for Science and Technology, will seek to achieve consensus among departments and agencies, or failing that, by referral to the President. All efforts will be taken to resolve the dispute within 3 weeks of its submission to the Assistant to the President for National Security Affairs and the Assistant to the President for Science and Technology.

C. Interagency Dispute Resolution Concerning Other Commercial Remote Sensing Matters

Nothing in this MOU precludes any Party to this MOU from addressing through other appropriate channels, consistent with the Act and applicable directives, any matter regarding commercial remote sensing unrelated to (1) adjudicating remote sensing licensing actions, or (2) the interruption of normal commercial operations. Such matters may be raised using standard coordination processes, including by referral to the Assistant to the President for National Security Affairs, who, in coordination with the Assistant to the President for Science and Technology, will seek to achieve consensus among the departments and agencies, or failing that, by referral to the President, when appropriate.

D. Consultation During Review of Interruption of Normal Commercial Operations

(1) This section establishes the process to limit the licensee's data collection and/or distribution where necessary to meet international obligations or foreign policy interests, as determined by the Secretary of State, or during periods of increased concern for national security, as determined by the Secretary of Defense in consultation with the Director of National Intelligence and the Chairman of the Joint Chiefs of Staff. DOC will provide DOS, DOD, ODNI, and JCS copies of licensee correspondence and documents that describe how the licensee will comply with such interruptions of its commercial operations.

(2) Conditions should be imposed for the smallest area and for the shortest period necessary to protect the international obligations and foreign policies or national security concerns at issue. Alternatives to prohibitions on collection and/or distribution shall be considered as ''modified operations,'' such as delaying or restricting the transmission or distribution of data, restricting disseminated data quality, restricting the field of view of the system, obfuscation, encryption of the data, or other means to control the use of the data, provided the licensee has provisions to implement such measures.

(3) Except where urgency precludes it, DOS, DOD, DOC, ODNI and JCS will consult to attempt to come to an agreement concerning appropriate conditions to be imposed on the licensee in accordance with determinations made by DOS or DOD. Consultations shall be managed so that, in the event an agreement cannot be reached at the staff level, sufficient time will remain to allow the Secretary of Commerce to consult personally with the Secretary of State, the Secretary of Defense, the Director of National Intelligence, or the Chairman of the Joint Chiefs of Staff as appropriate, prior to the issuance of a determination by the Secretary of State, or the Secretary of Defense, in accordance with (4) below. That function shall not be delegated below the Secretary or acting Secretary.

(4) After such consultations, or when the Secretary of State or the Secretary of Defense, specifically determines that urgency precludes consultation with the Secretary of Commerce, the Secretary of State shall determine the conditions necessary to meet international obligations and foreign policy concerns, and the Secretary of Defense shall determine the conditions necessary to meet national security concerns. This function shall not be delegated below the Secretary or acting Secretary.

(5) The Secretary of State or the Secretary of Defense will provide to the Secretary of Commerce a determination regarding the conditions required to be imposed on the licensees. The determination will describe the international obligations, specific foreign policy, or national security interest at risk. Upon receipt of the determination, DOC shall immediately notify the licensees of the imposition of limiting conditions on commercial operations. Copies of the determination and any implementing DOC action will be provided promptly to the Assistant to the President for National Security Affairs and the Assistant to the President for Science and Technology.

(6) If the Secretary of Commerce believes the conditions determined by another Secretary are inappropriate, he or she will, simultaneous with notification to, and imposition of such conditions on, the licensee, so notify the Secretary of State or the Secretary of Defense, the Assistant to the President for National Security Affairs, and the Assistant to the President for Science and Technology. The Assistant to the President for National Security Affairs, in coordination with the Assistant to the President for Science and Technology, may initiate as soon as possible a Principals-level consultative process to achieve a consensus or, failing that, refer the matter the President for decision. All efforts will be taken to resolve the disagreement within 7 working days of its submission to the Assistant to the President for National Security Affairs and the Assistant to the President for Science and Technology.

E. Coordination Before Release of Information Provided or Generated by Other United States Government Departments or Agencies

Before releasing any information provided or generated by another department or agency to a licensee or potential licensee, to the public, or to an administrative law judge, the agency proposing the release must consult with the agency that provided or generated the information. The purpose of such consultations will be to review the propriety of any proposed release of information that may be privileged or restricted because it is classified, pre-decisional, deliberative, proprietary, or protected for other reasons. No information shall be released without the approval of the department or agency that provided or generated it unless required by law.

