AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

FEDERAL REGISTER

Vol. 85 Monday,
No. 115 June 15, 2020

Pages 36139–36306

OFFICE OF THE FEDERAL REGISTER

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Publishing Office, is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.federalregister.gov.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge at *www.govinfo.gov*, a service of the U.S. Government Publishing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6:00 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 1, 1 (March 14, 1936) forward. For more information, contact the GPO Customer Contact Center, U.S. Government Publishing Office. Phone 202-512-1800 or 866-512-1800 (toll free). E-mail, *gpocusthelp.com.*

The annual subscription price for the **Federal Register** paper edition is $860 plus postage, or $929, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $330, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Publishing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 85 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Publishing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**

General online information **202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**

FEDERAL AGENCIES

Subscriptions:

Assistance with Federal agency subscriptions:

Email	*FRSubscriptions@nara.gov*
Phone	**202–741–6000**

The Federal Register Printing Savings Act of 2017 (Pub. L. 115-120) placed restrictions on distribution of official printed copies of the daily **Federal Register** to members of Congress and Federal offices. Under this Act, the Director of the Government Publishing Office may not provide printed copies of the daily **Federal Register** unless a Member or other Federal office requests a specific issue or a subscription to the print edition. For more information on how to subscribe use the following website link: *https://www.gpo.gov/frsubs.*

Printed on recycled paper.

Contents

Federal Register

Vol. 85, No. 115

Monday, June 15, 2020

Agency for Healthcare Research and Quality
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 36203–36205

Agriculture Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 36184

Broadcasting Board of Governors
RULES
Firewall and Highest Standards of Professional Journalism, 36150–36153

Bureau of Consumer Financial Protection
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 36188–36189

Centers for Disease Control and Prevention
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 36205–36215

Children and Families Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Income Withholding Order/Notice for Support, 36215–36216

Civil Rights Commission
NOTICES
Meetings:
Delaware Advisory Committee, 36185
Indiana Advisory Committee, 36184–36185

Commerce Department
See Industry and Security Bureau
See National Oceanic and Atmospheric Administration

Consumer Product Safety Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Consumer Focus Groups, 36190
Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery, 36189

Defense Department
NOTICES
Privacy Act; Systems of Records, 36190–36194

Drug Enforcement Administration
RULES
Schedules of Controlled Substances:
Exempt Anabolic Steroid Products, 36148–36150
NOTICES
Importer of Controlled Substances Application:
VHG Labs DBA LGC Standards, 36237

Education Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Master Generic Plan for Customer Surveys and Focus Groups, 36195
Statewide Family Engagement Centers—Annual Performance Reporting Form, 36194–36195
Waivers Granted Under the Coronavirus Aid, Relief, and Economic Security Act, 36195–36196

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Meetings:
International Energy Agency, 36196–36197
Leveraging Existing Bioenergy Data Workshop, 36197–36198

Environmental Protection Agency
RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
Pennsylvania; Regulatory Updates to Allegheny County Nonattainment New Source Review Permitting Requirements for 2012 Annual Fine Particulate Matter National Ambient Air Quality Standard, 36161–36164
Washington; Northwest Clean Air Agency, 36154–36161
PROPOSED RULES
Significant New Uses of Certain Chemical Substances, 36175–36182
NOTICES
Coastal Nonpoint Pollution Control Program:
Intent To Find That Washington Has Satisfied All Conditions of Approval Placed on its Coastal Nonpoint Pollution Control Program, 36186–36187

Executive Office for Immigration Review
PROPOSED RULES
Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review, 36264–36306

Export-Import Bank
NOTICES
Application:
Final Commitment for a Long-Term Loan or Financial Guarantee in Excess of 100 million dollars, 36201

Federal Aviation Administration
RULES
Airworthiness Directives:
Gulfstream Aerospace Corporation Airplanes, 36143–36145
Hamilton Sundstrand Corporation Propellers, 36145–36148
PROPOSED RULES
Amendment of Class E Airspace:
Clinton, MO, 36174–36175
Establishment of Area Navigation Routes T–301 and T–305:
Northcentral United States, 36172–36174

NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Automatic Dependent Surveillance Broadcast Out Performance Requirements To Support Air Traffic Control Service, 36256–36257

Federal Election Commission
NOTICES
Meetings; Sunshine Act, 36201–36202

Federal Energy Regulatory Commission
NOTICES
Application:
South Sutter Water District, 36198–36199
Environmental Assessments; Availability, etc.:
Northern Natural Gas Co.; Clifton to Palmyra A-line Abandonment Project, 36199–36201

Federal Highway Administration
NOTICES
Final Federal Agency Actions:
Proposed Highway in California, 36257–36259

Federal Maritime Commission
NOTICES
Filing of Complaint and Assignment:
MAC Industries, Inc. d/b/a MAC Container Line, Complainant v. COSCO SHIPPING Lines Co., Ltd., Respondent, 36202

Federal Railroad Administration
NOTICES
Environmental Impact Statements; Availability, etc.:
Western Rail Yard Infrastructure Project in New York County, NY, 36259–36261

Federal Reserve System
NOTICES
Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities, 36202

General Services Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
USA.gov National Contact Center Customer Evaluation Survey, 36202–36203

Health and Human Services Department
See Agency for Healthcare Research and Quality
See Centers for Disease Control and Prevention
See Children and Families Administration
See Health Resources and Services Administration
See Indian Health Service
See National Institutes of Health
See Substance Abuse and Mental Health Services Administration

Health Resources and Services Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Application and Other Forms Used by the National Health Service Corps Scholarship Program, the NHSC Students to Service Loan Repayment Program, and the Native Hawaiian Health Scholarship Program, 36220–36221
Title V Maternal and Child Health Services Block Grant to States Program: Guidance and Forms for the Title V Application/Annual Report, 36217–36219
Lists of Designated Primary Medical Care, Mental Health, and Dental Health Professional Shortage Areas, 36219–36220
Meetings:
National Advisory Council on Migrant Health; Cancellation, 36216
Supplemental Award:
Zero to Three National Center for Infant, Toddler and Families, Inc. Cooperative Agreement for the Infant-Toddler Court Program, 36216–36217

Homeland Security Department
PROPOSED RULES
Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review, 36264–36306

Housing and Urban Development Department
NOTICES
Annual Factors for Determining Administrative Fees for the Section 8 Housing Choice Voucher, Mainstream, and Moderate Rehabilitation Programs, 36225–36236

Indian Health Service
PROPOSED RULES
Care and Treatment of Ineligible Individuals:
Removal of Obsolete Portion of Regulation, 36182–36183

Industry and Security Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
5-Year Record Retention Requirement for Export and Boycott Transactions, 36185–36186

International Trade Commission
NOTICES
Investigations; Determinations, Modifications, and Rulings, etc.:
Certain Spa Pumps, Jet Pump Housings, Pedicure Spas, Components Thereof, and Products Containing the Same, 36236–36237

Justice Department
See Drug Enforcement Administration
See Executive Office for Immigration Review
NOTICES
Proposed Consent Decree:
CERCLA, 36237–36238

National Aeronautics and Space Administration
NOTICES
Updates to Centennial Challenges Cube Quest Challenge, 36238

National Endowment for the Arts
NOTICES
Meetings:
Arts Advisory Panel, 36238–36239

National Foundation on the Arts and the Humanities
See National Endowment for the Arts

National Institutes of Health
NOTICES
Meetings:
Center for Scientific Review, 36222–36224
Eunice Kennedy Shriver National Institute of Child Health and Human Development, 36222
National Center for Complementary and Integrative Health, 36222
National Institute of Arthritis and Musculoskeletal and Skin Diseases, 36222
National Institute of Diabetes and Digestive and Kidney Diseases, 36221
National Institute of General Medical Sciences, 36224
National Institute of Mental Health, 36223

National Oceanic and Atmospheric Administration
RULES
Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic:
Reef Fish Fishery of the Gulf of Mexico; Greater Amberjack Management Measures; Correction, 36164–36165
Snapper-Grouper Fishery off the Southern Atlantic Region; Regulatory Amendment 29, 36166–36171
Snapper-Grouper Resources of the South Atlantic; 2020 Red Snapper Commercial and Recreational Fishing Seasons, 36165–36166
NOTICES
Availability of NOAA Research and Development Vision Areas:
2020–2026; Research and Development Enterprise Committee, 36187
Coastal Nonpoint Pollution Control Program:
Intent To Find That Washington Has Satisfied All Conditions of Approval Placed on its Coastal Nonpoint Pollution Control Program, 36186–36187
Meetings:
Gulf of Mexico Fishery Management Council, 36187
Pacific Fishery Management Council, 36188

National Science Foundation
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
NSF INCLUDES National Network Survey, 36239–36240

Nuclear Regulatory Commission
NOTICES
Exemption; Issuance:
Exelon Generation Co., LLC; Calvert Cliffs Nuclear Power Station, Units 1 and 2; Independent Spent Fuel Storage Installation, 36243–36245
Meetings:
Advisory Committee on Reactor Safeguards, 36240–36243
Meetings; Sunshine Act, 36241–36242, 36245

Pension Benefit Guaranty Corporation
RULES
Allocation of Assets in Single-Employer Plans; Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits, 36153–36154

Postal Regulatory Commission
NOTICES
Market Test of Experimental Product, 36245–36246

Presidential Documents
EXECUTIVE ORDERS
International Criminal Court; Blocking Property of Certain Associates (EO 13928), 36139–36142

Securities and Exchange Commission
NOTICES
Self-Regulatory Organizations; Proposed Rule Changes:
Cboe BYX Exchange, Inc, 36252–36255
Cboe BZX Exchange, Inc., 36246–36249
Miami International Securities Exchange, LLC, 36249–36252

State Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
J–1 Visa Waiver Recommendation Application, 36255–36256

Substance Abuse and Mental Health Services Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 36224–36225

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration
See Federal Railroad Administration

Treasury Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Provisions Pertaining to Certain Investments in the United States by Foreign Persons and Provisions Pertaining to Certain Transactions by Foreign Persons Involving Real Estate in the United States, 36261–36262

Separate Parts In This Issue

Part II
Homeland Security Department, 36264–36306
Justice Department, Executive Office for Immigration Review, 36264–36306

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents electronic mailing list, go to https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new, enter your e-mail address, then follow the instructions to join, leave, or manage your subscription.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Executive Orders:

13928 36139

8 CFR

Proposed Rules:

208 36264
235 36264
1003 36264
1208 36264
1235 36264

14 CFR

39 (2 documents) 36143, 36145

Proposed Rules:

71 (2 documents) 36172, 36174

21 CFR

1308 36148

22 CFR

531 36150

29 CFR

4022 36153
4044 36153

40 CFR

52 (2 documents) 36154, 36161

Proposed Rules:

721 36175

42 CFR

Proposed Rules:

136 36182

50 CFR

622 (3 documents) 36164, 36165, 36166

Federal Register
Vol. 85, No. 115
Monday, June 15, 2020

Presidential Documents

Title 3—

The President

Executive Order 13928 of June 11, 2020

Blocking Property of Certain Persons Associated With the International Criminal Court

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*) (NEA), section 212(f) of the Immigration and Nationality Act of 1952 (8 U.S.C. 1182(f)), and section 301 of title 3, United States Code,

I, DONALD J. TRUMP, President of the United States of America, find that the situation with respect to the International Criminal Court (ICC) and its illegitimate assertions of jurisdiction over personnel of the United States and certain of its allies, including the ICC Prosecutor's investigation into actions allegedly committed by United States military, intelligence, and other personnel in or relating to Afghanistan, threatens to subject current and former United States Government and allied officials to harassment, abuse, and possible arrest. These actions on the part of the ICC, in turn, threaten to infringe upon the sovereignty of the United States and impede the critical national security and foreign policy work of United States Government and allied officials, and thereby threaten the national security and foreign policy of the United States. The United States is not a party to the Rome Statute, has never accepted ICC jurisdiction over its personnel, and has consistently rejected ICC assertions of jurisdiction over United States personnel. Furthermore, in 2002, the United States Congress enacted the American Service-Members' Protection Act (22 U.S.C. 7421 *et seq.*) which rejected the ICC's overbroad, non-consensual assertions of jurisdiction. The United States remains committed to accountability and to the peaceful cultivation of international order, but the ICC and parties to the Rome Statute must respect the decisions of the United States and other countries not to subject their personnel to the ICC's jurisdiction, consistent with their respective sovereign prerogatives. The United States seeks to impose tangible and significant consequences on those responsible for the ICC's transgressions, which may include the suspension of entry into the United States of ICC officials, employees, and agents, as well as their immediate family members. The entry of such aliens into the United States would be detrimental to the interests of the United States and denying them entry will further demonstrate the resolve of the United States in opposing the ICC's overreach by seeking to exercise jurisdiction over personnel of the United States and our allies, as well as personnel of countries that are not parties to the Rome Statute or have not otherwise consented to ICC jurisdiction.

I therefore determine that any attempt by the ICC to investigate, arrest, detain, or prosecute any United States personnel without the consent of the United States, or of personnel of countries that are United States allies and who are not parties to the Rome Statute or have not otherwise consented to ICC jurisdiction, constitutes an unusual and extraordinary threat to the national security and foreign policy of the United States, and I hereby declare a national emergency to deal with that threat. I hereby determine and order:

Section 1. (a) All property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person, of

the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:

(i) any foreign person determined by the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General:

(A) to have directly engaged in any effort by the ICC to investigate, arrest, detain, or prosecute any United States personnel without the consent of the United States;

(B) to have directly engaged in any effort by the ICC to investigate, arrest, detain, or prosecute any personnel of a country that is an ally of the United States without the consent of that country's government;

(C) to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, any activity described in subsection (a)(i)(A) or (a)(i)(B) of this section or any person whose property and interests in property are blocked pursuant to this order; or

(D) to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to this order.

(b) The prohibitions in subsection (a) of this section apply except to the extent provided by statutes, or in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted before the date of this order.

Sec. 2. I hereby determine that the making of donations of the types of articles specified in section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)) by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to section 1(a) of this order would seriously impair my ability to deal with the national emergency declared in this order, and I hereby prohibit such donations as provided by section 1(a) of this order.

Sec. 3. The prohibitions in section 1(a) of this order include:

(a) the making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to section 1(a) of this order; and

(b) the receipt of any contribution or provision of funds, goods, or services from any such person.

Sec. 4. The unrestricted immigrant and nonimmigrant entry into the United States of aliens determined to meet one or more of the criteria in section 1(a) of this order, as well as immediate family members of such aliens, or aliens determined by the Secretary of State to be employed by, or acting as an agent of, the ICC, would be detrimental to the interests of the United States, and the entry of such persons into the United States, as immigrants or nonimmigrants, is hereby suspended, except where the Secretary of State determines that the entry of the person into the United States would not be contrary to the interests of the United States, including when the Secretary so determines, based on a recommendation of the Attorney General, that the person's entry would further important United States law enforcement objectives. In exercising this responsibility, the Secretary of State shall consult the Secretary of Homeland Security on matters related to admissibility or inadmissibility within the authority of the Secretary of Homeland Security. Such persons shall be treated as persons covered by section 1 of Proclamation 8693 of July 24, 2011 (Suspension of Entry of Aliens Subject to United Nations Security Council Travel Bans and International Emergency Economic Powers Act Sanctions). The Secretary of State shall have the responsibility for implementing this section pursuant to such conditions and procedures as the Secretary has established or may establish pursuant to Proclamation 8693.

Sec. 5. (a) Any transaction that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in this order is prohibited.

(b) Any conspiracy formed to violate any of the prohibitions set forth in this order is prohibited.

Sec. 6. Nothing in this order shall prohibit transactions for the conduct of the official business of the Federal Government by employees, grantees, or contractors thereof.

Sec. 7. For the purposes of this order:

(a) the term ''person'' means an individual or entity;

(b) the term ''entity'' means a government or instrumentality of such government, partnership, association, trust, joint venture, corporation, group, subgroup, or other organization, including an international organization;

(c) the term ''United States person'' means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States;

(d) the term ''United States personnel'' means any current or former members of the Armed Forces of the United States, any current or former elected or appointed official of the United States Government, and any other person currently or formerly employed by or working on behalf of the United States Government;

(e) the term ''personnel of a country that is an ally of the United States'' means any current or former military personnel, current or former elected or appointed official, or other person currently or formerly employed by or working on behalf of a government of a North Atlantic Treaty Organization (NATO) member country or a ''major non-NATO ally'', as that term is defined by section 2013(7) of the American Service-Members' Protection Act (22 U.S.C. 7432(7)); and

(f) the term ''immediate family member'' means spouses and children.

Sec. 8. For those persons whose property and interests in property are blocked pursuant to this order who might have a constitutional presence in the United States, I find that because of the ability to transfer funds or other assets instantaneously, prior notice to such persons of measures to be taken pursuant to section 1 of this order would render those measures ineffectual. I therefore determine that for these measures to be effective in addressing the national emergency declared in this order, there need be no prior notice of a listing or determination made pursuant to section 1 of this order.

Sec. 9. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including adopting rules and regulations, and to employ all powers granted to me by IEEPA as may be necessary to implement this order. The Secretary of the Treasury may, consistent with applicable law, redelegate any of these functions within the Department of the Treasury. All departments and agencies of the United States shall take all appropriate measures within their authority to implement this order.

Sec. 10. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to submit recurring and final reports to the Congress on the national emergency declared in this order, consistent with section 401(c) of the NEA (50 U.S.C. 1641(c)) and section 204(c) of IEEPA (50 U.S.C. 1703(c)).

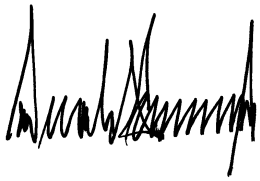
Sec. 11. (a) Nothing in this order shall be construed to impair or otherwise affect:

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

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

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

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



THE WHITE HOUSE,
June 11, 2020.

[FR Doc. 2020–12953
Filed 6–12–20; 8:45 am]
Billing code 3295–F0–P

Rules and Regulations

Federal Register
Vol. 85, No. 115
Monday, June 15, 2020

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–1060; Product Identifier 2018–CE–020–AD; Amendment 39–21141; AD 2020–12–06]

RIN 2120–AA64

Airworthiness Directives; Gulfstream Aerospace Corporation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Gulfstream Aerospace Corporation (Gulfstream) Model G–IV airplanes. This AD was prompted by reports of un-commanded nose wheel steering turns. This AD requires replacing the nose wheel steering servo valve manifold, incorporating revised operating procedures into the airplane flight manual (AFM), doing a records inspection for any incidents of un-commanded nose wheel steering turns, and reporting the results to the FAA. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 20, 2020.

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

ADDRESSES: For service information identified in this final rule, contact Gulfstream Aerospace Corporation, Technical Publications Dept., P.O. Box 2206, Savannah, Georgia 31402–2206; telephone: (800) 810–4853; fax 912–965–3520; email: *pubs@gulfstream.com;* internet: *https://www.gulfstream.com/customer-support.* 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.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–1060; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations is Docket Operations, 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: Alex Armas, Aerospace Engineer, Atlanta ACO Branch, FAA, 1701 Columbia Avenue, College Park, Georgia 30337; phone: (404) 474–5538; fax: (404) 474–5605; email: *alex.armas@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 all Gulfstream Model G–IV airplanes. The NPRM was published in the **Federal Register** on December 27, 2019 (84 FR 71333). The NPRM was prompted by reports of un-commanded nose wheel steering turns. An investigation revealed the supplier compromised the seals during assembly of the electro-hydraulic servo valves, which allows moisture to enter the valve. During cold soak conditions, the moisture forms ice crystals in the servo valve armature air gaps, which may cause the valve armature to displace to a non-neutral position. This condition, if not addressed, could result in an un-commanded nose wheel position once power is applied to the nose wheel servo and subsequent lateral runway departure. To address this condition, the supplier improved their production quality control process to reduce the risk of compromised seals in the nose wheel steering servo valve. Gulfstream also revised the normal, abnormal, and emergency procedures in the AFMs related to nose wheel steering un-commanded turns.

Accordingly, this AD requires replacing the nose wheel steering servo valve manifold, incorporating revised operating procedures into the AFM, doing a records inspection for any incidents of un-commanded nose wheel steering turns, and reporting the results to the FAA. 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 comment received on the NPRM and the FAA's response to the comment.

Request To Add Crew Training Verbiage

Gulfstream requested the FAA add verbiage to the preamble referencing training that Gulfstream developed for the un-commanded nose wheel steering issue. Gulfstream stated the flight crew training is an important mitigation component should an aircraft experience an un-commanded nose wheel steering turn during landing.

The FAA disagrees. The reduction in risk associated with incorporation of the flight crew training verbiage is minimal. The sudden and unpredicted nature of an un-commanded nose wheel steering event allows for little to no response from the flight crew, even with the related training. The primary means of mitigation for an un-commanded nose wheel steering event is replacement of the nose wheel steering valve manifold assembly, which will prevent un-commanded turns from occurring. The FAA did not change this AD based on this comment.

Conclusion

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed Gulfstream IV Customer Bulletin Number 244, dated March 12, 2018; Gulfstream G300 Customer Bulletin 244, dated March 12, 2018; and Gulfstream G400 Customer Bulletin 244, dated March 12, 2018. For the applicable airplane configuration, each customer bulletin describes

procedures for replacing the nose wheel steering servo valve manifold assembly.

The FAA also reviewed Gulfstream IV Airplane Flight Manual, Gulfstream Aerospace Document Number GAC–AC–GIV–OPS–0001, Revision 52, dated October 30, 2017; Gulfstream G300 Airplane Flight Manual, Gulfstream Aerospace Document Number GAC–AC–G300–OPS–0001, Revision 20, dated October 30, 2017; and Gulfstream G400 Airplane Flight Manual, Gulfstream Aerospace Document Number GAC–AC–G400–OPS–0001, Revision 20, dated October 30, 2017. For the applicable airplane configuration, each AFM document provides revisions to the AFM with instructions for flight crew to follow if un-commanded nose wheel steering turns occur.

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 will affect 425 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
Incorporate AFM revisions	1 work-hour × $85 per hour = $85	Not applicable	$85	$36,125
Replace nose wheel steering servo valve	7 work-hours × $85 per hour = $595	$63,624	64,219	27,293,075
Records review and reporting of the review results.	2 work-hours × $85 per hour = $170	Not applicable	170	72,250

According to the manufacturer, some 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 costs in this cost estimate.

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

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) Is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979), 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):

2020–12–06 Gulfstream Aerospace Corporation: Amendment 39–21141; Docket No. FAA–2019–1060; Product Identifier 2018–CE–020–AD.

(a) Effective Date

This AD is effective July 20, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Gulfstream Aerospace Corporation Model G–IV airplanes, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 32, Landing Gear.

(e) Unsafe Condition

This AD was prompted by reports of un-commanded nose wheel steering turns. The FAA is issuing this AD to prevent moisture from entering the nose steering wheel servo valve, which could freeze and cause an un-commanded nose wheel steering position during touchdown. The unsafe condition, if not addressed, could result in a lateral runway departure.

(f) Compliance

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

(g) Airplane Flight Manual Revisions

Within 30 days after the effective date of this AD, revise your airplane flight manual (AFM) by incorporating the revision applicable to your airplane configuration as listed in paragraphs (g)(1) through (3) of this AD:

(1) Gulfstream IV Airplane Flight Manual, Gulfstream Aerospace Document Number GAC–AC–GIV–OPS–0001, Revision 52, dated October 30, 2017;

(2) Gulfstream G300 Airplane Flight Manual, Gulfstream Aerospace Document Number GAC–AC–G300–OPS–0001, Revision 20, dated October 30, 2017; or

(3) Gulfstream G400 Airplane Flight Manual, Gulfstream Aerospace Document Number FAC–AC–G400–OPS–0001, Revision 20, dated October 30, 2017.

(h) Replace the Nose Wheel Steering Servo Valve Manifold

Within 36 months after the effective date of this AD, replace the nose wheel steering servo valve manifold with nose wheel steering servo valve manifold part number 5100–11 or 5105–5 in accordance with the Accomplishment Instructions of the customer bulletin that applies to your airplane configuration as listed in paragraphs (h)(1) through (3) of this AD, except you are not required to comply with step H:

(1) Gulfstream IV Customer Bulletin Number 244, dated March 12, 2018;

(2) Gulfstream G300 Customer Bulletin 244, dated March 12, 2018; or

(3) Gulfstream G400 Customer Bulletin 244, dated March 12, 2018.

(i) Records Inspection and Report of Results

(1) Between 12 months and 24 months after the replacement of the nose wheel steering valve manifold assembly required in paragraph (h) of this AD, inspect all aircraft records for entries of an un-commanded nose wheel steering turn.

(2) Within 10 days after the records inspection required in paragraph (i)(1) of this AD, report the results of the inspection, regardless of whether the inspection found any entries, to the FAA by either email: *9-ASO&-ATLCOS-Reporting@faa.gov;* or by mail: Attn: Continued Operational Safety, Atlanta ACO Branch, FAA, 1701 Columbia Avenue, College Park, Georgia 30337. The report must include as much of the information listed in paragraphs (i)(2)(i) through (vii) of this AD as is known about the event:

(i) Date of records inspection;

(ii) Date and time of all un-commanded occurrences (if any);

(iii) Airplane serial number;

(iv) Weather and runway conditions at the time of each occurrence;

(v) Copy of the pilot's report of the occurrence (if available);

(vi) Maintenance entry of the root cause of the un-commanded deflection (if available); and

(vii) Any other information pertinent to the occurrence.

(j) Alternative Methods of Compliance (AMOCs)

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

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

(k) Related Information

For more information about this AD, contact Alex Armas, Aerospace Engineer, Atlanta ACO Branch, FAA, 1701 Columbia Avenue, College Park, Georgia 30337; phone: (404) 474–5538; fax: (404) 474–5605; email: *alex.armas@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) Gulfstream IV Customer Bulletin Number 244, dated March 12, 2018.

(ii) Gulfstream G300 Customer Bulletin Number 244, dated March 12, 2018.

(iii) Gulfstream G400 Customer Bulletin Number 244, dated March 12, 2018.

(iv) Gulfstream IV Airplane Flight Manual, Gulfstream Aerospace Document Number GAC–AC–GIV–OPS–0001, Revision 52, dated October 30, 2017.

(v) Gulfstream G300 Airplane Flight Manual, Gulfstream Aerospace Document Number GAC–AC–G300–OPS–0001, Revision 20, dated October 30, 2017.

(vi) Gulfstream G400 Airplane Flight Manual, Gulfstream Aerospace Document Number FAC–AC–G400–OPS–0001, Revision 20, dated October 30, 2017.

(3) For service information identified in this AD, contact Gulfstream Aerospace Corporation, P.O. Box 2206, Savannah, Georgia 31402–2206; telephone: (800) 810–4853; fax 912–965–3520; email: *pubs@gulfstream.com;* internet: *https://www.gulfstream.com/customer-support.*

(4) You may view this service information at 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.

(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 June 2, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–12812 Filed 6–12–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–1008; Project Identifier AD–2019–00110–P; Amendment 39–21142; AD 2020–12–07]

RIN 2120–AA64

Airworthiness Directives; Hamilton Sundstrand Corporation Propellers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Hamilton Sundstrand Corporation (Hamilton Sundstrand) 54H60 model propellers. This AD was prompted by the failure of a propeller blade that resulted in the loss of the airplane. This AD requires initial and repetitive eddy current inspections (ECIs) of the affected propeller blades and replacement of the propeller blades that fail the inspection. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 20, 2020.

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

ADDRESSES: For service information identified in this final rule, contact Hamilton Sundstrand, 1 Hamilton Road, Windsor Locks, CT 06096–1010, United States; phone: (877) 808–7575; email: *CRC@collins.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7759. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–1008.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–1008; 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: Maureen Maisttison, Aerospace Engineer, Boston ACO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7076; fax: 781–238–7199; email: *maureen.maisttison@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 Hamilton Sundstrand 54H60 model propellers. The NPRM published in the **Federal Register** on January 28, 2020 (85 FR 4916). The NPRM was prompted by a report of the separation of a 54H60 model propeller blade installed on a United States Marine Corps Reserve (USMCR) KC–130T airplane during a flight in July 2017.

The USMCR investigation of this event revealed the Hamilton Sundstrand 54H60 model propeller blade separated due to corrosion pitting and a resultant intergranular radial crack that was not corrected at the last propeller overhaul. From this intergranular crack, a fatigue crack initiated and grew under service loading until the Hamilton Sundstrand 54H60 model propeller blade could no longer sustain the applied loads and ultimately the blade separated. The separation of the blade resulted in the loss of the airplane and 17 fatalities. The investigation further revealed that 54H60 model propeller blades manufactured before 1971 are susceptible to cracks of the propeller blade in the area of the internal taper bore. The applicability of this AD is therefore limited to those Hamilton Sundstrand 54H60 model propellers blades with a blade serial number below 813320, which are those propeller blades manufactured before 1971.

The NPRM proposed to require initial and repetitive ECIs of the affected propeller blades and removal from service of any blades that fail these inspections. Propeller blade taper bore cracks, if not detected, could result in failure of the propeller blade, blade separation, and loss of the airplane. The FAA is issuing this AD to address the unsafe condition on these products.

Comments

The FAA gave the public the opportunity to participate in developing this final rule. The FAA received one comment, from Lockheed Martin Aeronautics Company (LMAC). The following presents the FAA's response.

Comment on Cause of Propeller Blade Separation

LMAC commented that the Discussion section of the NPRM indicated that the propeller blade separated from the KC–130T airplane as the result of corrosion that was not corrected at the last propeller overhaul. LMAC noted that the investigation completed by the U.S. Navy and the U.S. Air Force concluded that the separation was a result of a fatigue crack which grew under service loading until the blade could no longer sustain the applied loads.

The FAA revised the Discussion section of this final rule to state that the investigation concluded that corrosion pitting and a resultant intergranular radial crack was not corrected at the last propeller overhaul. From this intergranular crack, a fatigue crack initiated and grew under service loading until the Hamilton Sundstrand 54H60 model propeller blade could no longer sustain the applied loads and ultimately the blade separated. No change to this AD is required.

Comment on Difference in Compliance Time

LMAC commented that the compliance time in paragraphs (g)(1) and (2) of the NPRM differs from the time recommended by LMAC in its two applicable Alert Service Bulletins (ASBs): AV382–61–011, dated October 3, 2019, for all ''382 models'' (excluding the 382J) and 88/SB–723, dated November 6, 2019, for L–188 Electra aircraft types. LMAC has recommended that its customers comply with the Hamilton Sundstrand ASB 54H60–61–A154, dated August 26, 2019, within 90 days of receipt of the applicable aircraft-type LMAC ASB. LMAC stated that this 90-day compliance time was based on an aircraft-level risk assessment that considered the consequence of loss of the propeller and the probability of occurrence based on the reported cases of intergranular cracking of the blade.

The FAA applied Advisory Circular (AC) 39–8, ''Continued Airworthiness Assessments of Powerplant and Auxiliary Power Unit Installations of Transport Category Airplanes,'' dated September 8, 2003 (''AC 39–8'') to identify the unsafe condition and to assess the risk for propellers installed in transport aircraft. The FAA's risk assessment for the Hamilton Sundstrand 54H60 propeller affected by this AD did not support the compliance interval proposed by LMAC in its ASBs. The FAA's risk assessment did not justify mandating that all blades be inspected within 90 days, per the LMAC recommendation. No change to this AD is required.