F. No Legal Rights

No legal rights or remedies, or legally enforceable causes of action, are created or intended to be created by this MOU.

[FR Doc. 2020–10703 Filed 5–19–20; 8:45 am]

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FEDERAL REGISTER

Vol. 85 Wednesday,

No. 98 May 20, 2020

Part III

The President

Proclamation 10035—National Safe Boating Week, 2020
Proclamation 10036—Emergency Medical Services Week, 2020
Proclamation 10037—World Trade Week, 2020

Federal Register
Vol. 85, No. 98
Wednesday, May 20, 2020

Presidential Documents

Title 3—

The President

Proclamation 10035 of May 15, 2020

National Safe Boating Week, 2020

By the President of the United States of America

A Proclamation

During National Safe Boating Week, I am proud to join with the United States Coast Guard and its Federal, State, and local partners in encouraging all Americans to institute the safe boating practices necessary to enjoy our Nation's waters responsibly. For more than 60 years, raising awareness of safe boating procedures has helped reduce injuries and fatalities, even as the number of Americans spending time out on the water has continued to grow.

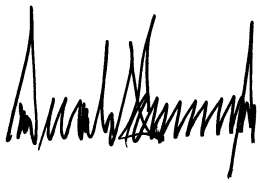
Boat operators can help reduce the number of water-related accidents through proper preparation and sensible precautions. A free vessel safety check conducted by the United States Coast Guard is an essential first step in ensuring a boat is ready for navigation on the water. New boaters can take courses to learn how they can ensure that everyone returns from the water unharmed. Life jackets also remain indispensable in preventing drowning, the most common cause of boating fatalities. For this reason, every boat needs to be equipped with proper life jackets for everyone onboard, and they should be worn while on the water. Additionally, individuals must never pilot a boat while intoxicated, and passengers should moderate their alcohol consumption as a precaution against accidents. By taking the necessary steps, we can make our Nation's waters even safer for all who enjoy them.

This week, I call upon all Americans to ensure that they are prepared to have safe boating experiences. Through preventative measures and responsible behavior, we can help keep everyone out of harm's way while engaging in boating activities on our Nation's beautiful oceans, lakes, and rivers.

In recognition of the importance of safe boating practices, the Congress, by joint resolution approved June 4, 1958 (36 U.S.C. 131), as amended, has authorized and requested the President to proclaim annually the 7-day period before Memorial Day weekend as ''National Safe Boating Week.''

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, do hereby proclaim May 16 through May 22, 2020, as National Safe Boating Week. I encourage all Americans who participate in boating activities to observe this occasion by learning more about safe boating practices and taking advantage of boating safety education opportunities. I also encourage the Governors of the States and Territories, and appropriate officials of all units of government, to join me in encouraging boating safety through events and activities that align with the White House's ''Guidelines for Opening up America Again.''

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of May, in the year of our Lord two thousand twenty, and of the Independence of the United States of America the two hundred and forty-fourth.



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Presidential Documents

Proclamation 10036 of May 15, 2020

Emergency Medical Services Week, 2020

By the President of the United States of America

A Proclamation

During Emergency Medical Services Week, we honor all of the Emergency Medical Services (EMS) providers who play such a critical role in our Nation's health and safety. These incredible professionals respond to daily calls for urgent assistance and work tirelessly to serve their communities. Most recently, they have made significant contributions and immeasurable sacrifices during our Nation's response to the coronavirus pandemic, one of the most daunting and demanding challenges the country has ever faced. This week, we recognize these heroic men and women for their efforts to deliver life-saving care and compassion to their fellow Americans, and we acknowledge that our country is a safer and healthier place because of their work.

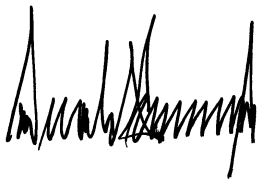
EMS providers—many of whom are volunteers—make up a coordinated and comprehensive network of highly trained workers. They are prepared to respond immediately to any crisis with pre-hospital assessment, trauma care, and medical transport, and they also share valuable data with their public health partners. They do all of this under incredible pressure that can take an emotional and physical toll on even the most seasoned professionals. At a moment's notice, these dedicated men and women rush to employ their specialized knowledge, experience, and leadership to reduce the severity of injuries and save lives, often in very high-risk situations. Every day, EMS personnel stand ready to help those in peril, responding faithfully to the needs of their fellow citizens when lives are on the line and every second matters.

The far-reaching and devastating scope of the coronavirus pandemic has increased the demands on our Nation's EMS professionals, including those from our military service branches. These heroes have courageously risen to the challenge. They remain undeterred in their efforts to deliver critical assistance to their fellow Americans. EMS personnel are often the first point of contact with patients who are experiencing coronavirus symptoms. Acting quickly and decisively, they evaluate and triage patients, transport them to hospitals or treatment facilities, and clearly and compassionately communicate with family members who are anxious about their loved ones. During this unprecedented time in our Nation's history, we are ceaselessly inspired by the sense of duty, selfless service, and sacrifice that epitomize EMS personnel.

This week, we honor all who provide emergency medical services across our country for their tenacity and life-saving skills. Thanks to their incredible efforts, our communities and our Nation are stronger, safer, and more resilient. Especially in these trying times, we are immensely proud of these brave Americans.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim May 17 through May 23, 2020, as Emergency Medical Services Week. I encourage all Americans to observe this occasion by showing their support for local EMS professionals through appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of May, in the year of our Lord two thousand twenty, and of the Independence of the United States of America the two hundred and forty-fourth.



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Presidential Documents

Proclamation 10037 of May 15, 2020

World Trade Week, 2020

By the President of the United States of America

A Proclamation

As the global leader in innovation and commerce, the United States is willing to do business with any country strongly committed to open, fair, and competitive markets, benefitting our Nation's farmers, ranchers, manufacturers, service providers, and entrepreneurs. During World Trade Week, we reaffirm that free, fair, and reciprocal trade is essential to driving economic growth and ensuring a secure and prosperous future for our Nation.

For far too long, other countries have taken advantage of American workers and producers through unfair and unbalanced trade deals. Since my first day in office, my Administration has worked tirelessly to rebalance these harmful agreements in order to protect the talent, hard work, and ingenuity of the American people. We are negotiating with unrelenting and uncompromising drive to modernize and improve existing trade agreements and to secure new deals that are fair and reciprocal. As a result, our Nation now enters this new decade with deals in place and a philosophy of trade that will benefit American workers, producers, and consumers for years to come.

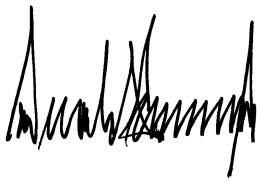
In January, I was proud to deliver on my promise to end the outdated and unbalanced North American Free Trade Agreement, and I signed into law the United States-Mexico-Canada Agreement Implementation Act. This new agreement opens up markets throughout North America for American small- and medium-sized businesses across all sectors of the economy. My Administration also significantly updated one of our most consequential trade deals, the United States-Korea Free Trade Agreement, to include key provisions that increase American exports and secure high-paying manufacturing jobs in our Nation's auto industry. I also signed two trade agreements with Japan to substantially expand market access for American farmers and preserve America's role in the growing digital economy.

My Administration is also delivering on our promise to begin rebalancing our trade relationship with China. Through tough, honest, and open negotiations, we reached a new deal with the People's Republic of China this past January. The agreement preserves tariffs while securing historic protections for intellectual property, commitments to combat counterfeit goods, safeguards against forced technology transfer, a mechanism to address unfair currency practices, promises for the purchase of $40 to $50 billion in agricultural goods each year for the next 2 years, and a strong dispute resolution mechanism to ensure timely and effective implementation. In every negotiation, we are putting American jobs and American workers first, and we will continue working to secure a level playing field for all American farmers, ranchers, and businesses.

This week, we recommit to supporting trade deals that benefit hardworking Americans, continuing our legacy as producers of world-class manufacturing, agriculture, services, and technology. Through adhering to the principles of free, fair, balanced, and reciprocal trade, we will continue unleashing the limitless potential of American workers and industry, building a better world for individuals and communities throughout our Nation and around the world.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim May 17 through May 23, 2020, as World Trade Week. I encourage Americans to observe this week with events, trade shows, and educational programs that celebrate the benefits of global trade to our country.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of May, in the year of our Lord two thousand twenty, and of the Independence of the United States of America the two hundred and forty-fourth.



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