Comment on Relationship Between Unsafe Condition, Overhaul Period, and Blade Cracking

LMAC commented that the severity of this ''hazard/unsafe condition'' is not influenced by the overhaul period and there is no known correlation between time since overhaul and probability of intergranular cracking.

The FAA agrees that the severity of this unsafe condition is not influenced by the overhaul period and there is no known correlation between time since overhaul and probability of intergranular cracking. There is little established knowledge of this type of intergranular crack initiation and growth in this aluminum alloy, although an investigation has been underway for 2 years. However, the FAA has determined that since corrosion occurs regardless of whether the propeller is in service and corrosion has been discovered in blades exhibiting intergranular cracks, the appropriate compliance time uses calendar time after the effective date of this AD, based on the time of the last overhaul.

This AD employs risk-based inspections by placing priority on inspecting blades that have higher calendar time since their last overhaul because these blades have a higher probability of corrosion. In most cases, corrosion has been found to exist in conjunction with intergranular cracking. Moreover, this AD imposes a mandatory reporting requirement for cracked blades and the FAA expects that such blades will be subject to additional metallurgical examinations intended to identify factors influencing intergranular cracking. The FAA may consider further rulemaking action on this unsafe condition, depending on the results of these examinations. No change to this AD is required.

Conclusion

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

The FAA reviewed Hamilton Sundstrand Corporation ASB 54H60–61–A154, dated August 26, 2019. The ASB describes procedures for performing an ECI of the propeller blade taper bore. 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.

Interim Action

The FAA considers this AD interim action. The root cause of the 54H60 model propeller blade separation is still under investigation. The FAA may consider further rulemaking action.

Costs of Compliance

The FAA estimates that this AD affects 212 propellers installed on 53 aircraft 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
ECI of propeller	8 work-hours × $85 per hour = $680	$700	$1,380	$292,560

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace blade	1 work-hour × $85 per hour = $85	$63,500	$63,585

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

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):

2020–12–07 Hamilton Sundstrand Corporation: Amendment 39–21142; Docket No. FAA–2019–1008; Project Identifier AD–2019–00110–P.

(a) Effective Date

This AD is effective July 20, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Hamilton Sundstrand Corporation (Hamilton

Sundstrand) model 54H60 propellers with a blade having a serial number (S/N) below S/N 813320.

(d) Subject

Joint Aircraft System Component (JASC) Code 6111, Propeller Blade Section.

(e) Unsafe Condition

This AD was prompted by the separation of a propeller blade that resulted in the loss of an airplane and 17 fatalities. The FAA is issuing this AD to detect cracking in the propeller blade taper bore. The unsafe condition, if not addressed, could result in failure of the propeller blade, blade separation, and loss of the airplane.

(f) Compliance

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

(g) Required Actions

(1) For affected propellers identified in Planning Information, paragraph 1.E.(1), of Hamilton Sundstrand Corporation Alert Service Bulletin (ASB) 54H60–61–A154, dated August 26, 2019 (''the ASB''), perform an eddy current inspection (ECI) of all blades installed on the propeller within one year or 500 flight hours after the effective date of this AD, whichever occurs first.

(2) For affected propellers identified in Planning Information, paragraph 1.E.(2), of the ASB, perform an ECI of all blades installed on the propeller within two years or 1,000 flight hours after the effective date of this AD, whichever occurs first.

(3) Perform the ECI of the affected propeller blades using the Accomplishment Instructions, paragraph 3.C. of the ASB.

(4) If any propeller blade fails any inspection required by this AD, based on the criteria in paragraph 3.C. of the ASB, remove the blade from service and replace with a blade eligible for installation prior to the next flight.

(5) For all affected propellers, repeat the inspection required by paragraphs (g)(1) through (4) of this AD at intervals not exceeding 3 years or 1,500 flight hours, whichever comes first, after the previous inspection.

(6) Report the results of the ECI required by paragraphs (g)(1) through (5) of this AD in accordance with the Accomplishment Instructions, paragraph 3.C.(6) of the ASB.

(h) Installation Prohibition

After the effective date of this AD, do not install any Hamilton Sundstrand propeller blades having an S/N below 813320 on any propeller, unless the blade has first passed the inspection required by this AD. After the effective date of this AD, do not install any propeller assemblies with affected propeller blades onto any aircraft unless the affected propeller blades have passed the inspection required by paragraph (g) of this AD.

(i) Paperwork Reduction Act Burden Statement

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

(j) Alternative Methods of Compliance (AMOCs)

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

(k) Related Information

For more information about this AD, contact Maureen Maisttison, Aerospace Engineer, Boston ACO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7076; fax: 781–238–7199; email: *maureen.maisttison@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) Hamilton Sundstrand Corporation (Hamilton Sundstrand) Alert Service Bulletin 54H60–61–A154, dated August 26, 2019.

(ii) [Reserved]

(3) For Hamilton Sundstrand service information identified in this AD, contact Hamilton Sundstrand, 1 Hamilton Road, Windsor Locks, CT 06096–1010, United States; phone: (877) 808–7575; email: *CRC@collins.com.*

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7759.

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

Issued on June 3, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–12821 Filed 6–12–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–601]

Schedules of Controlled Substances: Exempt Anabolic Steroid Products

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Order with opportunity for comment.

SUMMARY: The Drug Enforcement Administration is designating two pharmaceutical preparations containing esterified estrogens and methyltestosterone as exempt anabolic steroid products under the Controlled Substances Act.

DATES: This order is effective June 15, 2020. Written comments must be postmarked, and electronic comments must be sent, on or before August 14, 2020.

ADDRESSES: To ensure proper handling of comments, please reference ''Docket No. DEA–601'' on all electronic and written correspondence, including any attachments.

- *Electronic comments:* The Drug Enforcement Administration (DEA) encourages that all comments be submitted electronically through the Federal eRulemaking Portal which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *http://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon completion of your submission, you will receive a Comment Tracking Number for your comment. Please be aware that submitted comments are not instantaneously available for public view on *Regulations.gov*. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.
- *Paper comments:* Paper comments that duplicate electronic submissions

are not necessary. Should you wish to mail a paper comment, in lieu of an electronic comment, it should be sent via regular or express mail to: Drug Enforcement Administration, Attn: DEA Federal Register Representative/ Regulatory Drafting and Policy Support Section, 8701 Morrissette Drive, Springfield, Virginia 22152.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

Posting of Public Comments

Please note that all comments received are considered part of the public record and made available for public inspection online at *http://www.regulations.gov* and in the DEA's public docket. Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter.

If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be posted online or made available in the public docket, you must include the phrase ''PERSONAL IDENTIFYING INFORMATION'' in the first paragraph of your comment. You must also place all the personal identifying information you do not want posted online or made available in the public docket in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment, but do not want it to be posted online or made available in the public docket, you must include the phrase ''CONFIDENTIAL BUSINESS INFORMATION'' in the first paragraph of your comment. You must also prominently identify confidential business information to be redacted within the comment.

Comments containing personal identifying information and confidential business information identified as directed above will generally be made publicly available in redacted form. If a comment has so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be made publicly available. Comments posted to *http://www.regulations.gov* may include any personal identifying information (such as name, address, and phone number) included in the text of your electronic submission that is not identified as directed above as confidential.

An electronic copy of this document is available at *http://www.regulations.gov* for easy reference.

Legal Authority

Anabolic steroids are listed in schedule III of the Controlled Substances Act (CSA). 21 U.S.C. 802(41) and 812(c), Schedule III(e). The CSA further provides that the Attorney General may, by regulation, exempt from any or all CSA provisions any ''compound, mixture, or preparation which contains any anabolic steroid, which is intended for administration to a human being or an animal, and which, because of its concentration, preparation, formulation or delivery system, does not present any significant potential for abuse.'' 21 U.S.C. 811(g)(3)(C). The authority to exempt these products has been delegated from the Attorney General to the Administrator of the Drug Enforcement Administration (DEA) (28 CFR 0.100(b)), who in turn, re-delegated this authority to the Assistant Administrator of Diversion Control (DC) (28 CFR part 0, Appendix to Subpart R, section 7(g)). The procedures for implementing this section are found at 21 CFR 1308.33.

Findings of Fact

On September 30, 2015, DEA received an application from ECI Pharmaceuticals, LLC, seeking to exempt two products combining esterified estrogens and methyltestosterone in tablets from control under the CSA. Letter from ECI Pharmaceuticals to DEA Office of Diversion Control (Sept. 30, 2015), at 1. Specifically, the products were Esterified Estrogens and Methyltestosterone 0.625/1.25mg tablets H.S. (half strength) and Esterified Estrogens and Methyltestosterone 1.25/2.5mg tablets D.S. (full strength). *Id.*

ECI based its application on the ground that DEA had previously exempted from control other tablet products combining esterified estrogens and methyltestosterone and that its products ''contain the same active drug substances in the same quantities . . . and most of the same excipients as many of the'' products that have been granted exemptions. *Id.* at 3. ECI's application further stated that ''[t]he deterrent effects of Esterified Estrogen when taken in combination with Methyltestosterone will not give the desired effect of one trying to abuse an anabolic steroid.'' *Id.* at Attachment 1, at 2. While noting that methyltestosterone had been controlled in schedule III because of its abuse by ''young and middle aged males,'' ECI explained that ''in combination with Esterified Estrogens, abuse of the substance would give counter effects of its intended use, causing a significant raise in the Estrogen level in males abusing the product.'' *Id.*

Upon review of the application, DEA accepted it for filing. On November 2, 2015, DEA provided a copy of ECI's application to the Secretary of Health and Human Services (HHS) and requested an evaluation and a recommendation.

On September 30, 2019, the Assistant Secretary for Health (ASH) provided HHS's evaluation and recommendation to DEA. Letter from Assistant Secretary for Health, HHS, to Acting Administrator, DEA, at 1 (Sept. 30, 2019) (ASH Letter). HHS found that ''[r]eports and evidence of the abuse of steroids have involved topically applied testosterone formulations and transdermal testosterone products,'' which are ''treatment replacement therapies for deficiency of endogenous testosterone.'' *Id.* at Attachment (HHS Evaluation), at 3. HHS found that ''[t]hese formulations contain only testosterone or testosterone esters, including methyltestosterone,'' but not estrogens which ''generally lack anabolic effects.'' *Id.* HHS also found that abusers of steroids seek testosterone because of ''its strong anabolic effects that lead to increased muscle mass and strength and enhance athletic endurance.'' *Id.* By contrast, HHS found that ''bodybuilding internet forums advise users to avoid estrogen and anabolic steroid-estrogen combination products like Esterified Estrogens and Methyltestosterone H.S. and D.S. tablets because of the undesirable side effects induced by estrogen,'' which include ''gynecomastia'' and ''water and fat retention under the skin.'' *Id.* at 3–4.

HHS further noted that ECI's two products contain the same active drug substance in the same amounts and most of the same excipients as eight different products which had previously been exempted from control. *Id.* at 4–5. HHS also performed a search of published literature databases, internet drug-user forums, and national drug reporting documents and found no ''new evidence for significant abuse'' of androgen/estrogen combination products. *Id.* at 6. HHS thus found that ''[f]rom an abuse potential perspective, it is reasonable to conclude that the mixture itself is undesirable,'' as the mixture contains ''estrogen, a hormone that lacks anabolic steroid properties sought by abusers.'' *Id.* Based on ''the similarity in formulation, route of administration and dosage strength''

with previously exempted products, HHS concluded that there are ''no meaningful differences in the abuse potential for this specific mixture of active ingredients.'' *Id.*

HHS thus concluded that ECI's ''Esterified Estrogen and Methyltestosterone H.S. and D.S. tablets have no abuse potential and therefore may be exempted from CSA regulation.'' *Id.* The ASH thus recommended that ECI's ''products be exempted from scheduling under the CSA.'' ASH Letter, at 2. Further, after reviewing several law enforcement databases, DEA has found no evidence of significant abuse or trafficking of these types of products.

Conclusions of Law

Based on the evaluation and recommendation of the ASH, as well as DEA having found no evidence of significant abuse or trafficking of these types of products, the Assistant Administrator finds that ''because of [their] concentration, preparation, formulation, or delivery system,'' ECI's Esterified Estrogens and Methyltestosterone 0.625/1.25mg tablets H.S. and Esterified Estrogens and Methyltestosterone 1.25/2.5mg tablets D.S., ''ha[ve] no significant potential for abuse.'' 21 CFR 1308.33(a). Information on these products is given below.

EXEMPT ANABOLIC STEROID PRODUCTS

Trade name	Company	Form	Ingredients	Quantity
Esterified Estrogens and Methyltestosterone 1.25 mg/2.5 mg D.S.	ECI Pharmaceuticals LLC.	Tablets ...	Esterified Estrogens Methyltestosterone ...	1.25 mg/Tablet. 2.5 mg/Tablet.
Esterified Estrogens and Methyltestosterone 0.625mg/1.25mg H.S.	ECI Pharmaceuticals LLC.	Tablets ...	Esterified Estrogens Methyltestosterone ...	0.625 mg/Tablet. 1.25 mg/Tablet.

Therefore, the Assistant Administrator, Diversion Control Division, hereby orders that the above products containing anabolic steroids be exempted from application of sections 302, 303, 305, 307, 309, 1002, 1003, 1004 of the CSA (21 U.S.C. 822–823, 825, 827, 829, a 952–954) and 21 CFR 1301.13, 1301.22 and 1301.71 through 1301.76, and be included in the list of products described in 21 CFR 1308.34. These exemptions apply only with respect to the finished products. To the extent ECI handles methyltestosterone in the manufacturing process, because such material remains a controlled anabolic steroid, ECI must comply with all applicable registration, security and recordkeeping requirements set forth in the CSA and DEA regulations.

Opportunity for Comment

Pursuant to 21 CFR 1308.33, any interested person may submit written comments on, or objections to, the exemption of either product listed in this order, within 60 days of the date of publication of this, as specified above. If any comments or objections raise significant issues regarding any finding of fact or conclusion of law upon which this order is based, the Assistant Administrator, Diversion Control Division, shall immediately suspend the effectiveness of this order until he may reconsider the application in light of the comments and objections filed. 21 CFR 1308.33. Thereafter, the Assistant Administrator shall reinstate, revoke, or amend his original order as he determines appropriate. *Id.*

William T. McDermott,

Assistant Administrator.

[FR Doc. 2020–11318 Filed 6–12–20; 8:45 am]

BILLING CODE 4410–09–P

BROADCASTING BOARD OF GOVERNORS

22 CFR Part 531

RIN 3112–AA03

Firewall and Highest Standards of Professional Journalism

AGENCY: Broadcasting Board of Governors.

ACTION: Final rule.

SUMMARY: The Broadcasting Board of Governors is revising its regulations to clarify the practical meaning and impact of the statutory firewall contained within the United States International Broadcasting Act of 1994, as amended, upon Agency operations. Consistent with this action, this rule makes appropriate conforming changes.

DATES: This rule is effective as of June 11, 2020.

FOR FURTHER INFORMATION CONTACT: Armanda Mathews, Staff Assistant, email at: *Rule_Comments@usagm.gov* or (202) phone 202–920–2005.

SUPPLEMENTARY INFORMATION:

Background

The United States Agency for Global Media (USAGM), identified in the International Broadcasting Act of 1994, as amended, as the Broadcasting Board of Governors (BBG), is an independent establishment of the federal government that exercises authority over non-military United States government broadcasting.[1] USAGM currently operates five networks—Voice of America (VOA), the Office of Cuba Broadcasting (OCB), Radio Free Europe/Radio Liberty (RFE/RL), Radio Free Asia (RFA) and the Middle East Broadcasting Networks (MBN)—that reach a cumulative weekly worldwide audience of approximately 400 million people.

Before reaching the end of its tenure, the Governing Board of the Agency wanted to codify and memorialize definitions and practices associated with the firewall. In 2016, the Board created a firewall working group to investigate the firewall and its sources. This rule was developed by that working group and subsequently passed unanimously by the Governing Board. (This supplementary information was added by the Agency to provide additional background as to impetus for the rule). The impetus was to demystify the firewall, including by making clear what the firewall is not.

The firewall is essential to ensuring the continued credibility and therefore effectiveness of the journalism provided by USAGM funded networks. The firewall protects the editorial independence of the networks journalists. It does not prevent oversight of the journalism consistent with the highest standards of professional journalism and editorial independence; nor does it prevent VOA or any of the networks carrying out all enumerated elements of their mission, including that of VOA to ''tell America's Story''. H.R. Conf. Rep. No. 432, 104–6 Cong., 2nd Sess. 127 (1998).

Overview of the Rule

Pursuant to the background above, and in light of the Board's desire to codify a common-sense definition of the firewall, consistent with the law, the

[1] Under Section 1288 of the NDAA, the CEO was authorized to change the name of the Agency. On August 22, 2018, the CEO exercised this power and renamed the BBG the United States Agency for Global Media. This and subsequent CEOs retain the authority to rename the Agency.

highest standards of professional journalism, and longstanding practice, USAGM has promulgated this regulation.

This regulation clarifies the practical meaning of the statutory firewall and its basis and its impact on Agency operations

Effective Date

Having been passed by the Board, these regulations are already effective upon the Agency. Publication will codify them into the **Federal Register**. Those provisions pertaining to non-supervisory employees deemed subject to collective bargaining requirements set forth under the Federal Service Labor-Management Relations Statute and the Agency's negotiated labor-management agreements would only become effective subject to the terms and conditions within those bargaining agreements.

Rulemaking Requirements

1. This final rule has been determined to be exempt from review for purposes of Executive Order 12866.

2. This rule does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1995. In addition, at the time of passage, the Agency is governed by a bipartisan Board.

3. This rule does not contain policies with Federalism implications as this term is defined in Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this rule involves a rule of agency organization, procedure, or practice. 5 U.S.C. 553(b)(B). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 5 U.S.C. or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) are not applicable.

Accordingly, this rule is issued in final form. Although there is no formal comment period, public comments on this rule are welcome on a continuing basis. Comments should be submitted to Armanda Mathews, Staff Assistant, Broadcasting Board of Governors, 330 Independence Avenue SW, Washington DC 20237 (email at: *Rule__Comments@usagm.gov*).

List of Subjects in 22 CFR Part 531

Scope and purposes of the statutory firewall, Editorial independence, Requirement to adhere highest professional standards of journalism.

■ For the foregoing reasons, the Broadcasting Board of Governors amends 22 CFR, Chapter V, by adding part 531, as follows:

PART 531—STATUTORY FIREWALL AND HIGHEST STANDARDS OF PROFESSIONAL JOURNALISM

Sec.
531.1 Overview.
531.2 Independence and best practices.
531.3 Firewall.
531.4 Definitions.

Authority: 22 U.S.C. 6201 *et seq.*; 22 U.S.C. 1465 *et seq.*; 1465aa *et seq.*

§ 531.1 Overview.

The Broadcasting Board of Governors, referred to as the U.S. Agency for Global Media (USAGM), per section 305(a)(22) of the IBA, currently provides public funds to five news media networks: The Voice of America (VOA), Radio Free Europe, Radio Liberty (RFE/RL), Radio Free Asia (RFA), the Middle East Broadcasting Networks (MBN), and the Office of Cuba Broadcasting (OCB). Pursuant to International Broadcasting Act of 1994, as amended (22 U.S.C. 6201 *et seq.*) (''the IBA'' or ''the Act''), and other applicable authorities:

(a) All USAGM-funded Networks must adhere to the highest professional standards of journalism, pursuant to section 303(a)(5) of the IBA, in order to produce news which is consistently reliable and authoritative, accurate, objective, and comprehensive, per section 303(b) of IBA. Accordingly, USAGM networks necessarily enjoy full editorial independence in order to maintain their ''professional independence and integrity,'' per section 305(b) of the IBA. This statutorily mandated firewall protects the independence of the networks by insulating their editorial decisions from interference from those outside of the network, or from impermissible considerations, as set forth herein.

(b) The existence of a firewall does not mean the absence of oversight. This firewall shall not be construed to limit USAGM oversight conducted in a manner consistent with that conducted by other media organizations which operate editorially independent news divisions that adhere to the highest standards of journalism; nor does it prevent federal officials from treating the networks like any other news organization: *E.g.,* They may seek a correction; provide an interview; serve as a source; or otherwise interact in the same manner as they do with any other news organization.

(c) Editorial independence and adherence to the highest standards of professional journalism do not prevent VOA from adhering fully to each of the elements of its Charter. The VOA Charter, currently codified at section 303(c) of the IBA, states that VOA will serve as a consistently reliable and authoritative source of news, which itself will be accurate, objective, and comprehensive; represent America as a whole, and thereby present a balanced and comprehensive projection of significant American thought and institutions; and present the policies of the United States clearly and effectively, as well as responsible discussions and opinion on such policies. Editorial independence and adherence to the highest standards of professional journalism, as described herein, allow for audiences to rely on VOA to be truthful and accurate. Accordingly, these principles are considered essential to meeting the Charter's mandate that ''to be effective, the Voice of America must win the attention and respect of listeners'' per section 303(c) of the IBA; S. Rep. No. 703, 94 Cong., 2nd Sess. 15 (1976), reprinted in 1976 U.S.C.C.A.N. 1555, 1569; and H.R. Conf. Rep. No. 432, 105 Cong., 2nd Sess. 127 (1998).

(d) Editorial independence and adherence to the highest standards of professional journalism do not preclude any news organization from publishing editorials or opinion pieces, clearly marked as such; as described in paragraph (d)(5) of this section, VOA is required to carry editorials which present the views of the U.S. Government.

§ 531.2 Independence and best practices.

(a) USAGM-funded networks each enjoy full editorial independence, as that term is defined and understood by best practices of journalism.

(b) Editorial independence includes, but is not limited to the fact that only individuals within the network may make any decisions with respect to newsgathering or reporting. USAGM networks and their employees, including the heads of each network, are fully insulated from any political or other external pressures or processes that would be inconsistent with the highest standards of professional journalism.

(c) The heads of each network, and everyone else therein, are required at all times to adhere to the highest

professional standards of journalism, and must take that into account when carrying out all their responsibilities. The highest professional standards of journalism also require that all elements of newsgathering, editing, and reporting are carried out by professional journalists trained in and held to the highest industry standards.

(d) Each network is required to establish and maintain written rules setting forth the journalistic best practices for their organization, based upon the highest professional standards of professional journalism. These best practices also preclude any journalist or other covered individuals at a network, including the heads of the networks, from engaging in any activity that would call into question their neutrality or impartiality.

§ 531.3 Firewall.

(a) A statutory 'firewall,' provided for in section 305(b) of the IBA, and incident to adherence to the highest professional standards of broadcast journalism, exists around USAGM-funded networks, their products, and staff in order to protect their professional independence and integrity.

(b) Within any credible news organization, a firewall exists between anybody involved with any aspect of journalism (*e.g.,* the creation, editing, reporting, distributing, etc., of content) and everyone else in the organization. For purposes of USAGM, firewalls exist between the newsroom of a USAGM-network; everyone else in the organization; and the Executive Branch of the U.S. Government, as described herein.

(c) This ''firewall'' is understood to be violated when any person within the Executive Branch or a Network, but outside the newsroom, attempts to direct, pressure, coerce, threaten, interfere with, or otherwise impermissibly influence any of the USAGM networks, including their leadership, officers, employees, or staff, in the performance of their journalistic and broadcasting duties and activities. It is also violated when someone inside the newsroom acts in furtherance of or pursuant to such impermissible influence. Such impermissible influence would undermine the journalistic and editorial independence, and thus the credibility, of that USAGM network, and their reporters, editors, or other journalists.

(d) The firewall is critical to ensuring that the editors, reporters, and other journalists of the USAGM network make the decisions on what stories to cover and how they are covered, and that those decisions are ultimately governed by the highest standards of professional journalism.

(e) The following are not firewall violations:

(1) The firewall is not meant to discourage journalists from interviewing U.S. Government officials or to discourage such officials from appearing on USAGM-funded programs.

(2) The firewall does not prevent officers or employees within the Executive Branch, including the State Department, from engaging with or speaking about USAGM networks as they might with any other news organization. Such interaction could include but is not limited to:

(i) Publicly or privately commenting on USAGM stories;

(ii) Publicly or privately reaching out to journalists in the same manner that they would do with any other journalist;

(iii) Publicly or privately reaching out to network staff in the same manner that they would do with any other network staff; and

(iv) Otherwise interacting with journalists and other network staff in the same manner that they would do with such staffs' private sector counterparts.

(3) The firewall does not prevent a USAGM CEO or Board from undertaking the same type of direction and oversight that those in equivalent leadership positions in an organization overseeing other reputable news organizations may provide, in a manner consistent with the highest standards of professional journalism.

(4) In determining which languages to broadcast, the Agency has prioritized certain countries and audiences, such as those under authoritarian rule. The firewall does not prevent the USAGM CEO or Board from otherwise prioritizing certain audiences or languages, consistent with the statutory language service review that is carried out per section 305(a)(4) of the IBA to determine whether the continued broadcasting in various languages are furthering the mission of the networks, and per section 303(a)(1) of the IBA, are thus consistent with the broad foreign policy objectives of the United States.

(5) Per section 303(b)(3) of the IBA, the firewall does not prohibit the publication of editorials and other opinion pieces by U.S. Government officials, marked clearly as such, on VOA, expressing policy positions of the U.S. Government.

§ 531.4 Definitions.

(a) *Audience* or *audiences* refers to foreign audiences overseas, the only audiences to which USAGM is authorized to seek to reach; USAGM or its networks are not authorized to target audiences in the United States, and must take steps set forth in law and regulation to avoid these audiences.

(b) *Board* refers to the Board of a Network; or the Advisory Board.

(c) *Everyone else in the organization* in describing a USAGM Network, refers to anyone within a Network who, pursuant to the structure of that Network or the highest standards of professional journalism, would be considered to not be part of the newsroom, *i.e.,* involved with carrying out any aspect of journalism (*e.g.,* the creation, editing, reporting, distributing, etc., of content), and thus outside the firewall. By definition the USAGM CEO is not within a Network.

(d) *Network, USAGM-funded Network,* or *USAGM Network:* Refers to the Voice of America (VOA), Radio Free Europe, Radio Liberty (RFE/RL), Radio Free Asia (RFA), the Middle East Broadcasting Networks (MBN), and the Office of Cuba Broadcasting (OCB); or any other network, broadcaster, or grantee which falls under the Act, or is overseen by USAGM or a USAGM network. It does not include any officer or employee of USAGM not within VOA or OCB, including the Advisory Board or the Chief Executive Officer.

(e) *Newsroom* refers to the news division of a USAGM-Network. The scope of the news division depends on the structure of the Network. Depending how a Network is organized the head of that Network may or may not be considered to be within the news division. The Board of a Network is considered to be outside the news division. Those within the news division must adhere to the highest professional standards of journalism in carrying out their responsibilities. Even if outside the newsroom, as set forth herein, the head of a network is still required to act in accordance with the highest standards of professional journalism in carrying out their roles with respect to the journalism, and thus ensuring the professional ''independence and integrity'' of the network.

(f) *Highest professional standards of journalism* means the highest professional standards in the field of journalism. Each network is required to promulgate, maintain, and abide by a code of journalistic ethics and best practices that fully comports with the highest professional standards in the field of journalism, a violation of which is required to be reported to the Congress, per a recurring provision of the Agency's annual appropriation act.

(g) *Highest standards* means unless otherwise indicated, refers to ''highest professional standards of journalism''

(h) *Other applicable authorities* includes the Radio Broadcasting to Cuba Act (22 U.S.C. 1465 *et seq.*); the Television Broadcasting to Cuba Act (22 U.S.C. 1465aa *et seq.*); the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1431 *et seq.*).

(i) *Reputable news organization* means a news organization that adheres to the highest professional standards of journalism and has a firewall which insulates the news side of the operation, to ensure that editorial decisions are not influenced in a manner or by factors inconsistent with the highest standards of professional journalism.

(j) *USAGM CEO* or *CEO* refers to the CEO authorized under section 304 of the IBA. Until such time as the first Presidentially nominated, senate confirmed CEO is appointed, USAGM CEO shall also refer to the Federal Board.

Chelsea Milko,

Special Assistant.

[FR Doc. 2020–12696 Filed 6–11–20; 4:15 pm]

BILLING CODE 8610–01–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4022 and 4044

Allocation of Assets in Single-Employer Plans; Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends the Pension Benefit Guaranty Corporation's regulations on Benefits Payable in Terminated Single-Employer Plans and Allocation of Assets in Single-Employer Plans to prescribe certain interest assumptions under the benefit payments regulation for plans with valuation dates in July 2020 and interest assumptions under the asset allocation regulation for plans with valuation dates in the third quarter of 2020. These interest assumptions are used for valuing benefits and paying certain benefits under terminating single-employer plans covered by the pension insurance system administered by PBGC.

DATES: Effective July 1, 2020.

FOR FURTHER INFORMATION CONTACT: Gregory Katz (*katz.gregory@pbgc.gov*), Attorney, Regulatory Affairs Division, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005, 202–326–4400, ext. 3829. (TTY users may call the Federal relay service toll free at 1–800–877–8339 and ask to be connected to 202–326–4400, ext. 3829.)

SUPPLEMENTARY INFORMATION: PBGC's regulations on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) and Benefits Payable in Terminated Single-Employer Plans (29 CFR part 4022) prescribe actuarial assumptions—including interest assumptions—for valuing and paying plan benefits under terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974 (ERISA). The interest assumptions in the regulations are also published on PBGC's website (*https://www.pbgc.gov*).

Lump Sum Interest Assumption

PBGC uses the interest assumptions in appendix B to part 4022 (''Lump Sum Interest Rates for PBGC Payments'') to determine whether a benefit is payable as a lump sum and to determine the amount to pay as a lump sum. Because some private-sector pension plans use these interest rates to determine lump sum amounts payable to plan participants (if the resulting lump sum is larger than the amount required under section 417(e)(3) of the Internal Revenue Code and section 205(g)(3) of ERISA), these rates are also provided in appendix C to part 4022 (''Lump Sum Interest Rates for Private-Sector Payments'').

This final rule updates appendices B and C of the benefit payments regulation to provide the rates for July 2020 measurement dates.

The July 2020 lump sum interest assumptions will be 0.00 percent for the period during which a benefit is (or is assumed to be) in pay status and 4.00 percent during any years preceding the benefit's placement in pay status. In comparison with the interest assumptions in effect for June 2020, these assumptions represent no change in the immediate rate and are otherwise unchanged.

Valuation/Asset Allocation Interest Assumptions

PBGC uses the interest assumptions in appendix B to part 4044 (''Interest Rates Used to Value Benefits'') to value benefits for allocation purposes under section 4044 of ERISA, and some private-sector pension plans use them to determine benefit liabilities reportable under section 4044 of ERISA and for other purposes. The third quarter 2020 interest assumptions will be 1.98 percent for the first 20 years following the valuation date and 1.57 percent thereafter. In comparison with the interest assumptions in effect for the second quarter of 2020, these interest assumptions represent no change in the select period (the period during which the select rate (the initial rate) applies), a decrease of 0.13 percent in the select rate, and a decrease of 0.35 percent in the ultimate rate (the final rate).

Need for Immediate Guidance

PBGC updates appendix B of the asset allocation regulation each quarter and appendices B and C of the benefit payments regulation each month. PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to issue new interest assumptions promptly so that they are available to value benefits and, for plans that rely on our publication of them each month or each quarter, to calculate lump sum benefit amounts.

Because of the need to provide immediate guidance for the valuation and payment of benefits under plans with valuation dates during July 2020, PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects

29 CFR Part 4022

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 4044

Employee benefit plans, Pension insurance, Pensions.

In consideration of the foregoing, 29 CFR parts 4022 and 4044 are amended as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

■ 1. The authority citation for part 4022 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

■ 2. In appendix B to part 4022, Rate Set 321 is added at the end of the table to read as follows:

Appendix B to Part 4022—Lump Sum Interest Rates for PBGC Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*		*
321	7–1–20	8–1–20	0.00	4.00	4.00	4.00	7	8

■ 3. In appendix C to part 4022, Rate Set 321 is added at the end of the table to read as follows:

Appendix C to Part 4022—Lump Sum Interest Rates for Private-Sector Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*		*
321	7–1–20	8–1–20	0.00	4.00	4.00	4.00	7	8

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

■ 4. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

■ 5. In appendix B to part 4044, an entry for ''July–September 2020'' is added at the end of the table to read as follows:

Appendix B to Part 4044—Interest Rates Used To Value Benefits

* * * * *

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t =	i_t	for t =	i_t	for t =
*	*	*	*	*	*	*
July–September 2020	0.0198	1–20	0.0157	>20	N/A	N/A

Issued in Washington, DC.

Hilary Duke,

Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation.

[FR Doc. 2020–12883 Filed 6–12–20; 8:45 am]

BILLING CODE 7709–02–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2020–0108; FRL–10009–59–Region 10]

Air Plan Approval; Washington; Northwest Clean Air Agency

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to the Washington State Implementation Plan (SIP) that were submitted by the Washington Department of Ecology (Ecology) in coordination with the Northwest Clean Air Agency (NWCAA). This revision updates certain NWCAA regulations currently in the SIP, removes obsolete regulations, and approves a subset of updated Ecology regulations to apply in NWCAA's jurisdiction.

DATES: This final rule is effective July 15, 2020.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R10–OAR–2020–0108. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available at *https://www.regulations.gov,* or please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt, EPA Region 10, 1200 Sixth Avenue—Suite 155, Seattle, WA 98101, at (206) 553–0256, or *hunt.jeff@epa.gov.*

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

I. Background

On March 24, 2020, we proposed to approve updates to certain NWCAA regulations currently in the SIP, remove obsolete regulations, and approve a subset of updated Ecology regulations to apply in NWCAA's jurisdiction (85 FR

16599). The reasons for our proposed approval were stated in the proposed rule and will not be re-stated here. The public comment period for our proposed action ended on April 23, 2020. We received no comments. Therefore, we are finalizing our action as proposed.

II. Final Action

A. Regulations Approved and Incorporated by Reference Into the SIP

The EPA is approving and incorporating by reference into the Washington SIP at 40 CFR 52.2470(c)—*Table 5—Additional Regulations Approved for the Northwest Clean Air Agency (NWCAA) Jurisdiction,* the following NWCAA regulatory sections (effective date):

- 100 (8/21/2005), 101 (8/21/2005), 102 (8/21/2005), 200 (5/12/2019), 300 (5/12/2019), 305 (5/12/2019), 320 (5/12/2019), and 321 (05/12/2019).

The EPA is also approving and incorporating by reference the following Chapter 173–400 Washington Administrative Code (WAC) sections submitted for approval to apply within NWCAA's jurisdiction (effective date):

- 173–400–020 (12/29/2012), 173–400–025 (9/16/2018), 173–400–030 (9/16/2018), 173–400–050 (09/16/2018), 173–400–060 (11/25/2018), 173–400–091 (4/1/2011), 173–400–111 (7/1/2016), 173–400–112 (12/29/2012), 173–400–113 (12/29/2012), 173–400–117 (12/29/2012), 173–400–118 (12/29/2012), 173–400–131 (04/1/2011), 173–400–136 (12/29/2012), 173–400–151 (2/10/2005), 173–400–171 (9/16/2018), 173–400–200 (2/10/2005), 173–400–800 (4/1/2011), 173–400–810 (7/1/2016), 173–400–820 (12/29/2012), 173–400–830 (7/1/2016), 173–400–840 (7/1/2016), 173–400–850 (7/1/2016), and 173–400–860 (4/1/2011).

Please see the amendatory text for more detailed information about the provisions submitted and approved in this action, including local agency corollaries which replace certain Chapter 173–400 WAC provisions and exclusions to our approval.

B. Approved But Not Incorporated by Reference Regulations

In addition to the regulations approved and incorporated by reference above in section II of this preamble, the EPA reviews and approves state and local clean air agency submissions to ensure they provide adequate enforcement authority and other general authority to implement and enforce the SIP. However, regulations describing such agency enforcement and other general authority are generally not incorporated by reference so as to avoid potential conflict with the EPA's independent authorities. Therefore, we are approving the following updates to NWCAA's general provisions for inclusion in 40 CFR 52.2470(e), *Table 1—Approved but Not Incorporated by Reference Regulations:* 103, 105, 110, 111, 112, 113, 114, 120, 123, 124, 131, 132, 133, 134, 135, and 303. We are also removing prior references to these provisions from 40 CFR 52.2470(c) because they are now included in 40 CFR 52.2470(e).

C. Regulations To Remove From the SIP

As discussed in the proposal for this action, we are removing from the SIP sections: 104, 106, 122, 130, 140, 145, 301, 302, 310, 322, 323, 400, 401, 410, 420, 422, and 424. We are also removing from the SIP any formerly approved WAC provisions which are replaced by local agency corollaries for facilities or actions subject to NWCAA's jurisdiction.

D. Scope of Proposed Action

This revision to the SIP applies specifically to the NWCAA jurisdiction incorporated into the SIP at 40 CFR 52.2470(c), Table 5. As discussed in our proposal, local air agency jurisdiction in Washington is generally defined on a geographic basis; however, there are exceptions. By statute, NWCAA does not have authority for sources under the jurisdiction of the Energy Facilities Site Evaluation Council (EFSEC). See Revised Code of Washington Chapter 80.50. Under the applicability provisions of WAC 173–405–012, 173–410–012, and 173–415–012, NWCAA also does not have jurisdiction for kraft pulp mills, sulfite pulping mills, and primary aluminum plants. For these sources, Ecology retains statewide, direct jurisdiction. Ecology and EFSEC also retain statewide, direct jurisdiction for issuing Prevention of Significant Deterioration (PSD) permits. Therefore, the EPA is not approving into 40 CFR 52.2470(c), Table 5, those provisions of Chapter 173–400 WAC related to the PSD program. Specifically, these provisions are WAC 173–400–116 and WAC 173–400–700 through 173–400–750, which the EPA has already approved as applying state-wide under 40 CFR 52.2470(c), Tables 2 and 3.

Also, as described in our proposal for this action, jurisdiction to implement the visibility permitting program contained in WAC 173–400–117 varies depending on the situation. Ecology and EFSEC retain authority to implement WAC 173–400–117 as it relates to PSD permits. However, for facilities subject to major nonattainment new source review (NSR) under the applicability provisions of WAC 173–400–800, we are approving NWCAA's implementation of those parts of WAC 173–400–117 as they relate to major nonattainment NSR permits. Therefore, we are modifying the visibility protection Federal Implementation Plan contained in 40 CFR 52.2498 to reflect the approval of WAC 173–400–117 as it applies to implementation of the major nonattainment NSR program in NWCAA's jurisdiction.

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

III. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, we are finalizing the incorporation by reference as described in sections II.A. and II.C. of this preamble. The EPA has made, and will continue to make, these materials generally available through *https://www.regulations.gov* and at the EPA Region 10 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully federally-enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[1]

IV. Statutory and Executive Order Review

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

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

those imposed by State law. For that reason, this action:

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 14, 2020. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Dated: May 19, 2020.

Christopher Hladick,

Regional Administrator, Region 10.

For the reasons set forth in the preamble, 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart WW—Washington

■ 2. Amend § 52.2470 by revising Table 5 of paragraph (c) and Table 1 of paragraph (e) to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

TABLE 5—ADDITIONAL REGULATIONS APPROVED FOR THE NORTHWEST CLEAN AIR AGENCY (NWCAA) JURISDICTION

[Applicable in Island, Skagit and Whatcom counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations; any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
	Northwest Clean Air Agency Regulations General Provisions			
100	Name of Agency	8/21/05	6/15/20, [Insert **Federal Register** citation].	
101	Short Title	8/21/05	6/15/20, [Insert **Federal Register** citation].	
102	Policy	8/21/05	6/15/20, [Insert **Federal Register** citation].	Except provisions outside the scope of CAA section 110. Replaces WAC 173–400–010.
121	Orders	9/8/93	2/22/95, 60 FR 9778.	
150	Pollutant Disclosure—Reporting by Air Containment Sources.	9/8/93	2/22/95, 60 FR 9778.	

TABLE 5—ADDITIONAL REGULATIONS APPROVED FOR THE NORTHWEST CLEAN AIR AGENCY (NWCAA) JURISDICTION—Continued

[Applicable in Island, Skagit and Whatcom counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations; any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
180	Sampling and Analytical Methods/References.	9/8/93	2/22/95, 60 FR 9778.	
Definitions				
200	Definitions	5/12/19	6/15/20, [Insert **Federal Register** citation].	Except the definitions Toxic Air Pollutant, Odor, and Odor Source. Generally replaces WAC 173–400–030. However, for definitions not included in section 200, the WAC 173–400–030 definitions in the table below shall apply.
Control Procedures				
300	New Source Review	5/12/19	6/15/20, [Insert **Federal Register** citation].	Except subsections 300.8(C), 300.25, or any provisions related to the regulation of Toxic Air Pollutants. Replaces WAC 173–400–036, 173–400–110, 173–400–111, 173–400–113, and 173–400–560, except certain subsections of WAC 173–400–111 and 173–400–113 listed in the table below.
305	Public Involvement	5/12/19	6/15/20, [Insert **Federal Register** citation].	Except provisions related to the regulation of Toxic Air Pollutants. Replaces WAC 173–400–171 and WAC 173–400–175, except subsection 173–400–171(6)(b).
320	Registration Program	5/12/19	6/15/20, [Insert **Federal Register** citation].	Except subsection 320.3 and provisions related to the regulation of Toxic Air Pollutants or odor.
321	Exemptions from Registration.	5/12/19	6/15/20, [Insert **Federal Register** citation].	Except subsection 321.3.
324	Fees	11/13/94	10/24/95, 60 FR 54439	Except section 324.121.
325	Transfer	9/8/93	2/22/95, 60 FR 9778.	
340	Report of Breakdown and Upset.	11/13/94	10/24/95, 60 FR 54439.	
341	Schedule Report of Shutdown or Start-Up.	9/8/93	2/22/95, 60 FR 9778.	
342	Operation and Maintenance.	9/8/93	2/22/95, 60 FR 9778.	
360	Testing and Sampling	9/8/93	2/22/95, 60 FR 9778.	
365	Monitoring	9/8/93	2/22/95, 60 FR 9778.	
366	Instrument Calibration	9/8/93	2/22/95, 60 FR 9778.	
Standards				
450	Emission Standards—Forward.	9/8/93	2/22/95, 60 FR 9778.	
451	Emission of Air Contaminant—Visual Standards.	11/13/94	10/24/95, 60 FR 54439.	
452	Motor Vehicle Visual Standards.	9/8/93	2/22/95, 60 FR 9778	Except section 452.5.
455	Emission of Particulate Matter.	9/8/93	2/22/95, 60 FR 9778.	
458	Incinerators—Wood Waste Burners.	9/8/93	2/22/95, 60 FR 9778.	
460	Weight/Heat Rate Standard—Emission of Sulfur Compounds.	9/8/93	2/22/95, 60 FR 9778.	
462	Emission of Sulfur Compounds.	11/13/94	10/24/95, 60 FR 54439.	
466	Portland Cement Plants	9/8/93	2/22/95, 60 FR 9778.	
Regulated Activities and Prohibitions				
510	Incinerator Burning	9/8/93	2/22/95, 60 FR 9778.	
520	Sulfur Compounds in Fuel	9/8/93	2/22/95, 60 FR 9778.	
550	Particulate Matter from Becoming Airborne.	9/8/93	2/22/95, 60 FR 9778.	

TABLE 5—ADDITIONAL REGULATIONS APPROVED FOR THE NORTHWEST CLEAN AIR AGENCY (NWCAA) JURISDICTION—Continued

[Applicable in Island, Skagit and Whatcom counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations; any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
560	Storage of Organic Liquids.	9/8/93	2/22/95, 60 FR 9778.	
580	Volatile Organic Compound Control (VOC).	11/13/94	10/24/95, 60 FR 54439.	
Washington Department of Ecology Regulations Washington Administrative Code, Chapter 173–400—General Regulations for Air Pollution Sources				
173–400–020	Applicability	12/29/12	6/15/20, [Insert **Federal Register** citation].	
173–400–025	Adoption of Federal Rules	9/16/18	6/15/20, [Insert **Federal Register** citation].	Only as it applies to cross references in the WAC.
173–400–030	Definitions	9/16/18	6/15/20, [Insert **Federal Register** citation].	Except: 173–400–030(6); 173–400–030(32); 173–400–030(38); 173–400–030(45); 173–400–030(83); 173–400–030(89); 173–400–030(96); 173–400–030(97); 173–400–030(100); 173–400–030(103); 173–400–030(104); or any definition included in NWCAA section 200.
173–400–040	General Standards for Maximum Emissions.	3/22/91	6/2/95, 60 FR 28726	Except (1)(c), and (1)(d), (2), (4), and the 2nd paragraph of (6).
173–400–050	Emission Standards for Combustion and Incineration Units.	9/16/18	6/15/20, [Insert **Federal Register** citation].	Except: 173–400–050(2); 173–400–050(4); 173–400–050(5); 173–400–050(6).
173–400–060	Emission Standards for General Process Units.	11/25/18	6/15/20, [Insert **Federal Register** citation].	
173–400–070	Emission Standards for Certain Source Categories.	3/22/91	6/2/95, 60 FR 28726	Except (7).
173–400–081	Startup and Shutdown	9/20/93	6/2/95, 60 FR 28726.	
173–400–091	Voluntary Limits on Emissions.	4/1/11	6/15/20, [Insert **Federal Register** citation].	9/20/93 version continues to be approved under the authority of CAA Section 112(l) with respect to Section 112 hazardous air pollutants. See the FEDERAL REGISTER of June 2, 1995.
173–400–105	Records, Monitoring and Reporting.	9/20/93	6/2/95, 60 FR 28726.	
173–400–107	Excess Emissions	9/20/93	6/2/95, 60 FR 28726.	
173–400–111	Processing Notice of Construction Applications for Sources, Stationary Sources and Portable Sources.	7/1/16	6/15/20, [Insert **Federal Register** citation].	Only subsections (1)(c), (1)(d), (5)(b), and (7)(b), otherwise NWCAA section 300 applies.
173–400–112	Requirements for New Sources in Nonattainment Areas—Review for Compliance with Regulations.	12/29/12	6/15/20, [Insert **Federal Register** citation].	The cross reference to WAC 173–400–113(3) is interpreted to be NWCAA section 300.9(B)(3).
173–400–113	New Sources in Attainment or Unclassifiable Areas—Review for Compliance with Regulations.	12/29/12	6/15/20, [Insert **Federal Register** citation].	Only subsection (4), otherwise NWCAA section 300 applies.
173–400–117	Special Protection Requirements for Federal Class I Areas.	12/29/12	6/15/20, [Insert **Federal Register** citation].	
173–400–118	Designation of Class I, II, and III Areas.	12/29/12	6/15/20, [Insert **Federal Register** citation].	
173–400–131	Issuance of Emission Reduction Credits.	4/1/11	6/15/20, [Insert **Federal Register** citation].	
173–400–136	Use of Emission Reduction Credits (ERC).	4/1/11	6/15/20, [Insert **Federal Register** citation].	
173–400–151	Retrofit Requirements for Visibility Protection.	2/10/05	6/15/20, [Insert **Federal Register** citation].	
173–400–161	Compliance Schedules	3/22/91	6/2/95, 60 FR 28726.	

TABLE 5—ADDITIONAL REGULATIONS APPROVED FOR THE NORTHWEST CLEAN AIR AGENCY (NWCAA) JURISDICTION—Continued

[Applicable in Island, Skagit and Whatcom counties, excluding facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); Indian reservations; any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction; and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.]

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
173–400–171	Public Notice and Opportunity for Public Comment.	9/16/18	6/15/20, [Insert **Federal Register** citation].	Only subsection (6)(b), otherwise NWCAA section 305 applies.
173–400–190	Requirements for Nonattainment Areas.	3/22/91	6/2/95, 60 FR 28726.	
173–400–200	Creditable Stack Height and Dispersion Techniques.	2/10/05	6/15/20, [Insert **Federal Register** citation].	
173–400–205	Adjustment for Atmospheric Conditions.	3/22/91	6/2/95, 60 FR 28726.	
173–400–210	Emission Requirements of Prior Jurisdictions.	3/22/91	6/2/95, 60 FR 28726.	
173–400–800	Major Stationary Source and Major Modification in a Nonattainment Area.	4/1/11	6/15/20, [Insert **Federal Register** citation].	EPA did not review WAC 173–400–800 through 860 for consistency with the August 24, 2016 $PM_{2.5}$ implementation rule (see the **Federal Register** of August 24, 2016); nor does NWCAA have an obligation to submit rule revisions to address the 2016 $PM_{2.5}$ implementation rule at this time.
173–400–810	Major Stationary Source and Major Modification Definitions.	7/1/16	6/15/20, [Insert **Federal Register** citation].	
173–400–820	Determining if a New Stationary Source or Modification to a Stationary Source is Subject to these Requirements.	12/29/12	6/15/20, [Insert **Federal Register** citation].	
173–400–830	Permitting Requirements	7/1/16	6/15/20, [Insert **Federal Register** citation].	
173–400–840	Emission Offset Requirements.	7/1/16	6/15/20, [Insert **Federal Register** citation].	
173–400–850	Actual Emissions Plantwide Applicability Limitation (PAL).	7/1/16	6/15/20, [Insert **Federal Register** citation].	
173–400–860	Public Involvement Procedures.	4/1/11	6/15/20, [Insert **Federal Register** citation].	

* * * * * (e) * * *

TABLE 1—APPROVED BUT NOT INCORPORATED BY REFERENCE REGULATIONS

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
Washington Department of Ecology Regulations				
173–400–220	Requirements for Board Members	3/22/91	6/02/95, 60 FR 28726.	
173–400–230	Regulatory Actions	3/20/93	6/02/95, 60 FR 28726.	
173–400–240	Criminal Penalties	3/22/91	6/02/95, 60 FR 28726.	
173–400–250	Appeals	9/20/93	6/02/95, 60 FR 28726.	
173–400–260	Conflict of Interest	7/01/16	10/06/16, 81 FR 69385.	
173–433–200	Regulatory Actions and Penalties	10/18/90	1/15/93, 58 FR 4578.	
Energy Facility Site Evaluation Council Regulations				
463–78–135	Criminal Penalties	11/11/04	5/30/17, 82 FR 24533.	
463–78–140	Appeals Procedure	3/26/06	5/30/17, 82 FR 24533	Except (3) and (4).
463–78–170	Conflict of Interest	11/11/04	5/30/17, 82 FR 24533.	
463–78–230	Regulatory Actions	11/11/04	5/30/17, 82 FR 24533.	
Benton Clean Air Agency Regulations				
2.01	Powers and Duties of the Benton Clean Air Agency (BCAA).	12/11/14	11/17/15, 80 FR 71695.	

TABLE 1—APPROVED BUT NOT INCORPORATED BY REFERENCE REGULATIONS—Continued

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
2.02	Requirements for Board of Directors Members.	12/11/14	11/17/15, 80 FR 71695	Replaces WAC 173–400–220.
2.03	Powers and Duties of the Board of Directors.	12/11/14	11/17/15, 80 FR 71695.	
2.04	Powers and Duties of the Control Officer	12/11/14	11/17/15, 80 FR 71695.	
2.05	Severability	12/11/14	11/17/15, 80 FR 71695.	
2.06	Confidentiality of Records and Information.	12/11/14	11/17/15, 80 FR 71695.	
Northwest Clean Air Agency Regulations				
103	Duties and Powers	8/21/05	6/15/20, [Insert **Federal Register** citation]	
105	Separability	8/21/05	6/15/20, [Insert **Federal Register** citation]	
110	Investigation and Studies	8/21/05	6/15/20, [Insert **Federal Register** citation]	
111	Interference or Obstruction	8/21/05	6/15/20, [Insert **Federal Register** citation]	
112	False and Misleading Oral Statement: Unlawful Reproduction or Alteration of Documents.	8/21/05	6/15/20, [Insert **Federal Register** citation]	
113	Service of Notice	12/22/07	6/15/20, [Insert **Federal Register** citation]	
114	Confidential Information	12/22/07	6/15/20, [Insert **Federal Register** citation]	
120	Hearings	12/22/07	6/15/20, [Insert **Federal Register** citation]	
123	Appeal of Orders	4/14/13	6/15/20, [Insert **Federal Register** citation]	
124	Display of Orders, Certificates and Other Notices: Removal or Mutilation Prohibited.	8/21/05	6/15/20, [Insert **Federal Register** citation]	
131	Notice to Violators	4/14/13	6/15/20, [Insert **Federal Register** citation]	
132	Criminal Penalty	9/13/15	6/15/20, [Insert **Federal Register** citation]	
133	Civil Penalty	9/13/15	6/15/20, [Insert **Federal Register** citation]	
134	Restraining Orders—Injunction	8/21/05	6/15/20, [Insert **Federal Register** citation]	
135	Assurance of Discontinuance	12/22/07	6/15/20, [Insert **Federal Register** citation]	
303	Work Done Without an Approval	5/12/19	6/15/20, [Insert **Federal Register** citation]	
Olympic Region Clean Air Agency Regulations				
8.1.6	Penalties	5/22/10	10/03/13, 78 FR 61188.	
Puget Sound Clean Air Agency Regulations				
3.01	Duties and Powers of the Control Officer	11/01/99	4/22/20, 85 FR 22357.	
3.05	Investigations by the Control Officer	3/17/94	4/22/20, 85 FR 22357.	
3.07	Compliance Tests	5/01/06	4/22/20, 85 FR 22357.	
3.09	Violations—Notice	9/12/91	4/22/20, 85 FR 22357.	
3.11	Civil Penalties	11/01/19	4/22/20, 85 FR 22357.	
3.13	Criminal Penalties	9/12/91	4/22/20, 85 FR 22357.	
3.15	Additional Enforcement	9/12/91	4/22/20, 85 FR 22357.	
3.17	Appeal of Orders	11/14/98	4/22/20, 85 FR 22357.	
3.19	Confidential Information	9/12/91	4/22/20, 85 FR 22357.	
3.21	Separability	9/12/91	4/22/20, 85 FR 22357.	
Southwest Clean Air Agency Regulations				
400–220	Requirements for Board Members	3/18/01	4/10/17, 82 FR 17136.	
400–230	Regulatory Actions and Civil Penalties	10/9/16	4/10/17, 82 FR 17136.	
400–240	Criminal Penalties	3/18/01	4/10/17, 82 FR 17136.	
400–250	Appeals	11/9/03	4/10/17, 82 FR 17136.	
400–260	Conflict of Interest	3/18/01	4/10/17, 82 FR 17136.	
400–270	Confidentiality of Records and Information.	11/9/03	4/10/17, 82 FR 17136.	

TABLE 1—APPROVED BUT NOT INCORPORATED BY REFERENCE REGULATIONS—Continued

State/local citation	Title/subject	State/local effective date	EPA approval date	Explanations
400–280	Powers of Agency	3/18/01	4/10/17, 82 FR 17136.	
Spokane Regional Clean Air Agency Regulations				
8.11	Regulatory Actions and Penalties	9/02/14	9/28/15, 80 FR 58216.	

* * * * *

■ 3. Amend § 52.2498 by revising paragraph (a)(1) to read as follows:

§ 52.2498 Visibility protection.

(a) * * *

(1) Sources subject to the jurisdiction of local air authorities (except Benton Clean Air Agency, Northwest Clean Air Agency, Puget Sound Clean Air Agency, and Southwest Clean Air Agency);

* * * * *

[FR Doc. 2020–11237 Filed 6–12–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2019–0469; FRL–10009–51–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Regulatory Updates to Allegheny County Nonattainment New Source Review (NNSR) Permitting Requirements for 2012 Annual Fine Particulate Matter ($PM_{2.5}$) National Ambient Air Quality Standard (NAAQS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision by the Commonwealth of Pennsylvania, on behalf of the Allegheny County Health Department (ACHD), on May 23, 2019. The revision pertains to ACHD's amendments of the ACHD Rules and Regulations, Article XXI (Air Pollution Control) to implement Federal nonattainment new source review (NNSR) provisions for the 2012 annual fine particulate matter ($PM_{2.5}$) national ambient air quality standard (NAAQS). EPA is approving these revisions to the Allegheny County portion of the Pennsylvania SIP in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on July 15, 2020.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2019–0469. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Amy Johansen, Permits Branch (3AD10), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2156. Ms. Johansen can also be reached via electronic mail at *johnasen.amy@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On March 5, 2020 (85 FR 12882), EPA published a notice of proposed rulemaking (NPRM) for Allegheny County, Pennsylvania. In the NPRM, EPA proposed approval of amendments to ACHD Rules and Regulations, Article XXI (Air Pollution Control), sections 2102.06 (Major Sources Locating in or Impacting a Nonattainment Area), and 2101.20 (Definitions), herein referred to as Revision 90A. Specifically, Revision 90A establishes that emissions of volatile organic compounds (VOC) and ammonia are precursors to $PM_{2.5}$ for new and modified major sources emitting $PM_{2.5}$ in Allegheny County, Pennsylvania; establishes a significant impact level for $PM_{2.5}$; proposes emission offset ratios for emissions of VOC and ammonia as $PM_{2.5}$ precursors; and amends relevant definitions. The formal SIP revision was submitted by the Commonwealth of Pennsylvania, on behalf of ACHD, on May 23, 2019.

EPA has revised the NAAQS for $PM_{2.5}$ on multiple occasions, most recently in 2012. On December 14, 2012, the annual primary standard for $PM_{2.5}$ was lowered from 15 micrograms per meter cubed ($\mu g/m^3$) to 12 $\mu g/m^3$. See 78 FR 3087 (January 15, 2013). The existing 24-hour standards (primary and secondary) were retained at 35 $\mu g/m^3$, as was the annual secondary standard of 15 $\mu g/m^3$. Upon promulgation of the 2012 $PM_{2.5}$ NAAQS, EPA formally classified all of Allegheny County, Pennsylvania as moderate nonattainment for the 2012 annual $PM_{2.5}$ standard. See 80 FR 2206 (January 15, 2015).

For areas designated as nonattainment for one or more NAAQS, the SIP must include preconstruction permit requirements for new or modified major stationary sources of such nonattainment pollutant(s), commonly referred to as ''Nonattainment New Source Review.'' See CAA section 172(c)(5).

ACHD's Revision 90A revises NNSR permit requirements for major sources of $PM_{2.5}$. Specifically, ACHD's Article XXI has been amended to implement additional provisions pertaining to $PM_{2.5}$ precursors, as promulgated in EPA's rule entitled Fine Particulate Matter National Ambient Air Quality Standards: State Implementation Plan Requirements (2016 Implementation Rule). See 81 FR 58010 (August 24, 2016).

As required by EPA's 2016 Implementation Rule, which implements the D.C. Circuit Court's January 2013 decision in *NRDC* v. *EPA,*[1] areas classified as nonattainment for any $PM_{2.5}$ NAAQS are required to comply with the provisions of CAA subpart 4 section 189(e) that require the control of major sources of PM_{10} precursors (and hence under the court decision, $PM_{2.5}$ precursors) ''except where the Administrator determines that such sources do not contribute significantly to PM_{10} levels which exceed the standard in the area.''[2] With respect the NNSR permitting requirements, the 2016 Implementation Rule therefore

[1] 706 F.3d 428 (D.C. Cir. 2013).

[2] This requirement was codified in 40 CFR 51.165(a)(13). See 81 FR 58010 (August 24, 2016).

amended the definitions in 40 CFR 51.165(a)(1) for (1) ''regulated NSR pollutant'' with regard to $PM_{2.5}$ precursors; (2) ''major stationary source'' with regard to major sources locating in $PM_{2.5}$ nonattainment areas classified as moderate and serious; and (3) ''significant'' with regard to emissions of $PM_{2.5}$ precursors.

II. Summary of SIP Revision and EPA Analysis

A. Summary of SIP Revision

Article XXI addresses NNSR permit requirements for major sources of $PM_{2.5}$. ACHD's Revision 90A has been amended to implement additional provisions pertaining to precursors, as promulgated in EPA's final 2016 Implementation Rule.

B. EPA's Proposed Action

At proposal, EPA evaluated the revised portions of Article XXI to determine if the revisions meet current applicable requirements for a $PM_{2.5}$ NNSR permit program, as revised by EPA's 2016 Implementation Rule. Section 2102.06—(1) contains revisions to clarify that Article XXI applies to major polluting facilities that will emit $PM_{2.5}$ or its precursors in areas designated as nonattainment for $PM_{2.5}$; (2) the definition of ''major facility'' has been updated to include a 70 tons per year (tpy) emissions threshold for $PM_{2.5}$ and all precursors to $PM_{2.5}$; (3) the definition of ''regulated NSR pollutant'' has been updated to include sulfur dioxide (SO_2), VOC, and ammonia as $PM_{2.5}$ precursors in all $PM_{2.5}$ nonattainment areas; (4) revisions were made to the definition of ''significant'' to include emission rates for $PM_{2.5}$ at 10 tpy and emission rates for $PM_{2.5}$ precursors as follows: 40 tpy of SO_2, 40 tpy of VOC, 40 tpy of ammonia, and 40 tpy of nitrogen oxides (NO_X); and (5) revisions were made to clarify that under Article XXI, ''significance level(s)'' shall mean ''significant air quality impact'' as defined under Article XXI. EPA proposed to find these revisions approvable and consistent applicable requirements for a $PM_{2.5}$ NNSR permit program, as revised by the 2016 Implementation Rule.

Section 2102.06(b)(3)—Emission Offsets, establishes offset ratios for VOC and ammonia at a ratio of 1:1 for flue emissions and fugitive emissions in Allegheny County. EPA also proposed to find the addition of offset ratios to be approvable, as they match what is already in Article XXI for $PM_{2.5}$ and NO_X and SO_2. Further, Section 2101.20—Definitions, was amended to add values to the table of ''significant air quality impact'' levels under 40 CFR 51.165(b)(2) for $PM_{2.5}$ at 0.2μg/m^3 for the annual averaging time and 1.2 μg/m^3 for the 24-hour averaging time. As ACHD's annual averaging time is more stringent than what EPA requires in 40 CFR part 51.165(b)(2), EPA therefore proposed to find this more stringent requirement approvable.

Other specific provisions of SIP Revision 90A and the rationale for EPA's proposed action are explained in the NPRM and its associated technical support document (TSD) and will not be restated here.

III. Public Comments and EPA Responses

EPA received two comments on the March 5, 2020 NPRM. See 85 FR 12882. A summary of the comments and EPA's responses are discussed in this section of the preamble. A copy of the comments can be found in the docket for this rulemaking action.

Comment 1: The first comment stated that EPA should disapprove ACHD's SIP submission because ''it lacks the rules that other public entities are required to meet.'' The comment also suggested that ''because the commission operates in a more limited capacity and the rules for the governing body are less rigid, the law can be used to prevent Allegheny County from complying with SIP requirements.'' The comment also noted that the commission in 2013 acknowledged that it had found a way to have regulators use the agency's own rules to change a law (during a time period in which SIP went through changes across the nation).'' The comment concluded by saying, ''the agency never made a recommendation to cancel the vote.''

Response 1: The commenter has not identified any information to support its assertion that EPA should disapprove ACHD's 2012 $PM_{2.5}$ NNSR SIP submission. In particular, the commenter failed to identify any rules the Allegheny County SIP lacks or how any provisions adopted by ACHD are inconsistent with the applicable regulatory requirements. The Administrative Procedures Act does not require that EPA change its decision based on unsupported ''comments consisting of little more than assertions that in the opinions of the commenters the agency got it wrong.,'' *International Fabricare Institute* v. *EPA,* 972 F.2d 384 (D.C. Cir. 1992). EPA's review of the 2012 $PM_{2.5}$ NNSR SIP submission, as explained in the NPRM and TSD for this rulemaking action, shows that Allegheny County is meeting the applicable requirements found in EPA's regulations, as revised by the 2016 Implementation Rule, and the CAA. To the extent the commenter is alleging concerns with respect to implementation of the SIP, the commenter again provides insufficient details regarding these issues. For example, the commenter does not identify with any specificity what 2013 action it believes is relevant or what vote was allegedly cancelled. More importantly, concerns regarding implementation are outside the scope of EPA's SIP review, which is focused under section 110(k) on whether the submission meets the applicable requirements of the CAA. *See, e.g., Montana Environmental Information Center* v. *Thomas,* 902 F.3d 971, 978–79 (9th Cir. 2018). SIP approval was not arbitrary and capricious where EPA reasonably interpreted submission as facially meeting the applicable requirements despite alleged implementation concerns. Accordingly, the commenter has not identified any basis for EPA to reconsider its approval of Revision 90A into the Allegheny County portion of the Pennsylvania SIP.

Comment 2: The second comment stated that EPA must not approve Revision 90A ''because Ammonia (sic) is a harmful precursor that is not regulated by EPA.'' The comment further asserted that EPA does not have the ''authority under the Clean Air Act of 1990 to regulate Ammonia (sic) since it is not a NAAQS pollutant.'' Lastly, the comment suggests that EPA should disregard this rulemaking action and move to make ammonia a criteria pollutant, as it is a ''dangerous and extremely harmful pollutant.''

Response 2: EPA agrees with the commenter's assertion that ammonia is a precursor pollutant that contributes to the formation of $PM_{2.5}$. *See NRDC,* 706 F.3d at 435, n. 7 (''Ammonia is a precursor to fine particulate matter, making it a precursor to both $PM_{2.5}$ and PM_{10}.''). However, EPA disagrees with the comment that it does not have the authority to regulate ammonia under the CAA. To the contrary, the D.C. Circuit Court's *NRDC* decision held that areas classified as nonattainment for any $PM_{2.5}$ NAAQS are required to comply with the provisions of CAA subpart 4 section 189(e) that require the control of major stationary sources of precursors except where the Administrator determines that such sources do not contribute significantly to levels which exceed the standard in the area. The NNSR permit program for $PM_{2.5}$ thus presumptively applies to emissions of all precursors, including ammonia, as well as direct $PM_{2.5}$ emissions from

major sources in Allegheny County.[3] This indicates that, contrary to the commenter's assertion, the CAA does not limit EPA's authority to only regulating the direct emissions of criteria pollutants for which NAAQS are promulgated. Rather, even though ammonia is not identified under the statute as a criteria pollutant, EPA is not only authorized, but required to regulate ammonia as a $PM_{2.5}$ precursor under section 189(e).

EPA's review of SIP Revision 90A, as explained in the NPRM and TSD for this rulemaking action, shows that Allegheny County is meeting the applicable requirements found in EPA's 2016 Implementation Rule, which implements the *NRDC* decision, and the CAA. Therefore, EPA is finalizing its approval of Revision 90A.

IV. Final Action

EPA is approving amendments to ACHD Rules and Regulations, Article XXI (Air Pollution Control), sections 2102.06 (Major Sources Locating in or Impacting a Nonattainment Area), and 2101.20 (Definitions) as a revision to the Allegheny County portion of the Pennsylvania SIP.

V. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of ACHD's Article XXI, sections 2102.06, and 2101.20, as described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these materials generally available through *https://www.regulations.gov* and at the EPA Region III Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[4]

VI. Statutory and Executive Order Reviews

A. General Requirements

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

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

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 14, 2020. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving NNSR requirements under the 2012 $PM_{2.5}$ NAAQS may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: May 13, 2020.

Cosmo Servidio,

Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

[3] The provisions of subpart 4, do not define the term ''precursor'' for purposes of $PM_{2.5}$, nor does subpart 4 explicitly require the control of any specifically identified particulate matter precursor. The statutory definition of ''air pollutant,'' however, provides that the term ''includes any precursors to the formation of any air pollutant, to the extent the Administrator has identified such precursor or precursors for the particular purpose for which the term ''air pollutant'' is used.'' See CAA Section 302(g). EPA has identified the main precursor gases associated with $PM_{2.5}$ formation as SO_2, NO_X, VOC, and ammonia.

[4] 62 FR 27968 (May 22, 1997).

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart NN—Pennsylvania

■ 2. In § 52.2020, the table in paragraph (c)(2) is amended by:

■ a. Under ''Part A—General'' by adding a twelfth entry for ''2101.20''; and

■ b. Under ''Part B—Permits Generally'' by revising entry ''2102.06''.

The addition and revision read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(2) * * *

Article XX or XXI citation	Title/subject	State effective date	EPA approval date	Additional explanation/§ 52.2063 citation
*	*	*	*	*
Part A—General				
*	*	*	*	*
2101.20	Definitions	3/3/19	6/15/20, [insert **Federal Register** citation].	Adding ''Significant air quality impact'' for $PM_{2.5}$.
Part B—Permits Generally				
*	*	*	*	*
2102.06	Major Sources Locating in or Impacting a Non-attainment Area.	3/3/19	6/15/20, [insert **Federal Register** citation].	Adding requirements for 2012 $PM_{2.5}$ NAAQS, as it relates to NNSR. Specifically, SO_2, NO_X, VOC, and ammonia are considered $PM_{2.5}$ precursors in Allegheny County, PA. Previous approval was March 30, 2015. Docket No. EPA–R03–OAR–2015–0636.
*	*	*	*	*

* * * * *

[FR Doc. 2020–10693 Filed 6–12–20; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 200527–0148]

RIN 0648–BJ08

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Greater Amberjack Management Measures; Correction

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

ACTION: Final rule; correcting amendment.

SUMMARY: NMFS corrects the final rule that implemented management measures described in a framework action to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP), which published in the **Federal Register** on April 14, 2020. In addition to revising the commercial trip limit in the Gulf of Mexico (Gulf) exclusive economic zone for greater amberjack, the final rule revised the boundaries of several Gulf reef fish management areas to reflect a change in the seaward boundary of Louisiana, Mississippi, and Alabama. That framework action final rule contained an incorrect waypoint for the Gulf reef fish longline and buoy gear restricted area. The purpose of this correcting amendment is to fix that error.

DATES: This correction is effective June 15, 2020.

FOR FURTHER INFORMATION CONTACT: Kelli O'Donnell, Southeast Regional Office, NMFS, telephone: 727–824–5305, email: *kelli.odonnell@noaa.gov.*

SUPPLEMENTARY INFORMATION: On April 14, 2020, NMFS published a final rule in the **Federal Register** (85 FR 20611) to implement provisions for a framework action that revised the commercial trip limit for Gulf greater amberjack. That final rule also revised the boundaries of the reef fish stressed area (Table 2 of appendix B to 50 CFR part 622), the reef fish longline and buoy gear restricted area (Table 1 of appendix B to 50 CFR part 622), and the recreational shallow-water grouper closure (50 CFR 622.34(d)) to ensure the boundaries of these areas were consistent with language in the 2016 and 2017 Consolidated Appropriations Acts (Pub. L. 114–113, December 18, 2015, and Pub. L. 115–31, May 5, 2017), that changed the state and Federal boundary for management of the Gulf reef fish fishery to 9 nautical miles (nm; 16.7 km) off the Gulf coasts of all the Gulf States. That rule did not change the management measures associated with each area. That final rule was effective on May 14, 2020.

Correction

In the final rule for the framework action (85 FR 20611, April 14, 2020), the regulatory text in Table 1 to appendix B to 50 CFR part 622 contained one incorrect waypoint for the reef fish longline and buoy gear restricted area. The coordinates presented to the Gulf of Mexico Fishery Management Council for review were correct. However, in the rulemaking for the framework action, Point 19 of the longline and buoy gear restricted area in Table 1 was incorrectly identified as 28°46.5′ N and 89°26.0′ W, which is inshore of the revised boundary of the Gulf reef fish longline and buoy gear restricted area. Thus, NMFS corrects Table 1 of appendix B to 50 CFR part 622 with the correct coordinate for Point 19 of the Gulf reef fish longline and buoy gear

restricted area, which is 28°45.8′ N, 89°29.5′ W.

Classification

The Regional Administrator, Southeast Region, NMFS has determined that this correcting amendment is necessary for the conservation and management of Gulf reef fish resources and is consistent with the framework action, the FMP, the Magnuson-Stevens Fishery Conservation and Management Act, and other applicable law.

This correcting amendment has been determined to be not significant under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator for Fisheries, NOAA, finds good cause to waive prior notice and opportunity for additional public comment because it would be unnecessary and contrary to the public interest. This correcting amendment corrects a waypoint for the longline and buoy gear restricted area. Providing prior notice and opportunity for public comment is unnecessary and contrary to the public interest because this is a non-substantive change and retaining the incorrect waypoint will cause confusion among the affected fishers and law enforcement. The current waypoint error results in an inshore boundary of the federally-managed restricted that is inconsistent with the provisions of the 2016 and 2017 Appropriations Acts.

For the same reasons, the Assistant Administrator also finds good cause, pursuant to 5 U.S.C. 553(d), to waive the 30-day delay in effective date for this correcting amendment. This non-substantive correction will prevent confusion about the location of the boundary for the longline and buoy gear restricted area.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* are inapplicable. Accordingly, no Regulatory Flexibility Analysis is required and none has been prepared.

List of Subjects in 50 CFR Part 622

Boundary, Commercial, Coordinates, Fisheries, Fishing, Greater amberjack, Gulf of Mexico, Reef fish, Trip limits.

Dated: May 27, 2020.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs National Marine Fisheries Service.

Accordingly, 50 CFR part 622 is corrected by making the following correcting amendment:

PART 622—FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. In appendix B to part 622, in table 1, revise the coordinates of point 19 to read as follows:

Appendix B to Part 622—Gulf Areas

TABLE 1 OF APPENDIX B TO PART 622—SEAWARD COORDINATES OF THE LONGLINE AND BUOY GEAR RESTRICTED AREA

Point number and reference location [1]	North lat.	West long.
* * * * *	*	*
19 South of Southwest Pass of Mississippi River	28°45.8′	89°29.5′
* * * * *	*	*

* * * * *

[FR Doc. 2020–11739 Filed 6–12–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 1710319998630–02; RTID 0648–XS029]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Resources of the South Atlantic; 2020 Red Snapper Commercial and Recreational Fishing Seasons

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

ACTION: Temporary rule; 2020 fishing seasons notice.

SUMMARY: NMFS announces the limited opening of commercial and recreational red snapper in the exclusive economic zone (EEZ) of the South Atlantic for the 2020 fishing year. This notice announces the red snapper commercial season opening date and the opening and closing dates for the red snapper recreational season, according to the accountability measures (AMs). This season announcement for South Atlantic red snapper allows fishers to maximize their opportunity to harvest the commercial and recreational annual catch limits (ACLs) while also managing harvest to protect the red snapper resource.

DATES: The 2020 commercial red snapper season opens at 12:01 a.m., local time, July 13, 2020. The 2020 recreational red snapper season opens at 12:01 a.m., local time, on July 10, 2020, and closes at 12:01 a.m., local time, on July 13, 2020; then reopens at 12:01 a.m., local time, on July 17, 2020, and closes at 12:01 a.m., local time, on July 18, 2020, unless changed by subsequent notification in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Frank Helies, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *frank.helies@noaa.gov.*

SUPPLEMENTARY INFORMATION: The South Atlantic snapper-grouper fishery includes red snapper and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The South Atlantic Fishery Management Council (Council) prepared the FMP, and the FMP is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The final rule implementing Amendment 43 to the FMP (83 FR 35428; July 26, 2018) describes red snapper management measures including the specific timing for red snapper commercial and recreational fishing seasons. The final rule also revised the commercial and recreational ACLs for red snapper. The commercial AM requires the sector to close when commercial landings reach or are projected to reach the commercial ACL. The recreational AM is the length of the recreational season, with NMFS projecting the season length based on catch rate estimates from previous years.

The commercial ACL is 124,815 lb (56,615 kg), and this ACL was not exceeded in 2019. The recreational ACL is 29,656 fish, and preliminary landings information show this ACL was exceeded in the 5-day fishing season in 2019. For 2020, NMFS has determined that the landings from the recreational sector are expected to reach the recreational ACL in 4 days.

At the March 2020 Council meeting, NMFS presented estimates showing a possible 3-day recreational red snapper season for 2020. Subsequent to that meeting, NMFS determined that a 4-day recreational red snapper season was appropriate.

For South Atlantic red snapper, the commercial season begins each year on the second Monday in July and closes when the commercial ACL is reached or is projected to be reached. Accordingly, the 2020 commercial season opens on July 13, 2020. The commercial season will remain open until 12:01 a.m., local time, on January 1, 2021, unless the commercial ACL is reached or projected to be reached prior to this date. During the commercial fishing season, the commercial trip limit is 75 lb (34 kg), gutted weight. NMFS will monitor commercial landings during the open season, and if commercial landings reach or are projected to reach the commercial ACL, then NMFS will file a notification with the Office of the Federal Register to close the commercial sector for red snapper for the remainder of the fishing year.

The recreational season begins on the second Friday in July. Accordingly, the 2020 recreational red snapper season opens at 12:01 a.m., local time, on July 10, 2020, and closes at 12:01 a.m., local time, on July 13, 2020; then reopens at 12:01 a.m., local time, on July 17, 2020, and closes at 12:01 a.m., local time, on July 18, 2020. During the recreational season, the recreational bag limit is one red snapper per person, per day. After the recreational sector closure, the bag and possession limits for red snapper are zero.

Additionally, during both the commercial and recreational open seasons, there is not a red snapper minimum or maximum size limit for either sector.

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of South Atlantic red snapper and is consistent with the FMP, the Magnuson-Stevens Act, and other applicable laws.

This action is taken under 50 CFR 622.183(b)(5)(i) and 622.193(y) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The Assistant Administrator for Fisheries, NOAA (AA), finds that the need to implement the notice of the dates for the red snapper fishing seasons constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), because prior notice and opportunity for public comment on this temporary rule is unnecessary. Such procedures are unnecessary because the rule establishing the red snapper ACLs and AMs has already been subject to notice and comment, and all that remains is to notify the public of the respective commercial and recreational fishing seasons. Additionally, announcing the fishing seasons now allows each sector to prepare for the upcoming harvest and provides opportunity to for-hire fishing vessels to book trips that could increase their revenues and profits.

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

Dated: June 1, 2020.

Hélène M.N. Scalliet,

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

[FR Doc. 2020–12093 Filed 6–10–20; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 200528–0150]

RIN 0648–BI81

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery Off the Southern Atlantic Region; Regulatory Amendment 29

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

ACTION: Final rule.

SUMMARY: NMFS issues regulations to implement Regulatory Amendment 29 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP) (Regulatory Amendment 29), as prepared and submitted by the South Atlantic Fishery Management Council (Council). This final rule requires descending devices to be on board vessels and requires the use of specific fish hook types while fishing for or possessing snapper-grouper species. This rule also allows the use of powerheads in Federal waters off South Carolina to harvest snapper-grouper species. The purpose of this rule is to modify fishing gear requirements to promote best fishing practices and to ensure consistent regulations for the dive component of the snapper-grouper fishery.

DATES: This final rule is effective on July 15, 2020.

ADDRESSES: Electronic copies of Regulatory Amendment 29 may be obtained from *www.regulations.gov* or the NMFS Southeast Regional Office website at *https://www.fisheries.noaa.gov/action/regulatory-amendment-29-gear-requirements-south-atlantic-snapper-grouper-species.* Regulatory Amendment 29 includes an environmental assessment, a Regulatory Flexibility Act (RFA) analysis, and a regulatory impact review.

FOR FURTHER INFORMATION CONTACT: Frank Helies, NMFS Southeast Regional Office, telephone: 727–824–5305, or email: *frank.helies@noaa.gov.*

SUPPLEMENTARY INFORMATION: NMFS and the Council manage the snapper-grouper fishery under the FMP. The FMP was prepared by the Council and is implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801 *et seq.*).

On April 21, 2020, NMFS published a proposed rule for Regulatory Amendment 29 in the **Federal Register** and requested public comment (85 FR 22118, April 21, 2020). The proposed rule and Regulatory Amendment 29 outline the rationale for the actions contained in this final rule. A summary of the management measures described in Regulatory Amendment 29 and implemented by this final rule is provided below.

Management Measures Contained in This Final Rule

This final rule requires: Descending devices be on board all commercial, charter vessels and headboats (for-hire), and private recreational vessels while fishing for or possessing snapper-grouper species; the use of non-offset, non-stainless steel circle hooks when

fishing for snapper-grouper species with hook-and-line gear and natural baits north of 28° N latitude; and all hooks be non-stainless steel when fishing for snapper-grouper species with hook-and-line gear and natural baits throughout South Atlantic Federal waters. This rule also allows the use of powerheads in Federal waters off South Carolina to harvest snapper-grouper species. This rule and Regulatory Amendment 29 encourage the use of best fishing practices that aim to reduce the negative impacts to live fish released after capture to improve the survivorship of the released snapper-grouper species. This rule and Regulatory Amendment 29 also increase the consistency of regulations for the dive component of the snapper-grouper fishery.

Descending Devices

This final rule requires at least one descending device to be on board and ready for use on any commercial, for-hire, or private recreational vessel while fishing for or possessing South Atlantic snapper-grouper. As described in Regulatory Amendment 29, studies have shown that if properly used and maintained, descending devices may relieve symptoms of barotrauma and can decrease discard mortality of released fish. Barotrauma is the injury caused by internal gas expansion when a fish is retrieved from depth. This final rule defines a descending device as an instrument capable of releasing the fish at the depth from which the fish was caught, and to which is attached a minimum of a 16-ounce (454-gram) weight and a minimum of a 60-ft (18.3-m) length of line. A 16-ounce weight is available at many tackle shops and is heavy enough to descend a majority of snapper-grouper species subject to barotrauma. A minimum line length of 60 ft (18.3 m) attached to a descending device will better ensure fish are released at a minimum depth of 50 ft (15.2 m) while fishermen using the descending device are standing on the deck of a vessel, as well as to account for possible ocean current or swell.

The descending device may either attach to the fish's mouth or it may be a container that will retain the fish while it is lowered to depth. The device must be capable of releasing the fish at depth automatically, by actions of the device operator, or by allowing the fish to escape on its own when at depth.

This final rule does not specifically require the use of a descending device because it may not be needed every time a fish is caught; however, the device is required to be readily available on a vessel for use when a fish may be experiencing barotrauma.

Non-Offset, Non-Stainless Steel Circle Hooks

This final rule requires the use of non-offset and non-stainless steel circle hooks when fishing for snapper-grouper species with hook-and-line gear and natural baits north of 28° N latitude, which is approximately 25 miles (40 km) south of Cape Canaveral, Florida. A non-offset hook has the point and barb in-line with the hook shank. Commercial and recreational fishermen in the South Atlantic have reported to the Council that some released snapper-grouper die due to foul-hooking, *e.g.,* when hooked in the stomach or outside of the mouth. Previous to this rule, offset circle hooks were allowed under the same conditions; however, the Council determined that non-offset circle hooks can reduce the occurrence of hooking-related mortality when compared to offset circle hooks and J-hooks, and can improve survivorship of released snapper-grouper species.

Non-Stainless Steel Hooks

This final rule requires the use of non-stainless steel hooks when fishing for snapper-grouper species with hook-and-line gear and natural baits throughout Federal waters in the South Atlantic region. Similar to the requirement to use non-offset, non-stainless steel circle hooks north of 28° N latitude, this measure is expected to provide biological benefits to snapper-grouper species in South Atlantic Federal waters. Because non-stainless steel hooks degrade faster than stainless steel hooks, any fish released with an embedded non-stainless steel hook could have a greater chance of survival.

Powerhead Use Off South Carolina

This final rule removes the powerhead prohibition in Federal waters off South Carolina, allowing a powerhead to be used to harvest South Atlantic snapper-grouper. A powerhead is a type of fishing gear that includes any device with an explosive charge, usually attached to a spear gun, spear, pole, or stick that fires a projectile upon contact with the fish. Fishermen previously expressed concern to the Council at public meetings regarding inequitable access for the dive component of the snapper-grouper fishery off South Carolina because they were prohibited from using a powerhead, while that was an allowable gear to harvest snapper-grouper species in the exclusive economic zone (EEZ) off the other South Atlantic states. The Council determined that because the commercial and recreational dive components of the snapper-grouper fishery only constitute approximately 5 percent of the landings from South Atlantic Federal waters, any impacts on snapper-grouper species from removing the powerhead prohibition would be minimal. This rule increases consistency in regulations throughout South Atlantic Federal waters, reduces regulatory confusion among commercial and recreational dive fishermen, and aids in compliance and enforcement efforts.

Comments and Responses

NMFS received 27 comments from individuals, commercial and recreational fishermen, environmental non-governmental organizations, and fishing organizations during the public comment period on the proposed rule for Regulatory Amendment 29. Most comments supported the actions in the proposed rule and Regulatory Amendment 29, particularly the descending device action. NMFS acknowledges the comments in favor of all or part of the actions in the proposed rule and agrees with them. Comments that were beyond the scope of the proposed rule are not responded to in this final rule. Comments that opposed an action contained in Regulatory Amendment 29 and the proposed rule are summarized below, along with NMFS' responses.

Comment 1: Requiring descending devices to be on board vessels will cost fishermen more money with little benefit to the snapper-grouper fishery, and the use of descending devices will increase predation by predator fish and dolphins as released fish are descended.

Response: NMFS agrees that requiring descending devices to be on board vessels could result in additional cost to participants. However, a range of cost options are available to purchase or fabricate a descending device, including some low cost options. As discussed in the proposed rule, NMFS estimated the lower bound cost per vessel to purchase a descending device, based on advertised retail prices, plus the cost of a qualifying weight and line, would be approximately $19 (2018 dollars). Fishermen that already own a suitable descending device would not need to purchase a new one.

NMFS disagrees that descending devices will result in little benefit to the species in the snapper-grouper fishery. The use of descending devices may reduce predation on released snapper-grouper species by allowing a more rapid return to depth, thereby making them less vulnerable to predators. Discarded fish stranded at the surface may become prey for marine mammals, sea birds, and other large predators,

such as amberjack, barracuda, and sharks. Studies referenced in Regulatory Amendment 29 have shown that relieving the symptoms of barotrauma of released snapper-grouper species reduced discard mortality rates when compared to fish released with the use of descending devices.

Comment 2: Because of the ease of use and their historical use in the snapper-grouper fishery, venting tools should be required instead of descending devices.

Response: NMFS disagrees. Recent studies referenced in Regulatory Amendment 29 have recommended the use of descending devices over venting tools for treating fish experiencing symptoms of barotrauma. Though faster to use, venting tools also have the potential to damage vital organs and cause additional stress to a fish if not used correctly. Also, this final rule does not prohibit the use of venting tools for those individuals that know how to use them properly (*e.g.,* trained crew on for-hire vessels).

Comment 3: Extensive outreach on the new gear requirements should be conducted in conjunction with this final rule.

Response: NMFS will work with the Council to conduct an education and outreach effort to ensure fishermen participating in the fishery understand the new regulations and how to properly use descending devices. The Council will utilize information already developed by other entities (state-agencies, non-profits) about descending devices to avoid duplication in effort or conflicting information. Web-based outreach materials designed to educate recreational and commercial snapper-grouper fishermen on barotrauma, descending devices, and the proper technique for releasing snapper-grouper species, as well as other best fishing practices, has been posted to the Council website, *https://safmc.net.*

Comment 4: NMFS should proceed with approval of the final rule for Regulatory Amendment 29 without delay to ensure the regulations are in place for the 2020 summer fishing season.

Response: NMFS is proceeding to implement Regulatory Amendment 29 as quickly as possible. In the proposed rule for Regulatory Amendment 29, NMFS requested public comment on an appropriate effective date for a final rule because new gear requirements were proposed. NMFS typically applies a 30-day delay in the effective date for management actions published in a final rule. However, NMFS has used longer delays in some other final rules that contain gear requirements, particularly when requiring new types of gear. NMFS wants to ensure fishermen have sufficient time to construct or purchase the required devices given potential supply issues, and specifically asked the public in the proposed rule for Regulatory Amendment 29 whether a delay of 30 days would provide sufficient time to comply with the new requirements. NMFS received no other comment about an alternative effective date, therefore this final rule is effective as stated in the **DATES** section, *i.e.,* 30 days after publication in the **Federal Register**.

Classification

The Regional Administrator for the NMFS Southeast Region has determined that this final rule is consistent with Regulatory Amendment 29, the FMP, the Magnuson-Stevens Act, and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866. This final rule is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

A Final Regulatory Flexibility Analysis (FRFA) was prepared pursuant to 5 U.S.C. 604(a) of the RFA. The FRFA incorporates the Initial Regulatory Flexibility Analysis (IRFA), a summary of the significant issues raised by the public comments in response to the IRFA, NMFS' responses to those comments, and a summary of the analyses completed to support the action. The FRFA follows.

The Magnuson-Stevens Act provides the statutory basis for this final rule. A description of this final rule, why it is being implemented, and the purpose of this final rule are contained in the **SUMMARY** and **SUPPLEMENTARY INFORMATION** sections of this final rule.

Public comments relating to socio-economic implications and potential impacts on small businesses are addressed in the response to *Comment 1* in the Comments and Responses section of this final rule. No changes to this final rule were made in response to these public comments. No comments were received from the Office of Advocacy for the Small Business Administration (SBA).

This final rule applies to all commercial vessels, for-hire vessels, and private recreational anglers that fish for or harvest snapper-grouper species in Federal waters of the South Atlantic. The RFA does not consider recreational anglers to be small entities, so they are outside the scope of this analysis and only the impacts on commercial and for-hire fishing businesses will be discussed.

As of May 8, 2020, there were 525 valid or renewable South Atlantic snapper-grouper unlimited permits and 102 valid or renewable 225-lb (102-kg) trip-limited permits. On average from 2013 through 2017, there were 568 federally permitted commercial vessels with reported landings of snapper-grouper species in the South Atlantic. Their average annual vessel-level gross revenue from all species for 2013 through 2017 was approximately $47,000 (2018 dollars) and snapper-grouper species accounted for 68 percent of this revenue. The maximum annual revenue from all species reported by a single one of the commercial vessels that landed South Atlantic snapper-grouper species from 2013 through 2017 was approximately $1.5 million (2018 dollars).

As of May 8, 2020, there were 1,680 vessels with valid Federal charter vessel/headboat permits for South Atlantic snapper-grouper. Although the NMFS for-hire permit application collects information on the primary method of operation, the permit itself does not identify the permitted vessel as either a charter vessel or a headboat. Operation as either a charter vessel or headboat is not restricted by permitting regulations and vessels may operate in both capacities on separate trips. However, only selected headboats are required to submit harvest and effort information to the NMFS Southeast Region Headboat Survey (SRHS). Participation in the SRHS is based on determination by the NMFS Southeast Fisheries Science Center (SEFSC) that the vessel primarily operates as a headboat. As of February 18, 2020, 65 South Atlantic headboats were registered in the SRHS. As a result, of the 1,680 vessels with Federal snapper-grouper for-hire permits, up to 65 may primarily operate as headboats and the remainder as charter vessels. The average South Atlantic charter vessel is estimated to receive approximately $123,000 (2018 dollars) in annual gross revenue. The average South Atlantic headboat is estimated to receive approximately $218,000 (2018 dollars) in annual gross revenue.

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $11 million for all its affiliated

operations worldwide. All of the commercial fishing businesses that will be directly regulated by this final rule are believed to be small entities based on the NMFS size standard.

The SBA has established size standards for all major industry sectors in the U.S. including for-hire businesses (NAICS code 487210). A business primarily involved in the for-hire fishing industry is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $8 million for all its affiliated operations worldwide. All of the for-hire fishing businesses that will be directly regulated by this final rule are believed to be small entities based on the SBA size criteria.

No other small entities that will be directly affected by this final rule have been identified.

This final rule will require owners or operators of commercial and for-hire vessels to have a descending device on board when fishing for or possessing species in the snapper-grouper fishery management unit (FMU). It also requires that commercial fishermen and for-hire anglers use non-offset, non-stainless steel circle hooks when fishing for species in the snapper-grouper FMU with hook-and-line gear and natural baits in the South Atlantic EEZ north of 28° N latitude. Finally, it requires that commercial fishermen and for-hire anglers use non-stainless steel hooks when fishing for species in the snapper-grouper FMU with hook-and-line gear and natural baits throughout the South Atlantic EEZ. To the extent that for-hire fishing businesses supply fishing tackle such as hooks to their customers, this final rule will require for-hire businesses to purchase, and ensure the use of, such hooks as described previously. No special professional skills are necessary for compliance with this final rule.

The estimated lower bound cost per vessel to purchase a descending device, based on advertised retail prices, plus the cost of a qualifying weight and line, is approximately $19 (2018 dollars). Commercial and for-hire businesses that already own suitable descending devices will not need to purchase new ones.

The requirement for commercial fishermen and for-hire anglers to use non-offset, non-stainless steel circle hooks when fishing for snapper-grouper species with hook-and-line gear and natural baits in the EEZ north of 28° N latitude will require some commercial fishing businesses and potentially some for-hire vessels to purchase these hooks. The cost of purchasing circle hooks is highly variable and will depend on how many hooks each commercial or for-hire fishing business needs, as well as the quantity of hooks included in each purchase. In general, the cost per hook may vary from approximately $0.30 per hook to $1.00 per hook. If for-hire anglers supply their own hooks, then the impact to for-hire fishing businesses would be reduced. Additionally, non-offset circle hooks may reduce the catchability of some species, which could negatively affect catch efficiency on some fishing trips. In turn, this could lead to a reduction in commercial ex-vessel revenue or increased trip costs. It is not possible to estimate the specific costs that each business would face as a result of the circle hook requirement. Any change in for-hire anglers' demand for for-hire fishing trips (and associated economic effects) as a result of the new hook requirement would be secondary to any direct effect on anglers and, therefore, would be an indirect effect of this final rule. Indirect effects are not relevant to the RFA.

In addition, this final rule will require the use of non-stainless steel hooks when fishing for snapper-grouper species with hook-and-line gear and natural baits throughout the South Atlantic EEZ. Commercial and for-hire vessels fishing north of 28° N latitude will not be affected because there is already a non-stainless steel hook requirement in place there. The cost of purchasing non-stainless steel hooks is highly variable and will depend on how many hooks each commercial or for-hire fishing business needs as well as the quantity of hooks in each purchase. In general, the cost per non-stainless steel hook may vary from approximately $0.30 per hook to $1.00 per hook. Switching from stainless to non-stainless steel would likely decrease the useful lifespan of hooks, leading to a small increase in operating costs in the long term for commercial and for-hire businesses. If for-hire anglers supply their own hooks, then the impact to for-hire fishing businesses would be reduced. Changing from stainless to non-stainless steel hooks is not be expected to affect the harvest of snapper-grouper species and, therefore, no reduction in commercial ex-vessel revenue is expected.

Finally, this final rule will allow federally permitted commercial fishermen and for-hire anglers to use powerheads to harvest snapper-grouper species in the EEZ off South Carolina. This will increase the opportunity for harvest in some circumstances, potentially leading to greater commercial ex-vessel revenue or lower harvest costs. It is not possible to meaningfully estimate these potential economic effects with available data. Any economic effects on for-hire fishing businesses would be indirect and would depend on how anglers' demand for for-hire trips changes as a result of removing the restriction on powerhead usage. Again, indirect effects are not relevant to the RFA.

The following discussion describes the alternatives that were not selected as preferred by the Council.

Three alternatives were considered for the action to specify requirements for the use of descending devices or venting devices when fishing for or possessing snapper-grouper species. The first alternative, the no action alternative, would not require descending or venting devices to be on board when fishing for or possessing snapper-grouper species. This alternative would not be expected to result in direct costs to any small entities. It was not selected by the Council because it would forgo any improvements to snapper-grouper fish stocks that could be achieved through the increased usage of descending or venting devices and resultant decreases in release mortality.

The second alternative and three sub-alternatives, which were all selected as preferred by the Council, will require a descending device be on board private recreational, for-hire, and commercial vessels, respectively, when fishing for or possessing snapper-grouper species.

The third alternative would require a venting device be on board a vessel when fishing for or possessing snapper-grouper species. The third alternative contained three sub-alternatives that would apply the venting device requirement to private recreational vessels, for-hire vessels, and commercial vessels, respectively. The estimated lower bound cost of purchasing a venting device, based on advertised retail prices, would be $6 (2018 dollars). This is slightly cheaper than the estimated cost of the preferred alternative. The third alternative was not selected by the Council because of the higher mortality risk to released fish associated with using venting devices incorrectly, versus using descending devices.

Four alternatives were considered for the action to modify the requirement for the use of non-stainless steel circle hooks when fishing for or possessing snapper-grouper species with hook-and-line gear. The first alternative, the no action alternative, would not modify current gear requirements and therefore would not be expected to result in direct costs to any small entities. This alternative was not selected by the

Council because it would forgo any improvements to snapper-grouper fish stocks that could be achieved through the use of non-offset, non-stainless steel circle hooks north of 28° N latitude or increased usage of non-stainless steel hooks in general and resultant decreases in release mortality.

The second alternative, selected as preferred by the Council, will require the use of non-offset, non-stainless steel circle hooks when fishing for snapper-grouper species with hook-and-line gear and natural baits within certain areas of the South Atlantic EEZ. The second alternative contained two sub-alternatives. The first sub-alternative, which was selected as preferred, applies the non-offset, non-stainless steel circle hook fishing requirement to South Atlantic Federal waters north of 28° N latitude. The second sub-alternative would apply the non-offset, non-stainless steel circle hook fishing requirement throughout the extent of the Council's jurisdiction (from the North Carolina and Virginia border through Key West, Florida), except that other non-stainless steel hook types would be allowed to be used when fishing for yellowtail snapper with natural baits. The second sub-alternative would be expected to affect a greater number of commercial and for-hire fishing businesses because of the larger area to which it would apply and because there is currently no circle hook requirement in place when fishing for snapper-grouper species south of 28° N latitude. As discussed under the effects of the preferred sub-alternative, the cost of purchasing circle hooks would depend on how many hooks each commercial or for-hire fishing business would need, as well as the quantity of hooks included in each purchase. The effect of switching to circle hooks in the area south of 28° N latitude may have a more pronounced effect on catch efficiency there than in the rest of the South Atlantic EEZ. Stakeholders have indicated that a circle hook requirement would negatively affect their ability to catch snapper-grouper species when drift fishing, which is a common practice in South Florida and the Florida Keys. The second sub-alternative was not selected because it would be expected to result in substantial negative economic and social effects, specifically to the for-hire industry that operates south of 28° N latitude.

The third alternative would require non-offset, non-stainless steel circle hooks be on board a vessel possessing snapper-grouper species when fishing with hook-and-line gear and natural baits within certain areas of the EEZ. The third alternative contained two sub-alternatives. The first sub-alternative would apply the non-offset, non-stainless steel circle hook on board requirement to vessels in Federal waters north of 28° N latitude. Under this sub-alternative, some commercial and for-hire fishing businesses that fish for snapper-grouper species north of 28° N latitude would need to purchase non-offset, non-stainless steel circle hooks to have on board. This sub-alternative would be expected to result in lower direct costs to fishing businesses than the preferred alternative, as non-offset, non-stainless steel circle hooks would only need to be on board the vessel and would likely not be used to the same extent as under the preferred alternative. Under such circumstances, multiple circle hook types and sizes would not be necessary to satisfy the circle hook requirement. Additionally, J-hooks or treble hooks could be used to harvest snapper-grouper species, which may increase the catchability of some species in comparison to circle hooks. To the extent that catch efficiency increases on commercial fishing trips, this could result in an increase in commercial trip profitability. The second sub-alternative would apply the non-offset, non-stainless steel circle hook on board requirement throughout the extent of the Council's jurisdiction, except that other non-stainless steel hook types would be allowed to be used when fishing for yellowtail snapper with natural baits. The second sub-alternative would require that commercial and for-hire fishing businesses that fish for snapper-grouper species anywhere in the South Atlantic EEZ purchase non-offset, non-stainless steel circle hooks to have on board. Because J-hooks and treble hooks may already be used while fishing for snapper-grouper species with natural bait south of 28° N latitude, the second sub-alternative would be expected to have comparable effects on catch efficiency as the first sub-alternative. The third alternative and two sub-alternatives were not selected by the Council, because they were expected to be less likely than the preferred alternative to reduce release mortality.

The fourth alternative, also selected as preferred, requires the use of non-stainless steel hooks when fishing for snapper-grouper species with hook-and-line gear and natural baits in the South Atlantic EEZ.

Three alternatives were considered for the action to modify powerhead prohibitions in the South Atlantic region. The first alternative, the no action alternative, would not modify existing powerhead regulations or restrictions, and therefore, would not be expected to have direct economic effects on any small entities. Under the no action alternative, the harvest of snapper-grouper species by powerhead in the EEZ off South Carolina would continue to be prohibited. This alternative was not selected by the Council because it would fail to ensure consistent regulations for the dive component of the South Atlantic snapper-grouper fishery.

The second alternative and two sub-alternatives were selected as preferred and will allow private recreational, for-hire, and commercial vessels to use powerheads for the harvest of snapper-grouper species in the EEZ off South Carolina.

The third alternative would prohibit the use of a powerhead for the harvest of snapper-grouper species in the EEZ of the entire South Atlantic region. The third alternative contained two sub-alternatives. The first sub-alternative would apply the prohibition of powerheads in the EEZ to private recreational and for-hire vessels. This sub-alternative would remove some opportunities to recreationally harvest snapper-grouper species in the EEZ of the South Atlantic, but would not be expected to have any direct effects on for-hire fishing businesses. Any effects on for-hire fishing businesses would be indirect and would depend on how anglers' demand for for-hire trips changes as a result of powerhead restrictions. The second sub-alternative would apply the prohibition of powerheads in the EEZ to commercial vessels. This would remove some opportunities to commercially harvest snapper-grouper species in the EEZ of the South Atlantic, which may lead to decreased trip profits for some commercial businesses. Using the average annual ex-vessel revenue estimates from powerhead fishing in the South Atlantic EEZ from 2013 through 2017, NMFS estimates the upper bound cost of this sub-alternative would be $261,000 (2018 dollars) per year or approximately $460 per commercial vessel. The true cost of this sub-alternative would likely be much less, because commercial fishermen could substitute powerhead landings with landings by other gear types or in other areas. The third alternative and two sub-alternatives were not selected by the Council because they would unnecessarily reduce fishing opportunities in the South Atlantic EEZ and potentially result in negative economic effects to fishermen.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group

of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, NMFS prepared a fishery bulletin, which also serves as a small entity compliance guide. The fishery bulletin will be sent to all interested parties.

This final rule does not establish any new reporting or record-keeping requirements. Accordingly, the Paperwork Reduction Act does not apply to this final rule.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Grouper, Snapper, South Atlantic.

Dated: May 28, 2020.

Samuel D. Rauch, III,

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

For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

§ 622.182 [Amended]

■ 2. In § 622.182, remove and reserve paragraph (c).

■ 3. In § 622.188, revise paragraph (a)(2) and add paragraphs (a)(3) and (4) to read as follows:

§ 622.188 Required gear, authorized gear, and unauthorized gear.

(a) * * *

(2) *Non-offset, non-stainless steel circle hooks.* Non-offset, non-stainless steel circle hooks are required to be used when fishing for South Atlantic snapper-grouper with hook-and-line gear and natural baits north of 28° N lat.

(3) *Non-stainless steel hooks.* Non-stainless steel hooks are required to be used when fishing for South Atlantic snapper-grouper with hook-and-line gear and natural baits south of 28° N lat.

(4) *Descending device.* At least one descending device is required to be on board a vessel and be ready for use while fishing for or possessing South Atlantic snapper-grouper. Descending device means an instrument capable of releasing the fish at the depth from which the fish was caught, and to which is attached a minimum of a 16-ounce (454-gram) weight and a minimum of a 60-ft (15.2-m) length of line. The descending device may either attach to the fish's mouth or be a container that will retain the fish while it is lowered to depth. The device must be capable of releasing the fish automatically, by actions of the operator of the device, or by allowing the fish to escape on its own when at depth.

* * * * *

[FR Doc. 2020–11916 Filed 6–12–20; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 85, No. 115
Monday, June 15, 2020

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–0512; Airspace Docket No. 20–AGL–10]

RIN 2120–AA66

Proposed Establishment of Area Navigation (RNAV) Routes T–301 and T–305; Northcentral United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish area navigation (RNAV) routes T–301 and T–305 in the northcentral United States. The proposed new RNAV routes would expand the availability of RNAV routing in support of transitioning the National Airspace System (NAS) from ground-based to satellite-based navigation. Additionally, a portion of the new RNAV routes would provide enroute structure where VHF Omnidirectional Range (VOR) Federal airway segments were removed due to the Cape Girardeau, MO, VOR being decommissioned in support of the FAA's VOR Minimum Operational Network (MON) program.

DATES: Comments must be received on or before July 30, 2020.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: (800) 647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2020–0512; Airspace Docket No. 20–AGL–10 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

FAA Order 7400.11D, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Rules and Regulations 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: Colby Abbott, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would expand the availability of RNAV in the northcentral United States and improve the efficient flow of air traffic within the NAS by lessening the dependency on ground-based navigation.

Comments Invited

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

Communications should identify both docket numbers (FAA Docket No. FAA–2020–0512; Airspace Docket No. 20–AGL–10) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2020–0512; Airspace Docket No. 20–AGL–10.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified comment closing date will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *https://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *https://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the office of the Operations Support Group, Central Service Center, Federal Aviation Administration, 10101 Hillwood Blvd., Fort Worth, TX 76177.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019. FAA Order

7400.11D is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11D lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

Background

In 2003, Congress enacted the Vision 100—Century of Aviation Reauthorization Act (Pub. L. 108–176), which established a joint planning and development office in the FAA to manage the work related to the Next Generation Air Transportation System (NextGen). Today, NextGen is an ongoing FAA-led modernization of the nation's air transportation system to make flying safer, more efficient, and more predictable.

In support of NextGen efforts to improve the safety and efficiency of the NAS, as well as transition the NAS from a ground-based to a satellite-based Performance Based Navigation (PBN) system, the FAA is proposing to establish RNAV routes T–301 and T–305 to provide additional PBN enroute structure. This action would reduce air traffic control (ATC) sector workload and complexity, reduce pilot-to-controller communication, assist ATC when non-radar procedures are required, and increase NAS capacity in the areas of the new RNAV T-routes.

Additionally, portions of the proposed T-routes would mitigate previously removed airway segments from VOR Federal airways V–125 and V–313 in the Cape Girardeau, MO, area due to the planned decommissioning of the Cape Girardeau, MO, VOR in July 2020, as well as supplement existing Air Traffic Service (ATS) routes beyond the Cape Girardeau area. The new T-routes would also provide Instrument Flight Rules (IFR) pilots that are equipped for RNAV PBN additional ATS route options for navigating around areas of heavy aviation activity and in areas of limited or no radar coverage. Visual Flight Rules (VFR) pilots, equipped with RNAV PBN, who elect to navigate via ATS routes, could also take advantage of the proposed RNAV T-routes.

The proposed T–301 would provide RNAV routing from the Cape Girardeau, MO, area; through the Centralia, IL, and Springfield, IL, areas; to the Peoria, IL, area. Similarly, the proposed T–305 would provide RNAV routing from the Cape Girardeau, MO, area; through the Sparta, IL, and Vandalia, IL, areas; to the Terra Haute, IN, area.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 to establish RNAV routes T–301 and T–305. The proposed new T-routes are described below.

T–301: T–301 is a proposed new RNAV route that would extend between the Cape Girardeau, MO, DME and the Peoria, IL, VORTAC. This T-route would provide enroute routing in place of the recently removed V–313 airway segment between the Cape Girardeau, MO, DME and the Centralia, IL, VORTAC; enroute routing adjacent to the existing V–67 airway segments between the Centralia, IL, VORTAC and the Spinner, IL, VORTAC; and enroute routing over the existing V–129 airway segment between the Spinner, IL, VORTAC and the Peoria, IL, VORTAC.

T–305: T–305 is a proposed new RNAV route that would extend between the Cape Girardeau, MO, DME and the JIBKA, IN, waypoint. This T-route would provide enroute routing adjacent to and slightly beyond the recently removed V–125 airway segment between the Cape Girardeau, MO, DME and the NIKEL fix; routing to transition northeastward to the TYMME, IL, waypoint (new) located near the Vandalia, IL, VORTAC; and enroute routing adjacent to the V–14 airway segments between the Vandalia, IL, VORTAC and the Terra Haute, IN, VORTAC to the JIBKA, IN, waypoint (new) located approximately one nautical mile northwest of the Terra Haute VORTAC.

United States RNAV T-routes are published in paragraph 6011 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 RNAV routes listed in this document would be subsequently published in the Order.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6011 United States Area Navigation Routes.

* * * * *

T–301 CAPE GIRARDEAU, MO (CGI) TO PEORIA, IL (PIA) [NEW]

Cape Girardeau, MO (CGI)	DME	(Lat. 37°13′39.14″ N, long. 089°34′20.68″ W)
Centralia, IL (ENL)	VORTAC	(Lat. 38°25′12.00″ N, long. 089°09′32.39″ W)
TYMME, IL	WP	(Lat. 39°05′38.35″ N, long. 089°09′43.71″ W)
Spinner, IL (SPI)	VORTAC	(Lat. 39°50′23.04″ N, long. 089°40′39.85″ W)
Peoria, IL (PIA)	VORTAC	(Lat. 40°40′48.25″ N, long. 089°47′33.91″ W)

* * * * * * *

T–305 CAPE GIRARDEAU, MO (CGI) TO JIBKA, IN [NEW]

Cape Girardeau, MO (CGI)	DME	(Lat. 37°13′39.14″ N, long. 089°34′20.68″ W)
AMART, IL	WP	(Lat. 38°11′06.83″ N, long. 089°47′24.15″ W)
TYMME, IL	WP	(Lat. 39°05′38.35″ N, long. 089°09′43.71″ W)
DELCO, IL	WP	(Lat. 39°21′22.57″ N, long. 087°54′39.56″ W)
JIBKA, IN	WP	(Lat. 39°30′08.93″ N, long. 087°16′26.74″ W)

* * * * *

Issued in Washington, DC.

Scott M. Rosenbloom,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2020–12778 Filed 6–12–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–0514; Airspace Docket No. 20–ACE–9]

RIN 2120–AA66

Proposed Amendment of Class E Airspace; Clinton, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend the Class E airspace extending upward from 700 feet above the surface at Clinton Regional Airport, Clinton, MO. The FAA is proposing this action as the result of an airspace review due to the decommissioning of the Golden Valley non-directional beacon (NDB) which provided navigation information to the instrument procedures at this airport. The name and geographic coordinates of the airport would also be updated to coincide with the FAA's aeronautic database.

DATES: Comments must be received on or before July 30, 2020.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2020–0514/Airspace Docket No. 20–ACE–9 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. 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: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

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 the Class E airspace extending upward from 700 feet above the surface at Clinton Regional Airport, Clinton, MO, to support instrument flight rule operations at this airport.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2020–0514/Airspace Docket No. 20–ACE–9.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *https://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *https://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019. FAA Order

7400.11D is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11D lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by amending the Class E airspace extending upward from 700 feet above the surface to within a 6.6-mile (increased from 6.4-mile) radius of Clinton Regional Airport, Clinton, MO; removing the Golden Valley NDB and associated extensions from the airspace legal description; and updating the name and the geographic coordinates of the airport (previously Clinton Memorial Airport) to coincide with the FAA's aeronautical database.

This action is due to an airspace review due to the decommissioning of the Golden Valley NDB which provided navigation information to the instrument procedures at this airport.

Class E 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.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Regulatory Notices and Analyses

The FAA has determined that this 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 will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR 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.

* * * * *

ACE MO E5 Clinton, MO [Amended]

Clinton Regional Airport, MO
(Lat. 38°21′17″ N, long. 93°40′45″ W.)

The airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Clinton Regional Airport.

Issued in Fort Worth, Texas, on June 9, 2020.

Steven T. Phillips,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2020–12774 Filed 6–12–20; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[EPA–HQ–OPPT–2020–0251; FRL–10010–40]

RIN 2070–AB27

Significant New Use Rules on Certain Chemical Substances (20–6.B)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

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

DATES: Comments must be received on or before July 15, 2020.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2020–0251, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

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. 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:

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

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you manufacture, process, or use the chemical substances contained in this proposed rule. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

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

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

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

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

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

II. Background

A. What action is the Agency taking?

EPA is proposing these SNURs under TSCA section 5(a)(2) for chemical substances which are the subjects of PMNs P–18–151, P–18–271, P–19–19, P–19–88, P–19–109, P–20–36, P– and 20–37. These proposed SNURs would require persons who intend to manufacture or process any of these chemical substances for an activity that is designated as a significant new use to notify EPA at least 90 days before commencing that activity.

The record for these proposed SNURs, identified as docket ID number EPA–HQ–OPPT–2020–0251, includes information considered by the Agency in developing these proposed SNURs.

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

TSCA section 5(a)(2) (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a ''significant new use.'' EPA must make this determination by rule after considering all relevant factors, including the four TSCA section 5(a)(2) factors listed in Unit III.

C. Applicability of General Provisions

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

III. Significant New Use Determination

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

- The projected volume of manufacturing and processing of a chemical substance.
- The extent to which a use changes the type or form of exposure of human beings or the environment to a chemical substance.
- The extent to which a use increases the magnitude and duration of exposure of human beings or the environment to a chemical substance.
- The reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of a chemical substance.

In determining what would constitute a significant new use for the chemical substances that are the subject of these SNURs, EPA considered relevant information about the toxicity of the chemical substances, and potential human exposures and environmental releases that may be associated with the substances, in the context of the four bulleted TSCA section 5(a)(2) factors listed in this unit. During its review of these chemicals, EPA identified certain conditions of use that are not intended by the submitters, but reasonably foreseen to occur. EPA is proposing to designate those reasonably foreseen conditions of use as well as certain other circumstances of use as significant new uses.

IV. Substances Subject to This Proposed Rule

EPA is proposing significant new use and recordkeeping requirements for chemical substances in 40 CFR part 721, subpart E. In this unit, EPA provides the following information for each chemical substance:

- PMN number.
- Chemical name (generic name, if the specific name is claimed as CBI).
- Chemical Abstracts Service (CAS) Registry number (if assigned for non-confidential chemical identities).
- Basis for the SNUR.

• Potentially Useful Information.

• CFR citation assigned in the regulatory text section of these proposed rules.

The regulatory text section of this document specifies the activities designated as significant new uses. Certain new uses, including production volume limits and other uses designated in the proposed rules, may be claimed as CBI.

The chemical substances that are the subject of these proposed SNURs are undergoing premanufacture review. In addition to those conditions of use intended by the submitter, EPA has identified certain other reasonably foreseen conditions of use. EPA has preliminarily determined that the chemicals under their intended conditions of use are not likely to present an unreasonable risk. However, EPA has not assessed risks associated with the reasonably foreseen conditions of use for these chemicals. EPA is proposing to designate these reasonably foreseen conditions of use and other circumstances of use as significant new uses. As a result, those significant new uses cannot occur without first going through a separate, subsequent EPA review and determination process associated with a SNUN.

The substances subject to these proposed rules are as follows:

PMN Number: P–18–151

Chemical name: Formaldehyde, reaction products with 1,3-benzenedimethanamine and p-tert-butylphenol.

CAS number: 158800–93–2.

Basis for action: The PMN states that the use of the substance will be as a curing agent for epoxy systems. Based on the physical/chemical properties of the PMN substance and Structure Activity Relationships (SAR) analysis of test data on analogous substances, EPA has identified concerns for aquatic toxicity, reproductive/developmental toxicity, respiratory sensitization, skin corrosion, skin irritation, skin sensitization, and systemic effects if the chemical substance is used in ways other than as intended by the PMN submitter. This proposed SNUR designates the following as ''significant new uses'' requiring further review by EPA:

• Manufacture, processing, or use in a manner that results in inhalation exposure.

• Release of a manufacturing, processing, or use stream associated with any use of the PMN substance exceeding a surface water concentration of 1 ppb.

Potentially Useful Information: EPA has determined that certain information about the environmental and health effects of the PMN substance may be potentially useful to characterize the effects of the PMN substance if a manufacturer or processor is considering submitting a SNUN for a significant new use that would be designated by this proposed SNUR. EPA has determined that the results of aquatic toxicity, eye damage, reproductive toxicity, skin corrosion, skin sensitization, and specific target organ toxicity testing would help characterize the potential environmental and health effects of the PMN substance.

CFR Citation: 40 CFR 721.11498.

PMN Number: P–18–271

Chemical Name: 2-Propanol, 1-butoxy-, 2,2′-ester (generic).

CAS Number: Not available.

Basis for Action: The PMN states that the use of the substance will be as a film-forming coalescent for architectural coatings; for automotive OEM coatings; for can and coil coatings; for industrial wood coatings; for floor polishes, for industrial maintenance coatings; for marine and wood coatings; for transportation coatings; for use in printing inks; and as a chemical intermediate to prepare ester plasticizers. Based on the physical/chemical properties of the PMN substance and Structure Activity Relationships (SAR) analysis of test data on analogous substances, EPA has identified concerns for irritation and specific target organ toxicity as hazards based on the expected metabolite (propylene glycol n-butyl ether) if the chemical substance is used in ways other than as intended by the PMN submitter. The proposed SNUR designates the following as ''significant new uses'' requiring further EPA review:t.:

• Use other than as a film-forming coalescent for architectural coatings; for automotive OEM coatings; for can and coil coatings; for industrial wood coatings; for floor polishes, for industrial maintenance coatings; for marine and wood coatings; for transportation coatings; for use in printing inks; and as a chemical intermediate to prepare ester plasticizers, consistent with the manufacturing, processing, use, distribution, and disposal information described in the PMN.

• Processing the PMN substance to a weight fraction greater than 8% in the final formulation.

Potentially Useful Information: EPA has determined that certain information about the environmental and health effects of the PMN substance may be potentially useful to characterize the effects of the PMN substance if a manufacturer or processor is considering submitting a SNUN for a significant new use that would be designated by this proposed SNUR. EPA has determined that the results of toxicokinetics, skin irritation, eye damage, specific target organ toxicity, and aquatic toxicity testing would help characterize the potential environmental and health effects of the PMN substance.

CFR Citation: 40 CFR 721.11499.

PMN Number: P–19–19

Chemical Name: Haloalkane (generic).

CAS Number: Not available.

Basis for Action: The PMN states that the generic use of the substance will be as a chemical intermediate. Based on the physical/chemical properties of the PMN substance and Structure Activity Relationships (SAR) analysis of test data on analogous substances, EPA has identified concerns for skin irritation, specific target organ toxicity, and aquatic toxicity if the chemical substance is used in ways other than as intended by the PMN submitter. This proposed SNUR designates the following as ''significant new uses'' requiring further review by EPA:

• Release of a manufacturing, processing, or use stream associated with any use of the PMN substance exceeding a surface water concentration of 23 ppb.

• Use of the PMN substance without a National Institute for Occupational Safety and Health (NIOSH) certified respirator with an assigned protection factor of at least 1000.

Potentially Useful Information: EPA has determined that certain information about the toxicity of the PMN substance may be potentially useful to characterize the health and environmental effects of the PMN substance if a manufacturer or processor is considering submitting a SNUN for a significant new use that would be designated by this proposed SNUR. EPA has determined that the results of skin irritation, specific target organ toxicity, and aquatic toxicity testing would help characterize the potential health and environmental effects of the PMN substance.

CFR Citation: 40 CFR 721.11500.

PMN Number: P–19–88

Chemical Name: Ethanamine, N-ethyl-, 2-hydroxy-1,2,3-propanetricarboxylate (1:?).

CAS Number: 23251–73–2.

Basis for Action: The PMN states that the generic use of the substance will be as feedstock for amine recovery. Based on the physical/chemical properties of

the PMN substance and Structure Activity Relationships (SAR) analysis of test data on analogous substances, EPA has identified concerns for acute toxicity, reproductive toxicity, serious eye damage, skin corrosion, and specific target organ toxicity if the chemical substance is used in ways other than as intended by the PMN submitter. This proposed SNUR designates the following as ''significant new uses'' requiring further review by EPA:

- Manufacture, processing, or use in a manner that results in inhalation exposure.
- Release of a manufacturing, processing, or use stream associated with any use of the PMN substance exceeding a surface water concentration of 46 ppb.

Potentially useful information: EPA has determined that certain information about the health effects of the PMN substance may be potentially useful if a manufacturer or processor is considering submitting a SNUN for a significant new use that would be designated by this proposed SNUR. EPA has determined that the results of skin corrosion, eye damage, reproductive/developmental effects, and specific target organ toxicity testing would help characterize the potential health effects of the PMN substance.

CFR Citation: 40 CFR 721.11501.

PMN Number: P–19–109

Chemical Names: Copper, [[2,2′,2″-(nitrilo-.kappa.N)tris[ethanolato-.kappa.O]](2-)]- (P–19–109, chemical A) and copper, bis[2-(amino-.kappa.N)ethanolato-.kappa.O]- (P–19–109, chemical B).

CAS Numbers: 21545–60–8 (P–19–109, chemical A) and 14215–52–2 (P–19–109, chemical B).

Basis for Action: The PMN states that the use of the substances will be as components of a cleaning formulation to improve the wettability of the overall cleaning solution on the substrate. Based on the physical/chemical properties of the PMN substance and Structure Activity Relationships (SAR) analysis of test data on analogous substances, EPA has identified concerns for acute toxicity, aquatic toxicity, eye irritation, reproductive toxicity, skin irritation, and specific target organ toxicity if the chemical substance is used in ways other than as intended by the PMN submitter. This proposed SNUR designates the following as ''significant new uses'' requiring further review by EPA:

- Use of the PMN substances in consumer products.
- Manufacture, processing, or use in a manner that results in inhalation exposure.
- Release of a manufacturing, processing, or use stream associated with any use of the PMN substance exceeding a surface water concentration of 3 ppb.

Potentially Useful Information: EPA has determined that certain information about the environmental and health effects of the PMN substances may be potentially useful to characterize the effects of the PMN substances if a manufacturer or processor is considering submitting a SNUN for a significant new use that would be designated by this proposed SNUR. EPA has determined that the results of aquatic toxicity, developmental toxicity, neurotoxicity, pulmonary effects, reproductive toxicity, and specific target organ toxicity testing would help characterize the potential environmental and health effects of the PMN substances.

CFR Citations: 40 CFR 721.11502 (P–19–109, chemical A); 40 CFR 721.11503 (P–19–109, chemical B).

PMN Number: P–20–36

Chemical Name: Carbonic acid, di(lithium-6Li) salt.

CAS Number: 25890–20–4.

Basis for Action: The PMN states that the generic use of these substance will be as a chemical intermediate for the manufacture of Lithium-6 Chloride. Based on the physical/chemical properties of the PMN substance and Structure Activity Relationships (SAR) analysis of test data on analogous substances, EPA has identified concerns for acute toxicity, aquatic toxicity, eye irritation, reproductive toxicity, skin irritation, and specific target organ toxicity if the chemical substance is used in ways other than as intended by the PMN submitter. This proposed SNUR designates the following as ''significant new uses'' requiring further review by EPA:

- Use other than for the confidential use specified in the PMN.
- Release of a manufacturing, processing, or use stream associated with any use of the PMN substance exceeding a surface water concentration of 35 ppb.

Potentially Useful Information: No toxicity data are necessary as the moiety of concern for the new chemical substance (lithium) is well studied and has a rich toxicity database. EPA has determined that the results of workplace exposure or environmental release information would help characterize the potential effects of the PMN substance.

CFR Citation: 40 CFR 721.11504.

PMN Number: P–20–37

Chemical Name: Lithium Chloride (6LiCl).

CAS Number: 20227–31–0.

Basis for Action: The PMN states that the generic use of the substance will be as a material used in the manufacture of devices for gamma and neutron radiation detection. Based on the physical/chemical properties of the PMN substance and Structure Activity Relationships (SAR) analysis of test data on analogous substances, EPA has identified concerns for acute toxicity, eye irritation, reproductive toxicity, skin irritation, and specific target organ toxicity if the chemical substance is used in ways other than as intended by the PMN submitter. This proposed SNUR designates the following as ''significant new uses'' requiring further review by EPA:

- Use other than for the confidential use specified in the PMN.

Potentially Useful Information: No toxicity data are necessary as the moiety of concern for the new chemical substance (lithium) is well studied and has a rich toxicity database. EPA has determined that the results of workplace exposure or environmental release information would help characterize the potential effects of the PMN substance.

CFR Citation: 40 CFR 721.11505.

V. Rationale and Objectives of the Proposed Rule

A. Rationale

During review of the PMNs submitted for the chemical substances that are the subject of these proposed SNURs and as further discussed in Unit IV, EPA identified certain other reasonably foreseen conditions of use, in addition to those conditions of use intended by the submitter. EPA has preliminarily determined that the chemical under the intended conditions of use is not likely to present an unreasonable risk. However, EPA has not assessed risks associated with the reasonably foreseen conditions of use. EPA is proposing to designate these conditions of use as well as certain other circumstances of use as significant new uses to ensure that they are no longer reasonably foreseen to occur without first going through a separate, subsequent EPA review and determination process associated with a SNUN.

B. Objectives

EPA is proposing these SNURs because the Agency wants:

- To have an opportunity to review and evaluate data submitted in a SNUN before the notice submitter begins manufacturing or processing a listed

chemical substance for the described significant new use.

• To be obligated to make a determination under TSCA section 5(a)(3) regarding the use described in the SNUN, under the conditions of use. The Agency will either determine under TSCA section 5(a)(3)(C) that the significant new use is not likely to present an unreasonable risk, including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant by the Administrator under the conditions of use, or make a determination under TSCA section 5(a)(3)(A) or (B) and take the required regulatory action associated with the determination, before manufacture or processing for the significant new use of the chemical substance can occur.

• To be able to complete its review and determination on each of the PMN substances, while deferring analysis on the significant new uses proposed in these rules unless and until the Agency receives a SNUN.

Issuance of a proposed SNUR for a chemical substance does not signify that the chemical substance is listed on the TSCA Inventory. Guidance on how to determine if a chemical substance is on the TSCA Inventory is available on the internet at *https://www.epa.gov/tsca-inventory.*

VI. Applicability of the Proposed Rules to Uses Occurring Before the Effective Date of the Final Rule

To establish a significant new use, EPA must determine that the use is not ongoing. The chemical substances subject to this proposed rule were undergoing premanufacture review at the time of signature of this proposed rule and were not on the TSCA Inventory. In cases where EPA has not received a notice of commencement (NOC) and the chemical substance has not been added to the TSCA Inventory, no person may commence such activities without first submitting a PMN. Therefore, for the chemical substances subject to these proposed SNURs, EPA concludes that the proposed significant new uses are not ongoing.

EPA designates June 2, 2020 (date of web posting of this proposed rule) as the cutoff date for determining whether the new use is ongoing. The objective of EPA's approach is to ensure that a person cannot defeat a SNUR by initiating a significant new use before the effective date of the final rule.

Persons who begin commercial manufacture or processing of the chemical substances for a significant new use identified on or after that date would have to cease any such activity upon the effective date of the final rule. To resume their activities, these persons would have to first comply with all applicable SNUR notification requirements and EPA would have to take action under TSCA section 5 allowing manufacture or processing to proceed. In developing this proposed rule, EPA has recognized that, given EPA's general practice of posting proposed rules on its website a week or more in advance of **Federal Register** publication, this objective could be thwarted even before **Federal Register** publication of the proposed rule.

VII. Development and Submission of Information

EPA recognizes that TSCA section 5 does not require development of any particular new information (*e.g.,* generating test data) before submission of a SNUN. There is an exception: If a person is required to submit information for a chemical substance pursuant to a rule, Order or consent agreement under TSCA section 4 (15 U.S.C. 2603), then TSCA section 5(b)(1)(A) (15 U.S.C. 2604(b)(1)(A)) requires such information to be submitted to EPA at the time of submission of the SNUN.

In the absence of a rule, Order, or consent agreement under TSCA section 4 covering the chemical substance, persons are required only to submit information in their possession or control and to describe any other information known to or reasonably ascertainable by them (see 40 CFR 720.50). However, upon review of PMNs and SNUNs, the Agency has the authority to require appropriate testing. Unit IV. lists potentially useful information for all SNURs listed here. Descriptions are provided for informational purposes. The potentially useful information identified in Unit IV. will be useful to EPA's evaluation in the event that someone submits a SNUN for the significant new use. Companies who are considering submitting a SNUN are encouraged, but not required, to develop the information on the substance, which may assist with EPA's analysis of the SNUN.

EPA strongly encourages persons, before performing any testing, to consult with the Agency pertaining to protocol selection. Furthermore, pursuant to TSCA section 4(h), which pertains to reduction of testing in vertebrate animals, EPA encourages consultation with the Agency on the use of alternative test methods and strategies (also called New Approach Methodologies, or NAMs), if available, to generate the recommended test data. EPA encourages dialog with Agency representatives to help determine how best the submitter can meet both the data needs and the objective of TSCA section 4(h).

The potentially useful information described in Unit IV. may not be the only means of providing information to evaluate the chemical substance associated with the significant new uses. However, submitting a SNUN without any test data may increase the likelihood that EPA will take action under TSCA sections 5(e) or 5(f). EPA recommends that potential SNUN submitters contact EPA early enough so that they will be able to conduct the appropriate tests.

SNUN submitters should be aware that EPA will be better able to evaluate SNUNs which provide detailed information on the following:

• Human exposure and environmental release that may result from the significant new use of the chemical substances.

VIII. SNUN Submissions

According to 40 CFR 721.1(c), persons submitting a SNUN must comply with the same notification requirements and EPA regulatory procedures as persons submitting a PMN, including submission of test data on health and environmental effects as described in 40 CFR 720.50. SNUNs must be submitted on EPA Form No. 7710–25, generated using e-PMN software, and submitted to the Agency in accordance with the procedures set forth in 40 CFR 720.40 and 721.25. E–PMN software is available electronically at *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca.*

IX. Economic Analysis

EPA has evaluated the potential costs of establishing SNUN requirements for potential manufacturers and processors of the chemical substances subject to this proposed rule. EPA's complete economic analysis is available in the docket under docket ID number EPA–HQ–OPPT–2020–0251.

X. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulations and Regulatory Review

This action proposes to establish SNURs for new chemical substances that were the subject of PMNs. The Office of Management and Budget

(OMB) has exempted these types of actions from review under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act (PRA)

According to the PRA, 44 U.S.C. 3501 *et seq.,* an Agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable.

The information collection requirements related to this action have already been approved by OMB pursuant to PRA and assigned OMB control number 2070–0012 (EPA ICR No. 574). This action does not impose any burden requiring additional OMB approval. If an entity were to submit a SNUN to the Agency, the annual burden is estimated to average between 30 and 170 hours per response. This burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete, review, and submit the required SNUN.

Send any comments about the accuracy of the burden estimate, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques, to the Director, Regulatory Support Division, Office of Mission Support (2822T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001. Please remember to include the OMB control number in any correspondence, but do not submit any completed forms to this address.

C. Regulatory Flexibility Act (RFA)

Pursuant to section 605(b) of the RFA, 5 U.S.C. 601 *et seq.,* the Agency hereby certifies that promulgation of this action will not have a significant economic impact on a substantial number of small entities. The requirement to submit a SNUN applies to any person (including small or large entities) who intends to engage in any activity described in the final rule as a ''significant new use.'' Because these uses are ''new,'' based on all information currently available to EPA, EPA has concluded that no small or large entities presently engage in such activities.

A SNUR requires that any person who intends to engage in such activity in the future must first notify EPA by submitting a SNUN. Although some small entities may decide to pursue a significant new use in the future, EPA cannot presently determine how many, if any, there may be. However, EPA's experience to date is that, in response to the promulgation of SNURs covering over 1,000 chemicals, the Agency receives only a small number of notices per year. For example, EPA received 7 SNUNs in Federal fiscal year (FY) 2013, 13 in FY2014, 6 in FY2015, 12 in FY2016, 13 in FY2017, and 11 in FY2018, only a fraction of these SNUNs were from small businesses. In addition, the Agency currently offers relief to qualifying small businesses by reducing the SNUN submission fee from $16,000 to $2,800. This lower fee reduces the total reporting and recordkeeping cost of submitting a SNUN to about $10,116 for qualifying small firms.

Therefore, the potential economic impacts of complying with this SNUR are not expected to be significant or adversely impact a substantial number of small entities. In a SNUR that published in the **Federal Register** of June 2, 1997 (62 FR 29684) (FRL–5597–1), the Agency presented its general determination that final SNURs are not expected to have a significant economic impact on a substantial number of small entities, which was provided to the Chief Counsel for Advocacy of the Small Business Administration.

D. Unfunded Mandates Reform Act (UMRA)

Based on EPA's experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by these rulemakings, and EPA does not have any reasons to believe that any State, local, or Tribal government will be impacted by this action. As such, EPA has determined that this action does not impose any enforceable duty, contain any unfunded mandate, or otherwise have any effect on small governments subject to the requirements of UMRA sections 202, 203, 204, or 205 (2 U.S.C. 1531–1538 *et seq.*).

E. Executive Order 13132: Federalism

This action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999).

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action will not have Tribal implications because it is not expected to have substantial direct effects on Indian Tribes; will not significantly or uniquely affect the communities of Indian Tribal governments; nor does it involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175 (65 FR 67249, November 9, 2000), do not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because this is not an economically significant regulatory action as defined by Executive Order 12866, and this action does not address environmental health or safety risks disproportionately affecting children.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because this action is not expected to affect energy supply, distribution, or use and because this action is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

In addition, since this action does not involve any technical standards, NTTAA section 12(d), 15 U.S.C. 272 note, does not apply to this action.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

This action does not entail special considerations of environmental justice related issues as delineated by Executive Order 12898 (59 FR 7629, February 16, 1994).

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: May 29, 2020.

Tala Henry,

Deputy Director, Office of Pollution Prevention and Toxics.

Therefore, it is proposed that 40 CFR part 721 is amended as follows:

PART 721—[AMENDED]

■ 1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

■ 2. Add §§ 721.11498 through 721.11506 to subpart E to read as follows:

Subpart E—Significant New Uses for Specific Chemical Substances

Sec.

* * * * *

721.11498 Formaldehyde, reaction products with 1,3-benzenedimethanamine and p-tert-butylphenol.
721.11499 2-Propanol, 1-butoxy-, 2,2'-ester (generic).
721.11500 Haloalkane (generic).
721.11501 Ethanamine, N-ethyl-, 2-hydroxy-1,2,3-propanetricarboxylate (1:?).
721.11502 Copper, [[2,2',2''-(nitrilo-.kappa.N)tris[ethanolato-.kappa.O]](2-)]-(P–19–109, chemical A).
721.11503 Copper, bis[2-(amino-.kappa.N)ethanolato-.kappa.O]- (P–19–109, chemical B).
721.11504 Carbonic acid, di(lithium-6Li) salt.
721.11505 Lithium chloride (6LiCl).
721.11506 [Reserved].

* * * * *

§ 721.11498 Formaldehyde, reaction products with 1,3-benzenedimethanamine and p-tert-butylphenol.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as formaldehyde, reaction products with 1,3-benzenedimethanamine and p-tert-butylphenol (PMN P–18–151; CASRN 158800–93–2) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* It is a significant new use to manufacture, process, or use the PMN substance in a manner that results in inhalation exposure.

(ii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) where N = 1.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), (i), and (k).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11499 2-Propanol, 1-butoxy-, 2,2'-ester (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance generically identified as 2-propanol, 1-butoxy-, 2,2'-ester (PMN P–18–271) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* It is a significant new use to use the PMN substance other than as a film-forming coalescent for architectural coatings; for automotive OEM coatings; for can and coil coatings; for industrial wood coatings; for floor polishes, for industrial maintenance coatings; for marine and wood coatings; for transportation coatings; for use in printing inks; or as a chemical intermediate to prepare ester plasticizers. It is a significant new use to process the PMN substance to a weight fraction greater than 8% in the final formulation.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), and (i). are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11500 Haloalkane (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance generically identified as haloalkane (PMN P–19–19) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Workplace protection.* Requirements as specified in § 721.63(a)(4) through (6), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 1000. For purposes of § 721.63(a)(6), particulate (including solids or liquid droplets).

(ii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) where N = 23.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (d), and (k).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11501 Ethanamine, N-ethyl-, 2-hydroxy-1,2,3-propanetricarboxylate (1:?).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as ethanamine, N-ethyl-, 2-hydroxy-1,2,3-propanetricarboxylate (1:?) (PMN P–19–88; CASRN 23251–73–2) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* It is a significant new use to manufacture, process, or use the PMN substance in a manner that results in inhalation exposure.

(ii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) where N = 46.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), (i), and (k).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11502 Copper, [[2,2′,2″-(nitrilo-.kappa.N)tris[ethanolato-.kappa.O]](2-)]-(P–19–109, chemical A).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as copper, [[2,2′,2″-(nitrilo-.kappa.N)tris[ethanolato-.kappa.O]](2-)]-(PMN P–19–109, chemical A; CASRN 21545–60–8) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o). It is a significant new use to manufacture, process, or use the PMN substance in any manner that results in inhalation exposure.

(ii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) where N = 3.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), (i), and (k).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11503 Copper, bis[2-(amino-.kappa.N)ethanolato-.kappa.O]- (P–19–109, chemical B).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as copper, bis[2-(amino-.kappa.N)ethanolato-.kappa.O]- (PMN P–19–109, chemical B; CASRN 14215–52–2) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o). It is a significant new use to manufacture, process, or use the PMN substance in any matter that results in inhalation exposure.

(ii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) where N = 3.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), (i), and (k).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11504 Carbonic acid, di(lithium-6Li) salt.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as carbonic acid, di(lithium-6Li) salt (PMN P–20–36; CASRN 25890–20–4) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j).

(ii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) where N = 35.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), (i), and (k).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(ii) of this section.

§ 721.11505 Lithium chloride (6LiCl).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as lithium chloride (6LiCl) (PMN P–20–37; CASRN 20227–31–0) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), and (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(ii) of this section.

§ 721.11506 [Reserved].

[FR Doc. 2020–12614 Filed 6–12–20; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

42 CFR Part 136

[Docket No. IHS–FRDOC–0001]

RIN 0917–AA14

Removal of Obsolete Portion of Regulation Relating to Care and Treatment of Ineligible Individuals

AGENCY: Indian Health Service, Department of Health and Human Services.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Indian Health Service (IHS) of the Department of Health and Human Services (HHS or ''the Department'') is issuing this Notice of Proposed Rulemaking (NPRM) to remove obsolete language appearing in the Code of Federal Regulations, regarding the rates charged for the provision of IHS services to ineligible individuals.

DATES: Comments due on or before August 14, 2020.

ADDRESSES: You may submit comments to this proposed rule, identified by RIN 0917–AA14 by any of the following methods:

- *Federal eRulemaking Portal.* You may submit electronic comments at *http://www.regulations.gov* by searching for the Docket ID number IHS–FRDOC–0001. Follow the instructions *http://www.regulations.gov* online for submitting comments through this method.
- *Regular, Express, or Overnight Mail:* You may mail comments to Indian Health Service, Attention: Evonne Bennett, Acting Director, NPRM, RIN 0917–AA14, Division of Regulatory and Policy Coordination, Office of Management Services, Indian Health Service, 5600 Fishers Lane, Mailstop: 09E70, Rockville, Maryland 20857.

All comments received by the methods and due date specified above will be posted without change to content to *http://www.regulations.gov,* including any personal information provided about the commenter, and such posting may occur before or after the closing of the comment period.

Docket: For complete access to background documents or posted comments, go to *http://www.regulations.gov* and search for Docket ID number IHS–FRDOC–0001.

FOR FURTHER INFORMATION CONTACT: Evonne Bennett, Acting Director, Division of Regulatory and Policy Coordination, Office of Management Services, IHS, 5600 Fishers Lane, Rockville, MD 20857, Mail Stop: 09E70. Telephone (301) 443–1116 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: In response to Executive Order 13777, Sec. 3(d), which directs agencies to repeal existing regulations that are ''outdated, unnecessary or ineffective'' from the CFR, HHS proposes to remove outdated language appearing in the CFR at 42 CFR 136.14. The regulations in this part establish general principles and program requirements for carrying out Indian health programs. Regarding the provision of IHS services to ineligible individuals, § 136.14(b) provides that such individuals should be charged ''rates approved by the Assistant Secretary for Health and Surgeon

General published in the **Federal Register**.'' The Assistant Secretary for Health and the Surgeon General no longer approve or publish such rates. The Agency therefore proposes the removal of this unnecessary language. If the outdated language of § 136.14(b) were to be removed as proposed, § 136.14 in its entirety would read: ''(a) In case of an emergency, as an act of humanity, individuals not eligible under § 136.12 may be provided temporary care and treatment in Service facilities; (b) Charging ineligible individuals. Where the Service Unit Director determines that an ineligible individual is able to defray the cost of care and treatment, the individual shall be charged. Reimbursement from third-party payors may be arranged by the patient or by the Service on behalf of the patient.''

Executive Orders 12866, 13563, 13771, and 13777

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives. Section 3(f) of Executive Order 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 1 year, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or Tribal governments or communities (also referred to as ''economically significant''); (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). HHS submits that this proposed rule is not ''economically significant'' as measured by the $100 million threshold, and hence not a major rule under the Congressional Review Act. This rule has not been designated as a ''significant regulatory action'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 13771, titled, ''Reducing Regulation and Controlling Regulatory Costs,'' was issued on January 30, 2017. Executive Order 13771 directs agencies to categorize all impacts which generate or alleviate costs associated with regulatory burden and to determine the actions net incremental effect. HHS identifies this proposed rule as a deregulatory action (removing an obsolete rule from the CFR) that provides no cost savings.

Executive Order 13777, titled, ''Enforcing the Regulatory Reform Agenda,'' was issued on February 24, 2017. As required by Section 3 of this Executive Order, HHS established a Regulatory Reform Task Force (HHS Task Force). Pursuant to Section 3(d)(ii), the HHS Task Force evaluated this rulemaking and determined that these regulations are ''outdated, unnecessary, or ineffective.'' Following this finding, the HHS Task Force advised IHS to initiate this rulemaking to remove the unnecessary regulation from the CFR.

Regulatory Flexibility Act

This action will not have a significant economic impact on Indian health programs. Therefore, the regulatory flexibility analysis provided for under the Regulatory Flexibility Act is not required.

Paperwork Reduction Act

This action does not affect any information collections.

List of Subjects in 42 CFR 136

Care and treatment of ineligible individuals.

For the reasons set forth above, the Department of Health and Human Services proposes to amend 42 CFR 136.14 as follows:

PART 136—INDIAN HEALTH

■ 1. The authority citation for part 136 continues to read as follows:

Authority: 25 U.S.C. 13; sec. 3, 68 Stat. 674 (42 U.S.C. 2001, 2003); Sec. 1, 42 Stat. 208 (25 U.S.C. 13); 42 U.S.C. 2001.

■ 2. Amend § 136.14 by revising paragraph (b) to read as follows:

§ 136.14 Care and treatment of ineligible individuals.

* * * * *

(b) Charging ineligible individuals. Where the Service Unit Director determines that an ineligible individual is able to defray the cost of care and treatment, the individual shall be charged. Reimbursement from third-party payors may be arranged by the patient or by the Service on behalf of the patient.

* * * * *

Dated: March 13, 2020.

Michael D. Weahkee,

RADM, Assistant Surgeon General, U.S. Public Health Service, Principal Deputy Director, Indian Health Service.

Approved: April 9, 2020.

Alex M. Azar II,

Secretary, Department of Health and Human Services.

[FR Doc. 2020–12749 Filed 6–12–20; 8:45 am]

BILLING CODE 4165–16–P

Notices

Federal Register
Vol. 85, No. 115
Monday, June 15, 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

Submission for OMB Review; Comment Request

June 10, 2020.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding; whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by July 15, 2020 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: Federal Recognized State Managed Phytosanitary Program.

OMB Control Number: 0579–0365.

Summary of Collection: Under the Plant Protection Act (7 U.S.C. 7701–7772), the Secretary of Agriculture is authorized to prohibit or restrict the importation, entry, or movement of plants and plant pests to prevent the introduction of plant pests into the United States or their dissemination within the United States. The Animal and Plant Health Inspection Service (APHIS), Plant Protection and Quarantine (PPQ), has established the following procedures for States (through the National Plant Board (NPB)) to petition the Agency to recognize State-level plant pest regulations and associated action taken as meeting the international criteria for official control and accepted measures to protect areas that would be economically or environmentally endangered by the introduction of a pest. The International Plant Protection Convention (IPPC) defines ''official control'' as the active enforcement of mandatory phytosanitary regulations and the application of mandatory phytosanitary procedures with the objective of eradication or containment of quarantine pests or for the management of regulated non-quarantine pests.

Need and use of the Information: APHIS developed criteria by which petitions will be evaluated and status will be granted. APHIS/PPQ and the Department of Homeland Security (DHS), Customs and Border Protection (CBP), take action on imported products when quarantine pests are found upon inspection. Quarantine pests include those that pose a risk to agriculture or the environment but: (1) Do not exist in the United States, (2) exist in the United States but are under Federal domestic quarantine under 7 CFR 301 or by Federal Order, (3) exist in the United States but were recently detected and whose regulatory status is under consideration, or (4) exist in the United States but are under State-level quarantine that has been approved by APHIS as providing a level of protection equivalent to a Federal domestic quarantine. APHIS has taken action on pests that meet the fourth criteria for years based on informal requests by States in the interest of supporting our State cooperators and industries within those States and this program/information collection aims to standardize this process. Without this information, APHIS would be less effective in establishing procedures that are used to contain regulated plant pests within the United States. If this information was not collected or collected less frequently, APHIS would be less effective in establishing procedures that are used to contain regulated plant pests within the United States.

Description of Respondents: State, Local, or Tribal Government.

Number of Respondents: 1.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 243.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2020–12860 Filed 6–12–20; 8:45 am]

BILLING CODE 3410–34–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Indiana 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 Indiana Advisory Committee (Committee) will hold a meeting via teleconference on Wednesday July 15, 2020, at 2:00 p.m. ET for the purpose of discussing civil rights concerns in the state.

DATES: The meeting will be held on Wednesday July 15, 2020 at 2:00 p.m. ET.

Public Call Information: Dial: 800–367–2403; Conference ID: 9156054.

FOR FURTHER INFORMATION CONTACT: Mallory Trachtenberg, DFO, at *mtrachtenberg@usccr.gov* or 202–809–9618.

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. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to Mallory Trachtenberg at *mtrachtenberg@usccr.gov* in the Regional Program Unit Office/Advisory Committee Management Unit. Persons who desire additional information may contact the Regional Program Unit may contact the Regional Programs Unit Office at 202–809–9618.

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, Indiana Advisory Committee link. Persons interested in the work of this Committee are also directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Unit office at the above email or phone number.

Agenda

1. Welcome and Roll Call
2. Approval of Minutes
3. Discussion: Lead Poisoning in Indiana
4. Public Comment
5. Next Steps
6. Adjournment

Dated: June 9, 2020.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020–12803 Filed 6–12–20; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Delaware Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a planning meeting of the Delaware Advisory Committee to the Commission will convene by conference call, on Wednesday, July 1, 2020 at 1:00 p.m. (EDT). The purpose of the meeting is to hold its first organizational and project planning meeting.

DATES: Wednesday, July 1, 2020 at 1:00 p.m. (EDT).

Public Call-In Information: Conference call number: 1–800–367–2403 and conference call ID: 4195799.

FOR FURTHER INFORMATION CONTACT: Ivy L. Davis, at *ero@usccr.gov* or by phone at 202–376–7533

SUPPLEMENTARY INFORMATION: Interested members of the public may listen to the discussion by calling the following toll-free conference call number: 1–800–367–2403 and conference call ID: 4195799. Please be advised that before placing them into the conference call, the conference call operator may ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number herein.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1–800–877–8339 and providing the operator with the toll-free conference call number:1–800–822–2024 and conference call ID: 4195799.

Members of the public are invited make statements during the Public Comment section of the meeting or to submit written comments; the written comments must be received in the regional office approximately 30 days after each scheduled meeting. Written comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425 or emailed to Evelyn Bohor at *ero@usccr.gov.* Persons who desire additional information may contact the Eastern Regional Office at (202) 376–7533.

Records and documents discussed during the meeting will be available for public viewing, as they become available at this FACA link, click the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meetings. Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Eastern Regional Office at the above phone number, email or street address.

Agenda

Wednesday, July 1, 2020 at 1:00 p.m. (EDT)

I. Welcome and Roll Call
II. Project Planning
III. Other Business
IV. Next Planning Meeting
V. Public Comments
VI. Next Meeting
VII. Adjourn

Dated: June 9, 2020.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020–12802 Filed 6–12–20; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; 5-Year Record Retention Requirement for Export and Boycott Transactions

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on 4/6/2020 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: Bureau of Industry and Security.

Title: 5-Year Record Retention Requirement for Export and Boycott Transactions.

OMB Control Number: 0694–0096.

Form Number(s): None.

Type of Request: Extension of a current information collection.

Number of Respondents: 100,000.

Average Hours Per Response: 1 Second to 1 Minute.

Burden Hours: 258.

Needs and Uses: This collection is necessary under Sections 760 and 762.6(a) of the Export Administration Regulations (EAR). The five-year retention requirement corresponds with the statute of limitations for violations and is necessary to preserve potential evidence for investigations. All parties involved in the export, reexport, transshipment or diversion of items subject to the EAR and the U.S. party involved in the export transaction involving a reportable boycott request are required to maintain records of these activities for a period of five years. The frequency depends upon how often each entity is involved in an export transaction or one involving a reportable boycott request.

Affected Public: Business or other for-profit organizations.

Frequency: On Occasion.

Respondent's Obligation: Voluntary.

Legal Authority: Export Control Reform Act 4812(b) and 4814(b)(1)(B).

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the collection or the OMB Control Number 0694–0096.

Sheleen Dumas,

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

[FR Doc. 2020–12852 Filed 6–12–20; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

ENVIRONMENTAL PROTECTION AGENCY

Coastal Nonpoint Pollution Control Program: Intent to Find that Washington has Satisfied All Conditions of Approval Placed on its Coastal Nonpoint Pollution Control Program

AGENCY: National Oceanic and Atmospheric Administration, U.S. Department of Commerce, and U.S. Environmental Protection Agency.

ACTION: Notice of availability of proposed finding; request for comments.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) and the U.S. Environmental Protection Agency (EPA) (the Federal agencies) invite public comment on the agencies' proposed finding that Washington has satisfied all conditions the agencies established as part of their 1998 approval of the State's coastal nonpoint pollution control program (coastal nonpoint program). The Coastal Zone Act Reauthorization Amendments (CZARA) directs states and territories with coastal zone management programs previously approved under Section 306 of the Coastal Zone Management Act to develop and implement coastal nonpoint programs, which must be submitted to the Federal agencies for approval. Prior to making such a finding, NOAA and the EPA invite public input on the two Federal agencies' rationale for this proposed finding.

DATES: Individuals or organizations wishing to submit comments on the proposed findings document should do so by August 14, 2020.

ADDRESSES: Comments may be submitted by:

- *Electronic Submission:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to *www.regulations.gov/docket?D=NOAA-NOS-2019-0135,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Joelle Gore, Chief, Stewardship Division (N/OCM6), Office for Coastal Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910; phone (240) 533–0813; ATTN: Washington Coastal Nonpoint Program.

Instructions: All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personally identifiable information (for example, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the commenter will be publicly accessible. NOAA and EPA will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The federal agencies will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system).

FOR FURTHER INFORMATION CONTACT: Copies of the proposed findings document may be found on *www.regulations.gov/docket?D=NOAA-NOS-2019-0135* and NOAA's Coastal Nonpoint Pollution Control Program website at *https://coast.noaa.gov/czm/pollutioncontrol/.* Additional background information on the state's program may be obtained upon request from: Allison Castellan, Stewardship Division (N/OCM6), Office for Coastal Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910, phone (240) 533–0799, email: *allison.castellan@noaa.gov;* or Michelle Wilcox, U.S. EPA Region 10, Washington Operations Office, 300 Desmond Drive, SE, Suite 102, Lacey, WA 98503, phone: (360) 753–9469, email: *wilcox.michelle@epa.gov.*

SUPPLEMENTARY INFORMATION: Section 6217(a) of the Coastal Zone Act Reauthorization Amendments (CZARA), 16 U.S.C. 1455b(a), requires that each state (or territory) with a coastal zone management program previously approved under section 306 of the Coastal Zone Management Act must prepare and submit to the federal agencies a coastal nonpoint pollution control program for approval. Washington originally submitted its program to the Federal agencies for approval in September 1995. The Federal agencies provided public notice of and invited public comment on their proposal to approve, with conditions, the Washington program (63 FR 27055). The Federal agencies approved the program by letter dated June 30, 1998, subject to the conditions specified in the letter (63 FR 37094). The Federal agencies propose to find, and invite public comment on the proposed findings, that Washington has now fully satisfied all conditions (of the earlier

approval) of its coastal nonpoint program.

The proposed findings document for Washington's program is available at *www.regulations.gov/docket?D=NOAA-NOS-2019-0135* and information on the Coastal Nonpoint Program in general is available on the NOAA website at *https://coast.noaa.gov/czm/pollutioncontrol/.*

Nicole R. LeBoeuf,

Deputy Assistant Administrator for Ocean Services, National Oceanic and Atmospheric Administration.

David P. Ross,

Assistant Administratorfor Office of Water, Environmental Protection Agency.

[FR Doc. 2020–12670 Filed 6–12–20; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration (NOAA)

Research and Development Enterprise Committee (RDEC); Notice of Availability of NOAA Research and Development Vision Areas: 2020–2026

AGENCY: Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of availability of the NOAA Research and Development Vision Areas: 2020–2026; and associated response to public comments.

SUMMARY: Notice is hereby given that the National Oceanic and Atmospheric Administration (NOAA) has published the NOAA Research and Development Vision Areas: 2020–2026. Notices for public comments during the drafting of the document were published in the **Federal Register** on December 10, 2018 (*83 FR 63482*) and July 10, 2019 (*84 FR 33240*). NOAA has also released the Response to Public Comments collected during the public comment periods.

DATES: This notice is applicable June 15, 2020.

ADDRESSES: Copies of the NOAA Research and Development Vision Areas: 2020–2026 and Response to Public Comments can be downloaded or viewed on the internet at *https://nrc.noaa.gov/CouncilProducts/ResearchPlans.aspx.*

FOR FURTHER INFORMATION CONTACT: Dr. Gary Matlock, Deputy Assistant Administrator for Science, NOAA, Rm. 11461, 1315 East-West Highway, Silver Spring, Maryland 20910. (Phone: 301–734–1185, Email: *gary.c.matlock@noaa.gov*); or visit the NOAA RDEC website at *https://nrc.noaa.gov/About/Committees.aspx.*

SUPPLEMENTARY INFORMATION: NOAA R&D is an investment in the scientific knowledge and technology that will allow the United States to protect lives and property, sustain a strong economy, manage natural resources, and foster improved readiness in response to challenges from the rapidly changing environment. The NOAA Research and Development Vision Areas: 2020–2026 will provide a common understanding among NOAA's leadership, workforce, partners, and constituents on the value and direction of NOAA R&D activities. Public input was solicited twice during the development of the draft document. NOAA's response to the public comments is available electronically on the website listed in the **ADDRESSES** section of this notice.

Dated: June 9, 2020.

Eric Locklear,

Deputy Chief Financial Officer/Administrative Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2020–12857 Filed 6–12–20; 8:45 am]

BILLING CODE 3510–KD–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA227]

Gulf of Mexico 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 Gulf of Mexico Fishery Management Council (Council) will hold a meeting via webinar of its Standing, Reef Fish, Mackerel, Spiny Lobster, Red Drum, Ecosystem and Socioeconomic Scientific and Statistical Committees (SSC).

DATES: The webinar will be held on Monday, June 29, 2020, from 10 a.m. to 12 p.m., EDT.

ADDRESSES: The meeting will take place via webinar; you may register by visiting *www.gulfcouncil.org* and clicking on the SSC meeting on the calendar.

Council address: Gulf of Mexico Fishery Management Council, 4107 W Spruce Street, Suite 200, Tampa, FL 33607; telephone: (813) 348–1630.

FOR FURTHER INFORMATION CONTACT: Dr. John Froeschke, Deputy Director, Gulf of Mexico Fishery Management Council; *john.froeschke@gulfcouncil.org,* telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION:

Monday, June 29, 2020; 10 a.m.–12 p.m.

The meeting will begin with Introductions, Adoption of Agenda and Approval of Minutes from the June 1, 2020 webinar meeting; and, review of the Scope of Work.

The Committees will review National Marine Fisheries Service's (NMFS) Procedural Guidance for Changing Assessed Stock Status from Known to Unknown; and, the Council's Draft Comment letter.

The Committees will review any other business items, during which any public comments will be heard.

—Meeting Adjourns

The meeting will be broadcast via webinar. You may register for the webinar by visiting *www.gulfcouncil.org* and clicking on the SSC meeting on the calendar.

The Agenda is subject to change, and the latest version along with other meeting materials will be posted on *www.gulfcouncil.org* as they become available.

Although other non-emergency issues not on the agenda may come before the Scientific and Statistical Committees for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Actions of the Scientific and Statistical Committee will be restricted to those issues specifically identified in the agenda and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take action to address the emergency.

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

Dated: June 10, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–12835 Filed 6–12–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA228]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Climate and Communities Core Team (CCCT) will hold an online meeting, which is open to the public.

DATES: The online meeting will be held Wednesday, July 1, 2020, from 1:30 to 4:30 p.m.

ADDRESSES: This meeting will be held online. Specific meeting information, including directions on how to join the meeting and system requirements will be provided in the meeting announcement on the Council's website (see *www.pcouncil.org*). You may send an email to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov*) or contact him at (503) 820–2280, extension 412 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Kit Dahl, Staff Officer, Pacific Council; telephone: (503) 820–2422.

SUPPLEMENTARY INFORMATION: The CCCT is overseeing a climate change scenario planning process as part of the Council's Fishery Ecosystem Plan Climate and Communities Initiative. During this meeting, the CCCT will discuss finalization of four scenarios that describe possible conditions facing West Coast fisheries and communities, over the period 2020–2040. These scenarios were initially developed at a January 2020 workshop and at the direction of the Council have been undergoing refinement. Based on input from Council advisory bodies, the CCCT will finalize the scenarios for use in phase two of the scenario planning process. The second phase will use a series of workshops to consider the policy and strategic planning implications of conditions described in the scenarios. The CCCT will also begin planning these workshops during this meeting.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov;* (503) 820–2412) at least 10 days prior to the meeting date.

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

Dated: June 10, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–12836 Filed 6–12–20; 8:45 am]

BILLING CODE 3510–22–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No. CFPB–2020–0017]

Agency Information Collection Activities: Comment Request

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Bureau of Consumer Financial Protection (Bureau) is requesting to renew the Office of Management and Budget's (OMB's) approval for an existing information collection titled, ''Fair Credit Reporting Act (Regulation V).''

DATES: Written comments are encouraged and must be received on or before August 14, 2020 to be assured of consideration.

ADDRESSES: You may submit comments, identified by the title of the information collection, OMB Control Number (see below), and docket number (see above), by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: PRA_Comments@cfpb.gov.* Include Docket No. CFPB–2020–0017 in the subject line of the message.
- *Mail/Hand Delivery/Courier:* Consumer Financial Protection Bureau (Attention: PRA Office), 1700 G Street, NW, Washington, DC 20552. Please note that due to circumstances associated with the COVID–19 pandemic, the Bureau discourages the submission of comments by mail, hand delivery, or courier.

Please note that comments submitted after the comment period will not be accepted. In general, all comments received will become public records, including any personal information provided. Sensitive personal information, such as account numbers or Social Security numbers, should not be included.

FOR FURTHER INFORMATION CONTACT: Documentation prepared in support of this information collection request is available at *www.regulations.gov.* Requests for additional information should be directed to Darrin King, PRA Officer, at (202) 435–9575, or email: *CFPB_PRA@cfpb.gov.* If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.* Please do not submit comments to this mailbox.

SUPPLEMENTARY INFORMATION:

Title of Collection: Fair Credit Reporting Act (Regulation V) 12 CFR 1022.

OMB Control Number: 3170–0002.

Type of Review: Extension without change of a currently-approved collection.

Affected Public: Business or other for profit.

Estimated Number of Respondents: 779,073.

Estimated Total Annual Burden Hours: 6,246,866.

Abstract: The consumer disclosures included in Regulation V are designed to alert consumers that a financial institution furnished negative information about them to a consumer reporting agency, that they have a right to opt out of receiving marketing materials and credit or insurance offers, that their credit report was used in setting the material terms of credit that may be less favorable than the terms offered to consumers with better credit histories, that they maintain certain rights with respect to a theft of their identity that they reported to a consumer reporting agency, that they maintain rights with respect to knowing what is in their consumer reporting agency file, that they can request a free credit report, that they can report a theft of their identity to the Bureau, and that they maintain rights with respect to obtaining a security freeze. Consumers then can use the information provided to consider how and when to check and use their credit reports.

Request for Comments: Comments are invited on: (a) Whether the collection of information is necessary for the proper

performance of the functions of the Bureau, including whether the information will have practical utility; (b) The accuracy of the Bureau's estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Dated: June 1, 2020.

Darrin King,

Paperwork Reduction Act Officer, Bureau of Consumer Financial Protection.

[FR Doc. 2020–12853 Filed 6–12–20; 8:45 am]

BILLING CODE 4810–AM–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. 2011–0014]

Agency Information Collection Activities: Proposed Collection; Comment Request; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act of 1995, the Consumer Product Safety Commission (CPSC or Commission) requests comments on a proposed extension of approval of a generic clearance for the collection of qualitative feedback on agency service delivery. The Office of Management and Budget (OMB) previously approved the collection of information under control number 3041–0148. OMB's most recent extension of approval will expire on September 30, 2020. The Commission will consider all comments received in response to this notice before requesting an extension of approval of this collection of information from OMB.

DATES: Submit written or electronic comments on the collection of information by August 14, 2020.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2011–0014, 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. *Instructions:* All submissions received must include the agency name and docket number for this notice. All comments received may be posted 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–2011–0014, into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Cynthia Gillham, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; (301) 504–7791, or by email to: *cgillham@cpsc.gov.*

SUPPLEMENTARY INFORMATION: CPSC seeks to renew the following currently approved collection of information:

A. Burden Hours

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

Abstract: The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner to improve service delivery. Below we provide the CPSC's projected average estimates of qualitative surveys, focus groups, customer satisfaction surveys, and usability tests for the next 3 years.

Current Actions: Renewal of collection of information.

Type of Review: Renewal.

Affected Public: Individuals and households, businesses and organizations, state, local, or tribal government.

Average Expected Annual Number of Activities: Eight activities, including qualitative surveys, focus groups, customer satisfaction surveys, and usability tests.

Annual Number of Respondents: 1,600.*Annual responses:* 1,600 *Frequency of Response:* Once per request *Average minutes per response:* 45 minutes per response.

Annual Burden hours: 1,200 An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection of information displays a currently valid OMB control number.

General Description of Collection: The CPSC will collect, analyze, and interpret information gathered through this generic clearance to identify strengths and weaknesses of current services and make improvements in service delivery based on feedback. The solicitation of feedback will target areas such as: timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. Responses will be assessed to plan and inform efforts to improve or maintain the quality of service offered to the public.

B. Request for Comments

The Commission solicits written comments from all interested persons about the proposed collection of information. The Commission specifically solicits information relevant to the following topics:

- Whether the collection of information described above is necessary for the proper performance of the Commission's functions, including whether the information would have practical utility;
- Whether the estimated burden of the proposed collection of information is accurate;
- Whether the quality, utility, and clarity of the information to be collected could be enhanced; and
- Whether the burden imposed by the collection of information could be minimized by use of automated, electronic, or other forms of information technology.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2020–12783 Filed 6–12–20; 8:45 am]

BILLING CODE 6355–01–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2010–0046]

Agency Information Collection Activities; Proposed Collection; Comment Request; Consumer Focus Groups

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act of 1995, the Consumer Product Safety Commission (CPSC or Commission) requests comments on a proposed extension of approval of a collection of information from persons who may voluntarily participate in consumer focus groups. The Office of Management and Budget (OMB) previously approved the collection of information under control number 3041–0136. OMB's most recent extension of approval will expire on September 30, 2020. The Commission will consider all comments received in response to this notice before requesting an extension of this collection of information from OMB.

DATES: Submit written or electronic comments on the collection of information by August 14, 2020.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2010–0046, 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.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received may be posted 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–2010–0046, into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Cynthia Gillham, Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; (301) 504–7791, or by email to: *cgillham@cpsc.gov.*

SUPPLEMENTARY INFORMATION: CPSC seeks to renew the following currently approved collection of information:

A. Burden Hours

Title: Consumer Focus Groups.
OMB Number: 3041–0136.
Type of Review: Renewal of collection.
Frequency of Response: On occasion.
Affected Public: Consumers.
Estimated Number of Respondents: 650 participants.
Estimated Time per Response: 3 hours.
Total Estimated Annual Burden: 1,950 hours (650 participants × 3 hours).
General Description of Collection: Section 5(a) of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2054(a), authorizes the Commission to conduct studies and investigations relating to the causes and prevention of deaths, accidents, injuries, illnesses, other health impairments, and economic losses associated with consumer products. Section 5(b) of the CPSA, 15 U.S.C. 2054(b), further provides that the Commission may conduct research, studies, and investigations on the safety of consumer products, or test consumer products and develop product safety test methods and testing devices.

To help identify and evaluate product-related incidents, Commission staff invites and obtains direct feedback from consumers on issues related to product safety, such as recall effectiveness, product use, and perceptions regarding safety issues. The information that the CPSC collects from future focus groups will help inform the Commission's identification and evaluation of consumer products and product use, by providing insight and information into consumer perceptions and usage patterns. In some cases, one-on-one interviews may be conducted as a more in-depth extension of a focus group, or in place of a traditional focus group. This information may also assist the Commission in its efforts to support voluntary standards activities and help CPSC identify consumer safety issues requiring additional research. In addition, based on the information obtained, CPSC may be able to provide safety information to the public that is easier to read and understood by a wider range of consumers.

B. Request for Comments

The Commission solicits written comments from all interested persons about the proposed collection of information. The Commission specifically solicits information relevant to the following topics:

- Whether the collection of information described above is necessary for the proper performance of the Commission's functions, including whether the information would have practical utility;
- Whether the estimated burden of the proposed collection of information is accurate;
- Whether the quality, utility, and clarity of the information to be collected could be enhanced; and
- Whether the burden imposed by the collection of information could be minimized by use of automated, electronic, or other technological collection techniques, or other forms of information technology.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2020–12782 Filed 6–12–20; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2020–HA–0060]

Privacy Act of 1974; System of Records

AGENCY: Defense Health Agency (DHA), Department of Defense (DoD).

ACTION: Notice of a modified System of Records.

SUMMARY: DHA is modifying the System of Records titled, ''Military Health Information System (MHIS),'' EDHA 07 to facilitate public health activities and research efforts in response to the COVID–19 pandemic. In addition, this System of Records will become the DoD-wide SORN with enterprise application across the department. The proposed modifications include clarifying the purposes for the handling and use of data to improve quality assurance within healthcare operations (such as

data analytics and clinical research) to address COVID–19. Modifications also include broadening the categories of individuals to cover all associated information systems and updating routine uses to enable better collaboration with federal agencies and academic institutions to accommodate the COVID–19 Insights Project. The Military Health Information System (MHIS) collects and maintains data that supports benefits determination for Military Health System (MHS) beneficiaries between the DoD, Department of Veterans Affairs (VA), and Department of Health and Human Services (HHS) healthcare programs. This data also provides Federal Agencies the ability to support continuity of care for patrons, ensures more efficient adjudication of claims, enables quality assurance and healthcare operations, and supports a myriad of healthcare policy, public health, military mission, data analysis, and clinical research activities.

DATES: This System of Records modification is effective upon publication; however, comments on the Routine Uses will be accepted on or before July 15, 2020. The Routine Uses are effective at the close of the comment period.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods.

* *Federal Rulemaking Portal: https://www.regulations.gov.*

Follow the instructions for submitting comments.

* *Mail:* DoD cannot receive written comments at this time due to the COVID–19 pandemic. Comments should be sent electronically to the docket listed above.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *https://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Rahwa A. Keleta, Chief, Defense Health Agency, Privacy and Civil Liberties Office, 7700 Arlington Boulevard, Suite 5101, Falls Church, VA 22042–5101, or by phone at (703) 275–6363.

SUPPLEMENTARY INFORMATION: The DHA is modifying this System of Records to facilitate public health activities and research efforts in response to the COVID–19 pandemic. This modification is necessary to enable the sharing of information with other federal agencies and academic institutions to process and analyze data to further the federal government's public health mission and medical research goals. This effort is especially urgent due to the current COVID–19 pandemic; and these modifications are also anticipated to assist in responding to future public health emergencies.

The statutory intent behind this System of Records is the provision of medical and dental care, financial compensation for military members and beneficiaries, support to military readiness, enhancement for public health institutions, and advancements in medical research. The statute also facilitates disclosure of records in accordance with the Health Insurance Portability and Accountability Act (HIPAA).

The DoD notices for Systems of Records subject to the Privacy Act of 1974, as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or at the Defense Privacy, Civil Liberties and Transparency Division website at *https://dpcld.defense.gov.*

The proposed system reports, as required by the Privacy Act, were submitted on May 28, 2020, to the House Committee on Oversight and Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to Section 6 of OMB Circular No. A–108, ''Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act,'' revised December 23, 2016 (December 23, 2016, 81 FR 94424).

Dated: June 10, 2020.

Aaron T. Siegel,

Alternate OSD **Federal Register** *Liaison Officer, Department of Defense.*

SYSTEM NAME AND NUMBER:

Military Health Information System, EDHA 07.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Defense Health Agency (DHA), Electronic Health Records (EHR) Core Program Office, 7700 Arlington Boulevard, Falls Church, VA 22042–510.

SYSTEM MANAGER(S):

Program Manager, EHR Core Program Office, 1700 N Moore Street, Suite 2300, Arlington, VA 22209.

dha.ncr.peo-ipo.mbx.peo-dhms-communications@mail.mil.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 104–191, Health Insurance Portability and Accountability Act of 1996; 10 U.S.C., Chapter Ch. 55, Medical and Dental Care; 10 U.S.C. 1097a, TRICARE Prime: Automatic Enrollments; Payment Options; 10 U.S.C. 1097b, TRICARE Prime and TRICARE Program: Financial Management; 10 U.S.C. 1079, Contracts for Medical Care for Spouses and Children: Plans; 10 U.S.C. 1079a, TRICARE Program: Treatment of Refunds and Other Amounts Collected Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); 10 U.S.C. 1086, Contracts for Health Benefits for Certain Members, Former Members, and Their Dependents; 10 U.S.C. 1095, Health Care Services Incurred on behalf of Covered Beneficiaries: Collection From Third-party Payers; 42 U.S.C. 290dd, Substance Abuse Among Government and Other Employees; 42 U.S.C. 290dd–2, Confidentiality Of Records; 42 U.S.C 42 U.S.C. Ch. 117, Sections 11131–11152, Reporting of Information; 45 CFR 164, Security and Privacy; Department of Defense (DoD) Instruction 6015.23, Foreign Military Personnel Care and Uniform Business Offices in Military Treatment Facilities (MTFS); DoD 6025.18–R, DoD Health Information Privacy Regulation; and E.O. 9397 (SSN).

PURPOSE(S) OF THE SYSTEM:

The MHIS collects and maintains data that supports benefits determination for Military Health System (MHS) beneficiaries between DoD, Department of Veterans Affairs (VA), and Department of Health and Human Services (HHS) healthcare programs. The MHIS collects and maintains data used to authenticate and identify American Red Cross volunteers and United Service Organizations granted privileges and access to DoD facilities. This data provides Federal Agencies the ability to support continuity of care for patrons, ensures more efficient adjudication of claims, enables quality assurance and healthcare operations, and supports a myriad of healthcare policy, public health, military mission, data analysis, and clinical research activities. The system documents and tracks environmental health data, deployment information, and data used to perform disease management. The system also maintains data used in proactive health intervention activities. Data is used for research and data analysis to support military missions, improve safety, and advance military technology. Continuity of care includes maintaining data for patient

administration (including registration, admission, disposition and transfer); patient appointments and scheduling delivery of managed care; workload and medical services accounting; and quality assurance. Data collected and maintained is also used to capture demographics and perform trend analysis.

The information stored in this system consists of personally identifiable information (PII) protected by the Privacy Act and personal health information (PHI) protected by the Health Insurance Portability and Accountability Act (HIPAA). The DoD Health Information Privacy Regulation (DoD 6025.18–R) issued pursuant to the HIPAA of 1996, applies to most health information. DoD 6025.18–R may place additional procedural requirements on the uses and disclosures of such information beyond those found in the Privacy Act of 1974 or mentioned in this System of Records Notice (SORN).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members, former members, retirees, civilian employees (includes non-appropriated fund) and contractor employees of the DoD and all of the Uniformed Services; Presidential appointees of all Federal Government agencies; Medal of Honor recipients; U.S. Military Academy students; Lighthouse Service, DoD and VA beneficiaries (*e.g.* dependent family members, legal guardians and other protectors, prior military eligible for VA benefits, Non-DoD Beneficiary and DoD Beneficiary, a person who receives benefits from the DoD based on prior association, condition or authorization, an example is a former spouse; Former member (Reserve service, discharged from Ready Reserve or Selective Reserve following notification of retirement eligibility); non-Federal agency civilian associates and other individuals granted DoD privileges, benefits, or physical or logical access to military installations (*e.g.,* American Red Cross paid employees, United Service Organization (USO), Intergovernmental Personnel Act Employees (IPA), Boy and Girl Scout Professionals, non-DoD contract employees); members of the public treated for a medical emergency in a DoD or joint DoD/VA medical facility; Non-DoD Civilian employee; and individuals requiring a Common Access Card to access DoD information technology applications (*i.e.,* Department of Homeland Security employees, state National Guard Employees, and Affiliated Volunteers); Civilian Retirees; DoD Outside of the Continental United States (OCONUS) Hires; Foreign Army; Foreign Navy; Foreign Marine Corps; Foreign Air Force; and Foreign Coast Guard.

CATEGORIES OF RECORDS IN THE SYSTEM:

Eligibility and Enrollment Data: Selected electronic data elements extracted from the Defense Enrollment Eligibility Reporting System (DEERS) regarding personal eligibility for and enrollment in various health care programs within the DoD and among DoD and other federal healthcare programs including those of the VA, the HHS, and contracted health care provided through funding provided by one of these three Departments. Personal data includes: Name; DoD ID number; Social Security Number (SSN); address; email address(es); date of birth; gender; branch of service; citizenship; DoD Benefits number; DEERS ID number; sponsorship and beneficiary information; race and ethnic origin; religious preference;

Emergency Data information may include spouse's name and address; children's names, dates of birth, address and telephone number; parents' names, addresses and telephone numbers; or emergency contact's name and address;

Employment Information: Employment status; duty position; email address(es); leave balances and history; work schedules; individual personnel records; time and attendance records; retirement records, sponsor duty location, unit of assignment; occupation; rank; skill specialty; security clearance information.

Personal Financial Information: Pay, wage, earnings information; separation information; financial benefit records; income tax withholding records; accounting records.

Medical Readiness and Deployment Information: Inpatient and outpatient medical records; diagnosis codes; admission and discharge dates; location of care; pharmacy records; immunization records; Medical and Physical Evaluation Board records; neuropsychological functioning and cognitive testing data; periodic and deployment-related health assessments.

Clinical Encounter Data: Electronic data regarding beneficiaries' interaction with the MHS including health care encounters, health care screenings and education, wellness and satisfaction surveys, and cost data relative to such healthcare interactions. Electronic data regarding Military Health System beneficiaries' interactions with the VA or HHS healthcare delivery programs where such programs effect benefits determinations between these Department-level programs, continuity of clinical care, or effect payment for care between Departmental programs inclusive of care provided by commercial entities under contract to these three Departments.

Electronic data regarding dental tests, pharmacy prescriptions and reports, data incorporating medical nutrition therapy and medical food management, data for young MHS beneficiaries eligible for services from the military medical departments covered by the Individuals with Disabilities Educations Act (IDEA). Data collected within the system also allows beneficiaries to request an accounting of who was given access to their medical records prior to the date of request. It tracks disclosure types, treatment, payment and other Health Care Operations (TPO) versus non-TPO, captures key information about disclosures, process complaints, process and track request for amendments to records, generates disclosure accounting and audit reports, retains history of disclosure accounting processing. The Protected Health Management Information Tool (PHMIT), an electronic disclosure-tracking tool, assists in complying with the HIPAA Privacy disclosure accounting requirement. The PHIMT stores information about all disclosures, complaints, authorizations, restrictions and confidential communications that are made about or requested by a particular patient.

Occupational and Environmental Exposure Data: Electronic data supporting exposure-based medical surveillance; reports of incidental exposures enhanced industrial hygiene risk reduction; improved quality of occupational health care and wellness programs for the DoD workforce; hearing conservation, industrial hygiene and occupational medicine programs within the MHS; and timely and efficient access of data and information to authorized system users.

RECORD SOURCE CATEGORIES:

Individuals; all DoD databases flowing into or accessed through the following integrated data systems, environments, applications, and tools: The Composite Health Care System (CHCS) and individual Service readiness applications, contractor systems providing clinical results, personnel systems, workload management systems; Defense Manpower Data Center, other developers (Lab Corp, Quest and EpiLab to perform patient specimen laboratory testing); DEERS; and all other systems within the DoD systems' repository that meets the regulatory requirements of this System of Records notice collection. Military Departments' medical

treatment facilities, Medical Centers and Hospitals: Uniformed Services Treatment Facilities, and commercial healthcare providers; HHS; VA, and any other source financed through the Defense Health Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, these records may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

a. To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Federal Government when necessary to accomplish an agency function related to this System of Records.

b. To permit the disclosure of records to the HHS and its components, other federal agencies, and academic institutions for the purposes of public health activities and conducting research, including to facilitate collaborative research activities.

c. To the Congressional Budget Office for projecting costs and workloads associated with DoD Medical benefits.

d. To the VA for the purpose of providing medical care to former service members and retirees, to determine the eligibility for or entitlement to benefits, to coordinate cost sharing activities, and to facilitate collaborative research activities between the DoD and VA.

e. To the National Research Council, National Academy of Sciences, National Institutes of Health, Armed Forces Institute of Pathology, and similar institutions for authorized health research in the interest of the Federal Government and the public.

f. To local and state government and agencies for compliance with local laws and regulations governing control of communicable diseases, preventive medicine and safety, child abuse, and other public health and welfare programs.

g. To federal offices and agencies involved in the documentation and review of defense occupational and environmental exposure data.

h. To the appropriate Federal, State, local, territorial, tribal, foreign, or international law enforcement authority or other appropriate entity where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law, whether criminal, civil, or regulatory in nature.

i. To any component of the Department of Justice for the purpose of representing the DoD, or its components, officers, employees, or members in pending or potential litigation to which the record is pertinent.

j. In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body or official, when the DoD or other Agency representing the DoD determines the records are relevant and necessary to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

k. To the National Archives and Records Administration for the purpose of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

l. To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

m. To appropriate agencies, entities, and persons when (1) the DoD suspects or confirms a breach of the System of Records; (2) the DoD determined as a result of the suspected or confirmed breach there is a risk of harm to individuals, the DoD (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the DoD's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

n. To another Federal agency or Federal entity, when the DoD determines information from this System of Records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Electronic and paper.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Name, SSN, Beneficiary ID (sponsor's ID, patient's name, patient's DOB, and family member prefix or DEERS dependent suffix), diagnosis codes, admission and discharge dates, location of care or any combination of the above.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Temporary. Cut off upon last episode of patient care or last entry to the patient record is annotated. Delete/Destroy when 75 years old.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Multifactor log-in authentication including CAC authentication and password. Access controls enforce need-to-know policies so only authorized users have access to PII and/or PHI. Additionally, security audit and accountability policies and procedures directly support privacy and accountability procedures. Network encryption protects data transmitted over the network while disk encryption secures the disks storing data. Key management services safeguards encryption keys. Sensitive data is identified and masked as practicable. All individuals granted access to this System of Records must complete requisite training to include Information Assurance and Privacy Act training. Sensitive data will be identified, properly marked with access by only those with a need to know, and safeguarded as appropriate.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this System of Records should address written inquiries to the Chief, Freedom of Information Act (FOIA) Service Center, Defense Health Agency, Privacy and Civil Liberties Office, 7700 Arlington Boulevard, Suite 5101, Falls Church, VA 22042–5101.

Written requests for information should include the individual's full name, home address, home phone number, and SSN/DoD ID number, the identifier of this SORN, and signature. If requesting information about a legally incompetent person, the request must be made by the legal guardian or person with legal authority to make decisions on behalf of the individual. Written proof of that status may be required before any records will be provided. In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).''

If executed within the United States, its territories, possessions, or

commonwealths: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).''

CONTESTING RECORD PROCEDURES:

The DoD rules for accessing records, for contesting contents and appealing initial agency determinations are published in 32 CFR part 310, or may be obtained from the system manager.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether information about themselves is contained in this System of Records should address written inquiries to Chief, Freedom of Information Act (FOIA) Service Center, Defense Health Agency, Privacy and Civil Liberties Office, 7700 Arlington Boulevard, Suite 5101, Falls Church, VA 22042–5101.

Written requests should contain the individual's full name, home address, home phone number, and SSN/DoD ID number, the identifier of this SORN, and signature. If requesting information about a legally incompetent person, the request must be made by the legal guardian or person with legal authority to make decisions on behalf of the individual. Written proof of that status may be required before the existence of any information will be confirmed. In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).''

If executed within the United States, its territories, possessions, or commonwealths: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).''

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

March 30, 2006, 71 FR 16127; November 18, 2013, 78 FR 69076.

[FR Doc. 2020–12839 Filed 6–12–20; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2020–SCC–0092]

Agency Information Collection Activities; Comment Request; Statewide Family Engagement Centers—Annual Performance Reporting Form

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before August 14, 2020.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2020–SCC–0092. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave SW, LBJ, Room 6W–208D, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Yeh, 202–205–5798.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Statewide Family Engagement Centers—Annual Performance Reporting Form.

OMB Control Number: 1810–NEW.

Type of Review: A new information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 12.

Total Estimated Number of Annual Burden Hours: 114.

Abstract: This is a request for a new information collection in order to collect the Annual Performance Report (APR) for the Statewide Family Engagement Centers (SFEC) program. The collection of this information is part of the government-wide effort to improve the performance and accountability of all federal programs, under the Government Performance and Results Act (GPRA) passed in 1993, the Uniform Guidance, and the Education Department General Administrative Regulations (EDGAR). Under GPRA, a process for using performance indicators to set program performance goals and to measure and report program results was established. To implement GPRA, ED developed GPRA measures at every program level to quantify and report program progress required by the Elementary and Secondary Education Act of 1965 (ESEA), as amended. Under the Uniform Guidance and EDGAR, recipients of federal awards are required to submit performance and financial expenditure information. The GPRA program level measures and budget information for the Statewide Family Engagement Centers (SFEC) Program are reported in the Annual Performance Report (APR). The APR is required under 2 CFR 200.328 and 34 CFR 75.118 and 75.590. The

annual report provides data on the status of the funded project that corresponds to the scope and objectives established in the approved application and any amendments. To ensure that accurate and reliable data are reported to Congress on program implementation and performance outcomes, the SFEC APR collects the raw data from grantees in a consistent format to calculate these data in the aggregate.

Dated: June 10, 2020.

Kate Mullan,

PRA Coordinator, Strategic Collections and Clearance Governance and Strategy Division, Office of Chief Data Officer.

[FR Doc. 2020–12854 Filed 6–12–20; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2020–SCC–0090]

Agency Information Collection Activities; Comment Request; Master Generic Plan for Customer Surveys and Focus Groups

AGENCY: Department of Education (ED), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before August 14, 2020.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2020–SCC–0090. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave SW, LBJ, Room 6W–208B, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Stephanie Valentine, 202–453–7061.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Master Generic Plan for Customer Surveys and Focus Groups.

OMB Control Number: 1800–0011.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 451,326.

Total Estimated Number of Annual Burden Hours: 115,344.

Abstract: Surveys to be considered under this generic will only include those surveys that improve customer service or collect feedback about a service provided to individuals or entities directly served by ED. The results of these customer surveys will help ED managers plan and implement program improvements and other customer satisfaction initiatives. Focus groups that will be considered under the generic clearance will assess customer satisfaction with a direct service, or will be designed to inform a customer satisfaction survey ED is considering. Surveys that have the potential to influence policy will not be considered under this generic clearance.

Dated: June 9, 2020.

Stephanie Valentine,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2020–12796 Filed 6–12–20; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Waivers Granted Under Section 3511 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act

AGENCY: Office of Career, Technical, and Adult Education, Department of Education.

ACTION: Notice.

SUMMARY: In this notice, we announce waivers that the U.S. Department of Education (Department) granted, within the last 30 days, under the CARES Act.

FOR FURTHER INFORMATION CONTACT: Hugh Reid, U.S. Department of Education, 400 Maryland Avenue SW, Room Potomac Center Plaza (PCP)–11114, Washington, DC 20202. Telephone: (202) 245–7491. Email: *Hugh.Reid@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:

Section 3511(d)(3) of the CARES Act requires the Secretary to publish, in the **Federal Register** and on the Department's website, a notice of the Secretary's decision to grant a waiver. The Secretary must publish this notice no later than 30 days after granting the waiver and the notice must include which waiver was granted and the reason for granting the waiver. This notice is intended to fulfill the Department's obligation to publicize its waiver decisions by identifying the waivers granted under section 3511.

The Department has approved waivers of the following requirement: Section 421(b) of the General Education Provisions Act (GEPA) to extend the period of availability of fiscal year (FY) 2018 funds for programs in which the State educational agency (SEA) participates as the eligible agency until September 30, 2021.

On April 17, 2020 the Secretary delegated authority for programs over

which the Assistant Secretary for Career, Technical, and Adult Education (Assistant Secretary) has administrative authority the authority to grant waivers under the section 3511 of the CARES Act. On May 15, 2020, the Office of Career, Technical, and Adult Education (OCTAE) published a notice in the **Federal Register** (85 FR 29440) announcing 41 waivers that were granted to SEAs. Twenty-eight of those waivers were for State grants authorized by Title I of the Carl D. Perkins Career and Technical Education Act of 2006 (Perkins), and 13 of those waivers were for State grants authorized by Title II of the Workforce Innovation and Opportunity Act (WIOA) (*i.e.,* the Adult Education and Family Literacy Act (AEFLA)).

In the last 30 days, OCTAE granted six waivers to SEAs.

Waiver Data

I. Extensions of the Obligation Period

A. Three waivers were granted to SEAs for State grants authorized by Title I of Perkins, and three waivers were granted to SEAs for State grants authorized by Title II of WIOA (AEFLA).

1. *Provision waived:* Tydings Amendment, section 421(b) of GEPA (*20 U.S.C. 1225*(b)).[1]

Reasons: These waivers were granted under section 421(b) of GEPA to extend the period of availability of FY 2018 funds until September 30, 2021, pursuant to the 2018 Consolidated Appropriations Act (GEPA section 421(b) waivers). It is not possible to obligate funds on a timely basis, as originally planned, due to extensive school and program disruptions in the States. These disruptions are in response to extraordinary circumstances for which a national emergency related to the COVID–19 pandemic has been duly declared by the President of the United States under section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207, and will protect the health and safety of students, staff, and our communities.

Waiver Applicants: The SEA GEPA section 421(b) waiver applicants provided assurance that the SEA will: (1) Use, and ensure that its subgrantees will use, funds under the respective programs in accordance with the provisions of all applicable statutes, regulations, program plans, and applications not subject to these waivers; (2) work to mitigate, and ensure that its subgrantees will work to mitigate, any negative effects that may occur as a result of the requested waiver; and (3) provide the public and all subgrantees in the State with notice of, and the opportunity to comment on, this request by posting information regarding the waiver request and the process for commenting on the State website.

The Assistant Secretary reviewed the SEAs' requests for a GEPA section 421(b) waiver and determined that the following SEAs met the requirements for a GEPA section 421(b) waiver on the dates indicated below:

(1) State grants authorized by Title I of Perkins:

- California Board of Education, May 18, 2020;
- Maryland State Department of Education, June 4, 2020; and
- Wyoming Board of Education, May 21, 2020.

(2) State grants authorized by Title II of WIOA (AEFLA):

- Arizona State Board of Education, May 28, 2020;
- California Board of Education, May 18, 2020; and
- Hawaii State Board of Education, May 19, 2020.

The Assistant Secretary also announced the waiver decisions at: *https://www2.ed.gov/about/offices/list/ovae/pi/covid19/index.html.*

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.

Scott Stump,

Assistant Secretary for Career, Technical, and Adult Education.

[FR Doc. 2020–12794 Filed 6–12–20; 8:45 am]

BILLING CODE 4000–01–P

[1] Section 3511(b) of the CARES Act only authorizes the Secretary to grant waivers requested by SEAs of the Tydings Amendment, section 421(b) of GEPA, to extend the period of availability of State formula grant funds authorized by Perkins and AEFLA. The Department currently does not have the authority to grant a waiver of the Tydings Amendment with respect to Perkins or AEFLA to States in which the SEA is not the grantee for these State-administered programs.

DEPARTMENT OF ENERGY

International Energy Agency Meetings

AGENCY: Department of Energy.

ACTION: Notice of meetings.

SUMMARY: The Industry Advisory Board (IAB) to the International Energy Agency (IEA) will meet on June 23–25, 2020, through a webinar, in connection with a joint meeting of the IEA's Standing Group on Emergency Questions (SEQ) and the IEA's Standing Group on the Oil Market (SOM) which is scheduled at the same time.

DATES: June 23–25, 2020.

ADDRESSES: The location details of the SEQ and SOM webinar meeting are under the control of the IEA Secretariat, located at 9 rue de la Fédération, 75015 Paris, France

FOR FURTHER INFORMATION CONTACT: Thomas Reilly, Assistant General Counsel for International and National Security Programs, Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585, 202–586–5000.

SUPPLEMENTARY INFORMATION: In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(i)) (EPCA), the following notice of meetings is provided:

A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held via a webinar commencing at commencing at 12 noon, Central European Summer Time (CEST) on June 24, 2020. The purpose of this notice is to permit attendance by representatives of U.S. company members of the IAB at a meeting of the IEA's Standing Group on Emergency Questions (SEQ), which is scheduled to be held via webinar at the same time.

The agenda of the meeting is under the control of the SEQ and the SOM. It is expected that the SEQ and the SOM will adopt the following agenda:

1. Introduction
2. Update on the Current Oil Market Report: followed by Q&A
3. Any other business

A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held as a webinar,

commencing at 12 noon, Central European Summer Time (CEST), on June 25, 2020. The purpose of this notice is to permit attendance by representatives of U.S. company members of the IAB at a meeting of the IEA's Standing Group on Emergency Questions (SEQ), which is scheduled to be held via webinar at the same time. The IAB will also hold a preparatory meeting via webinar among company representatives at 14:00 CEST on June 23, 2020. The agenda for this preparatory webinar meeting is to review the agenda for the SEQ meeting.

The location details of the SEQ webinar meeting are under the control of the IEA Secretariat, located at 9 rue de la Fédération, 75015 Paris, France. The agenda of the SEQ meeting is under the control of the SEQ. It is expected that the SEQ will adopt the following agenda:

Closed SEQ Session—IEA Member Countries Only

1. Adoption of the Agenda
2. Approval of the Summary Records of the 159th and 160th Meetings
3. Status of Compliance with IEP Agreement Stockholding Obligations
4. Outreach—including update on Accession process of Lithuania
5. Mid-term Review of Australia
6. 90-day stockholding obligation in 2021
7. Emergency Response Review—Korea
8. Stockholding capacity
9. Mid-term Review of Mexico
10. Oral Reports by Administrations
11. Update on Bilateral Stocks in non-OECD Countries
12. Any Other Business
13. Questionnaire
14. Schedule of ERRs for 2020–2021
15. Schedule of SEQ & SOM Meetings 2019/2020:
    —17–19 November 2020
    —16–18 March 2021
    —22–24 June 2021
    —16–18 November 2021
16. Concluding Remarks

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(ii)), the meetings of the IAB are open to representatives of members of the IAB and their counsel; representatives of members of the IEA's Standing Group on Emergency Questions and the IEA's Standing Group on the Oil Markets; representatives of the Departments of Energy, Justice, and State, the Federal Trade Commission, the General Accounting Office, Committees of Congress, the IEA, and the European Commission; and invitees of the IAB, the SEQ, the SOM, or the IEA.

Signing Authority

This document of the Department of Energy was signed on June 10, 2020, by Thomas Reilly, Assistant General Counsel for International and National Security Programs, 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, June 10, 2020.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2020–12868 Filed 6–12–20; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Leveraging Existing Bioenergy Data Workshop

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

ACTION: Notice of online public workshop.

SUMMARY: The Department of Energy (DOE) is announcing an online public workshop entitled, ''Leveraging Existing Bioenergy Data Workshop.'' The Bioenergy Technologies Office (BETO) seeks to discuss how to collect and valorize underused datasets and associated knowledge, with the future goal of making this information public on existing databases.

DATES: The workshop will be held online on July 21, 2020, 12:30 p.m.—5:00 p.m. EDT, July 22, 2020, 10:00 a.m.—5:00 p.m. EDT, and July 23, 2020 12:30 p.m.—5:00 p.m. EDT. To attend the workshop, you must register by July 14, 2020. Those who are unable to attend the workshop but wish to submit comments may submit comments by email to *eere_bioenergy@ee.doe.gov on or before August 14, 2020.*

ADDRESSES: Register for the workshop online at *https://www.energy.gov/eere/bioenergy/events/leveraging-existing-bioenergy-data-workshop.* This event is open to the public but advance registration is required. The workshop will be held online. Login details will be sent following registration.

Comments may be submitted by the following methods:

Email: eere_bioenergy@ee.doe.gov. Include ''Leveraging Existing Bioenergy Data Workshop'' in the subject line of the message.

Postal Mail: Elizabeth Burrows, Bioenergy Technologies Office, EE–3B/Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585. Due to potential delays in DOE's receipt and processing of mail sent through the U.S. Postal Service, DOE encourages respondents to submit comments electronically to ensure timely receipt.

FOR FURTHER INFORMATION CONTACT: Elizabeth Burrows, Bioenergy Technologies Office, EE–3B/Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585; (202) 586–5188; Email: *eere_bioenergy@ee.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting

BETO seeks to gather input on how to collect and valorize underused datasets and associated knowledge, with the goal of making this information public on existing databases. This workshop seeks to connect industry scientists, data owners, and lawyers with federal government, academic, and national laboratory representatives to shepherd valuable datasets and other knowledge to be used to maximum benefit. This effort would bolster the growing bioeconomy with industrially-relevant data across the supply chain, and result in accelerated development and utilization of biotechnologies. BETO intends to cover the following topics at the workshop:

- Existing Data Quantity/Quality
- Data Monetization & Valuation
- Data Acquisition

Public Participation

Members of the public are welcome to register and attend the workshop. To attend the workshop, register online through the workshop web page at *https://www.energy.gov/eere/bioenergy/events/leveraging-existing-bioenergy-data-workshopbyJuly14,* 2020. Workshop attendees will have the opportunity to speak for up to five minutes and share up to three slides relevant to the workshop topic. Attendees interested in presenting should email their slides to Dr. Elizabeth Burrows at *Elizabeth.Burrows@ee.doe.gov* by July 6, 2020. Submission does not guarantee a live presentation spot. Participation is

subject to available time and topic relevancy. DOE will also accept public comments as described in **ADDRESSES** for purposes of developing the Bioenergy Technologies Office portfolio, but will not respond individually to comments received.

Participants should limit information and comments to those based on personal experience, individual advice, information, or facts regarding this topic. It is not the object of this session to obtain any group position or consensus from the meeting participants. To most effectively use the limited time, please concentrate on your individual experiences and comments, and not those of other participants.

Information on Services for Individuals With Disabilities

Individuals requiring special accommodations during the meeting, please contact Elizabeth Burrows no later than the close of business on July 6, 2020. The registration page, available at *https://www.energy.gov/eere/bioenergy/events/leveraging-existing-bioenergy-data-workshop,* also includes a field where individuals may indicate any special needs. Please indicate any accommodations required in this field.

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 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 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.

Signing Authority

This document of the Department of Energy was signed on May 28, 2020, by Michael Berube, Acting Director of the Bioenergy Technologies Office, Office of 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 June 10, 2020.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2020–12855 Filed 6–12–20; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2997–031]

South Sutter Water District; Notice Soliciting Scoping Comments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Major, new license.

b. *Project No.:* P–2997–031.

c. *Date filed:* July 1, 2019.

d. *Applicant:* South Sutter Water District.

e. *Name of Project:* Camp Far West Hydroelectric Project.

f. *Location:* The existing hydroelectric project is located on the Bear River in Yuba, Nevada, and Placer Counties, California. The project, with the proposed project boundary modifications, would occupy a total of 2,674 acres. No Federal or tribal lands occur within or adjacent to the project boundary or along the Bear River downstream of the project.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Mr. Brad Arnold, General Manager, South Sutter Water District, 2464 Pacific Avenue, Trowbridge, California 95659.

i. *FERC Contact:* Quinn Emmering, (202) 502–6382, *quinn.emmering@ferc.gov.*

j. *Deadline for filing scoping comments:* July 9, 2020.

The Commission strongly encourages electronic filing. Please file scoping comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–2997–031.

k. This application is not ready for environmental analysis at this time.

l. The existing Camp Far West Hydroelectric Project operates to provide water during the irrigation season, generate power, and meet streamflow requirements for the Bear River. The existing project includes: (1) A 185-foot-high, 40-foot-wide, 2,070-foot-long, earth-filled main dam; (2) a 45-foot-high, 20-foot-wide, 1,060-foot-long, earth-filled south wing dam; (3) a 25-foot-high, 20-foot-wide, 1,460-foot-long, earth-filled north wing dam; (4) a 15-foot-high, 20-foot-wide, 1,450-foot-long, earth-filled north dike; (5) a 2,020-acre reservoir with a gross storage capacity of about 104,000 acre-feet at the normal maximum water surface elevation (NMWSE) of 300 feet; (6) an overflow spillway with a maximum design capacity of 106,500 cubic feet per second (cfs) at a reservoir elevation of 320 feet with a 15-foot-wide concrete approach apron, 300-foot-long ungated, ogee-type concrete structure, and a 77-foot-long downstream concrete chute with concrete sidewalls and a 302.5-foot single span steel-truss bridge across the spillway crest; (7) a 1,200-foot-long, unlined, rock channel that carries spill downstream to the Bear River; (8) a 22-foot-high, concrete, power intake tower with openings on three sides protected by steel trashracks; (9) a 25-foot-4-inch-high, concrete, intake tower with openings on three sides, each of which is protected by steel trashracks that receives water for the outlet works; (10) a 760-foot-long, 8-foot-diameter concrete tunnel through the left abutment of the main dam that conveys water from the power intake to the powerhouse; (11) a steel-reinforced, concrete powerhouse with a 6.8-megawatt, vertical-shaft, Francis-type turbine, which discharges to the Bear River at the base of the main dam; (12) a 350-foot-long, 48-inch-diameter steel pipe that conveys water from the intake structure to a valve chamber for the outlet works; (13) a 400-foot-long, 7.5-foot-diameter concrete-lined horseshoe tunnel that connects to the valve chamber to a 48-inch-diameter, Howell Bunger outlet valve with a capacity of 500 cfs that discharges directly into the Bear River; (14) a fenced switchyard adjacent to the powerhouse; (15) two recreation areas with campgrounds, day-use areas, boat ramps, restrooms, and sewage holding

ponds; and (16) a recreational water system that includes two pumps in the reservoir that deliver water to a treatment facility that is piped to a 60,000-gallon storage tank to supply water to recreation facilities. The project has no transmission facilities. The estimated average annual generation (2010 to 2017) is 22,637 megawatt-hours.

South Sutter Water District proposes to: (1) Raise the NMWSE of the project reservoir by 5 feet from an elevation of 300 feet to an elevation of 305 feet; (2) raise the crest of the existing spillway from an elevation of 300 feet to an elevation of 305 feet to accommodate the proposed pool raise; (3) replace and restore several recreation facilities; (4) add an existing 0.25-mile road as a primary project road to access the powerhouse and switchyard; and (5) modify the project boundary to account for the removal of the 1.9-mile-long transmission line from the license in 1991, corrections based on current project operation and maintenance, and changes under the category of a contour 20 feet above the 300-feet NMWSE or proximity of 200-horizontal-feet from the 300-foot NMWSE.

m. In addition to publishing the full text of this document in the **Federal Register**. The Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC Online Support.

n. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. Scoping Process

The Commission staff intends to prepare an Environmental Assessment (EA) for the Camp Far West Hydroelectric Project in accordance with the National Environmental Policy Act. The EA will consider both site-specific and cumulative environmental impacts and reasonable alternatives to the proposed action.

Commission staff does not anticipate holding a formal public or agency scoping meeting. Instead, we are soliciting comments, recommendations, and information, on the Scoping Document (SD) issued on June 9, 2020.

Copies of the SD outlining the subject areas to be addressed in the EA were distributed to the parties on the Commission's mailing list and the applicant's distribution list. Copies of the SD may be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call 1–866–208–3676 or for TTY, (202) 502–8659.

Dated: June 9, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–12831 Filed 6–12–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP20–460–000]

Northern Natural Gas Company; Notice of Intent To Prepare An Environmental Assessment for the Proposed Clifton to Palmyra A-Line Abandonment Project and Request for Comments on Environmental Issues

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Clifton to Palmyra A-line Abandonment Project involving abandonment of pipeline facilities by Northern Natural Gas Company (Northern) in Clay and Washington Counties, Kansas, and Gage, Jefferson, Lancaster, and Otoe Counties, Nebraska, and construction and operation of facilities in Gage County, Nebraska. The Commission will use this EA in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies about issues regarding the project. The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from its action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires the Commission to discover concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of issues to address in the EA. To ensure that your comments are timely and properly recorded, please submit your comments so that the Commission receives them in Washington, DC on or before 5:00 p.m. Eastern Time on July 9, 2020.

You can make a difference by submitting your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the EA. Commission staff will consider all filed comments during the preparation of the EA.

If you sent comments on this project to the Commission before the opening of this docket on May 21, 2020, you will need to file those comments in Docket No. CP20–460–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable easement agreement. You are not required to enter into an agreement. However, if the Commission approves the project, that approval conveys with it the right of eminent domain. Therefore, if you and the company do not reach an easement agreement, the pipeline company could initiate condemnation proceedings in court. In such instances, compensation would be determined by a judge in accordance with state law.

Northern provided landowners with a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is also available for viewing on the FERC website

(*www.ferc.gov*) at *https://www.ferc.gov/resources/guides/gas/gas.pdf.*

Public Participation

The Commission offers a free service called eSubscription which makes it easy to stay informed of all issuances and submittals regarding the dockets/projects to which you subscribe. These instant email notifications are the fastest way to receive notification and provide a link to the document files which can reduce the amount of time you spend researching proceedings. Go to *https://www.ferc.gov/docs-filing/ferconline.asp* to register for eSubscription.

For your convenience, there are three methods you can use to submit your comments to the Commission. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the *eComment* feature, which is located on the Commission's website (*www.ferc.gov*) under the link to *Documents and Filings.* Using eComment is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the *eFiling* feature, which is located on the Commission's website (*www.ferc.gov*) under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''*eRegister.*'' You will be asked to select the type of filing you are making; a comment on a particular project is considered a ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to reference the project docket number (CP20–460–000) with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426

Summary of the Proposed Project

Northern proposes to abandon in-place a total of approximately 115.9 miles of its M600A and M590A 24-inch-diameter pipeline and M600J 20-inch-diameter pipeline (collectively referred to as the A-line) from Clifton, Kansas to Palmyra, Nebraska. Northern also would increase compression capacity at its existing Beatrice Compressor Station to replace the lost capacity from the proposed abandonment. According to Northern, the purpose of this project is to enhance the safety, security, and operational efficiency of Northern's pipeline system. Northern stated that its M600A and M590A pipelines, which were originally placed in service in the 1930s, have substantially escalating maintenance demands, and the abandonment of this segment of the A-line would improve reliability and provide for the safer long-term operation of its system.

The Clifton to Palmyra A-line Abandonment Project would consist of the following activities:

- Disconnect the 24-inch-diameter M600A and the 20-inch-diameter M600J at Northern's existing Clifton Compressor Station;
- disconnect the 24-inch-diameter M590A and the 24-inch-diameter M600A at Northern's existing Beatrice Compressor Station;
- disconnect the 24-inch-diameter M590A at Northern's existing Palmyra Compressor Station;
- abandon in-place 54.3 miles of 24-inch-diameter M600A mainline in Gage and Jefferson Counties, Nebraska, and Washington and Clay Counties, Kansas;
- abandon in-place 19.9 miles of 20-inch-diameter M600J mainline in Clay and Washington Counties, Kansas;
- abandon in-place 41.7 miles of 24-inch-diameter M590A in Otoe, Lancaster, and Gage Counties, Nebraska, between Palmyra and Beatrice, Nebraska; and
- construct a new 15,900-horsepower turbine driven compressor unit at Northern's existing Beatrice Compressor Station near Beatrice, Nebraska.

The general location of the project facilities is shown in appendix 1.[1] Following abandonment activities, a non-jurisdictional third-party salvage company would purchase the pipeline.

Land Requirements for Construction

Northern would disturb approximately 46.2 acres of land to disconnect the pipeline and install the additional compressor unit. To abandon the pipeline in-place, Northern would disconnect and cap the A-line at six interconnections where it is linked to other system facilities. The disconnect locations are proposed within existing compressor station facilities owned by Northern. Northern would construct the additional turbine at the Beatrice Compressor Station within the current facility fenceline. No new land would be obtained or required for the project. The A-line is collocated with other Northern pipelines, which Northern would continue to operate and maintain.

The EA Process

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils;
- water resources and wetlands;
- vegetation and wildlife;
- threatened and endangered species;
- cultural resources;
- land use;
- air quality and noise;
- public safety; and
- cumulative impacts

Commission staff will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

The EA will present Commission staff's independent analysis of the issues. The EA will be available in electronic format in the public record through eLibrary[2] and the Commission's website (*https://www.ferc.gov/industries/gas/enviro/eis.asp*). If eSubscribed, you will receive instant email notification when the EA is issued. The EA may be issued for an allotted public comment period. Commission staff will consider all comments on the EA before making recommendations to the Commission. To ensure Commission staff have the opportunity to address your comments, please carefully follow the instructions in the Public Participation section, beginning on page 2.

With this notice, the Commission is asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate in the preparation of the EA.[3] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultation Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section

[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or phone (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[2] For instructions on connecting to eLibrary, refer to the last page of this notice.

[3] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

106 of the National Historic Preservation Act, the Commission is using this notice to initiate consultation with the applicable State Historic Preservation Offices, and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[4] The EA for this project will document findings on the impacts on historic properties and summarize the status of consultations under section 106.

Currently Identified Environmental Issues

Commission staff have already identified issues that deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Northern. This preliminary list of issues may change based on your comments and our analysis.

- Air quality and noise impacts; and
- cumulative impacts.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. Commission staff will update the environmental mailing list as the analysis proceeds to ensure that Commission notices related to this environmental review are sent to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If the Commission issues the EA for an allotted public comment period, a *Notice of Availability* of the EA will be sent to the environmental mailing list and will provide instructions to access the electronic document on the FERC's website (*www.ferc.gov*). If you need to make changes to your name/address, or if you would like to remove your name from the mailing list, please return the attached ''Mailing List Update Form'' (appendix 2).

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number in the ''Docket Number'' field, excluding the last three digits (*i.e.,* CP20–460). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

Public sessions or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: June 9, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–12830 Filed 6–12–20; 8:45 am]

BILLING CODE 6717–01–P

[4] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

EXPORT-IMPORT BANK

[Public Notice EIB–2020–001]

Application for Final Commitment for a Long-Term Loan or Financial Guarantee in Excess of $100 Million: AP089375XX

AGENCY: Export-Import Bank of the United States.

ACTION: Notice.

DATES: Comments must be received on or before July 10, 2020 to be assured of consideration before final consideration of the transaction by the Board of Directors of EXIM.

ADDRESSES: Comments may be submitted through *Regulations.gov* at *WWW.REGULATIONS.GOV.* To submit a comment, enter EIB–2020–001 under the heading ''Enter Keyword or ID'' and select Search. Follow the instructions provided at the Submit a Comment screen. Please include your name, company name (if any) and EIB–2020–001 on any attached document.

SUMMARY: This Notice is to inform the public, in accordance with Section 3(c)(10) of the Charter of the Export-Import Bank of the United States (''EXIM''), that EXIM has received an application for final commitment for a long-term loan or financial guarantee in excess of $100 million (as calculated in accordance with Section 3(c)(10) of the Charter).

Comments received within the comment period specified below will be presented to the EXIM Board of Directors prior to final action on this Transaction.

REFERENCE: AP089375XX.

PURPOSE AND USE: Brief description of the purpose of the transaction:

To support the purchase of accounts receivable due from The Boeing Company to CFM International, Inc., originating from the sale of the Leading Edge Aviation Propulsion (''LEAP'') 1–B aircraft engines.

Brief non-proprietary description of the anticipated use of the items being exported:

The LEAP 1–B aircraft engines are used in the Boeing 737 MAX aircraft exported to airlines throughout the world.

To the extent that EXIM is reasonably aware, the item(s) being exported are not expected to produce exports or provide services in competition with the exportation of goods or provision of services by a United States industry.

PARTIES: Principal Supplier: CFM International, Inc.

Obligor: The Boeing Company.

Guarantor(s): N/A

DESCRIPTION OF ITEMS BEING EXPORTED: Aircraft engines.

INFORMATION ON DECISION: Information on the final decision for this transaction will be available in the ''Summary Minutes of Meetings of Board of Directors'' on *http://exim.gov/newsandevents/boardmeetings/board/.*

CONFIDENTIAL INFORMATION: Please note that this notice does not include confidential or proprietary business information; information which, if disclosed, would violate the Trade Secrets Act; or information which would jeopardize jobs in the United States by supplying information that competitors could use to compete with companies in the United States.

Kita L. Hall,

Program Specialist.

[FR Doc. 2020–12787 Filed 6–12–20; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

TIME AND DATE: Thursday, June 18, 2020 at 10:00 a.m.

PLACE: Virtual Meeting. Note: Because of the COVID–19 pandemic, we will

conduct the open meeting virtually. If you would like to access the meeting, see the instructions below.

STATUS: This meeting will be open to the public. To access the virtual meeting, go to the commission's website *www.fec.gov* and click on the banner to be taken to the meeting page.

MATTERS TO BE CONSIDERED:

Welcoming Remarks
Election of Officers
Draft Advisory Opinion 2019–15: NORPAC
Draft Advisory Opinion 2019–16: Philip Shemanski
Draft Advisory Opinion 2019–18: IDF International Technologies, Inc.
Notice of Availability for REG 2020–02 (Transfers from Candidate's Authorized Committee)
Management and Administrative Matters

CONTACT PERSON FOR MORE INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Authority: Government in the Sunshine Act, 5 U.S.C. 552b.

Laura E. Sinram,

Acting Secretary and Clerk of the Commission.

[FR Doc. 2020–12971 Filed 6–11–20; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL MARITIME COMMISSION

[Docket No. 20–09]

MAC Industries, Inc. d/b/a MAC Container Line, *Complainant* v. COSCO SHIPPING Lines Co., Ltd., *Respondent*; Notice of Filing of Complaint and Assignment

Served: June 9, 2020.

Notice is given that a complaint has been filed with the Federal Maritime Commission (Commission) by MAC Industries, Inc. d/b/a MAC Container Line, hereinafter ''Complainant'', against COSCO SHIPPING Lines Co., Ltd., hereinafter ''Respondent''. Complainant states that it ''is a non-vessel-operating common carrier (''NVOCC'')'' and is principally located in California. Complainant states that Respondent is an ocean common carrier and controlled carrier of The Peoples Republic of China.

Complainant claims it ''has shipped pursuant to COSCO service contracts between 8,000 and 12,000 TEUs annually since 2016, to the present, and as a result of these volumes MAC has earned a VIP Partner status with COSCO since 2013.'' Complainant alleges that in late February 2020, Respondent intended to unilaterally amend service contract rates in violation of 46 U.S. Code 41104 (a) (2)(A) and 46 CFR 530.10(a)(1) ''requir[ing] that an amendment to a service contract '. . . [have] prospective effect and . . . [be] mutually agreed upon by the service contract parties.' '' Complainant claims that it communicated to Respondents ''that it would accept the rate increases prospectively from on or about February 28, 2020, provided that [Respondent] agreed to withdraw the unlawful retroactive charges which [Respondent] had unilaterally and unlawfully initiated.'' Complainant further alleges that Respondent ''has taken retaliatory steps against MAC in response to the complaint'' including limiting its VIP Partner benefits.

Complainant alleges that Respondent violated 46 U.S.C. 41104 (a)(3). Complainant alleges it has suffered ''financial damages of at least $1,000,000 as a direct result of Respondents' repeated violations of 46 U.S.C. 8 § 41l04(a)(3)'' and seeks reparations and other relief.

The full text of the complaint can be found in the Commission's Electronic Reading Room at *https://www2.fmc.gov/readingroom/proceeding/20-09/.*

This proceeding has been assigned to Office of Administrative Law Judges. The initial decision of the presiding office in this proceeding shall be issued by June 9, 2021, and the final decision of the Commission shall be issued by December 9, 2021.

Rachel Dickon,

Secretary.

[FR Doc. 2020–12829 Filed 6–12–20; 8:45 am]

BILLING CODE 6730–02–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage de novo, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

The public portions of 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(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the 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 30, 2020.

A. Federal Reserve Bank of Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *GNB Bancorporation, Grundy Center, Iowa;* to take assignment of a loan to GNB Bancorporation ESOP and thereby engage in extending and servicing loans pursuant to § 225.28(b)(1) of Regulation Y.

2. *Merchants Bancorp, Carmel, Indiana;* seeks permission to hold an increased non-voting Class B membership interest of approximately 44 percent in Arcline Lending, LLC, Mount Laurel, New Jersey, and thereby engage in extending and servicing loans and real estate settlement servicing, pursuant to § 225.28(b)(1) and (b)(2)(viii) of Regulation Y, respectively.

Board of Governors of the Federal Reserve System, June 10, 2020.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2020–12841 Filed 6–12–20; 8:45 am]

BILLING CODE P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0278; Docket No. 2020–0001; Sequence No. 1]

Information Collection; USA.gov National Contact Center Customer Evaluation Survey

AGENCY: USA.gov Contact Center, General Services Administration (GSA).

ACTION: Notice of request for comments regarding an extension to an OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding the National Contact Center customer evaluation surveys.

DATES: *Submit comments on or before:* July 15, 2020.

FOR FURTHER INFORMATION CONTACT: Mr. David Kaufmann, Program Analyst, Office of Technology Transformation Services, via email to *david.kaufmann@gsa.gov,* or at 202–357–9661.

ADDRESSES: Written comments and recommendations for this 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 Review—Open for Public Comments'' or by using the search function.

SUPPLEMENTARY INFORMATION:

A. Purpose

This information collection will be used to assess the public's satisfaction with the USA.gov National Contact Center service (formerly the Federal Citizen Information Center's (FCIC) National Contact Center), to assist in increasing the efficiency in responding to the public's need for Federal information, and to assess the effectiveness of marketing efforts.

B. Annual Reporting Burden

The following are estimates of the annual hourly burdens for our surveys based on historical participation in our surveys.

(1) Telephone Survey:
Respondents: 6000.
Responses per Respondent: 1.
Annual Responses: 6000.
Hours per Response: 0.12.
Total Burden Hours: 720.
(2) Web Chat Survey:
Respondents: 2400.
Responses per Respondent: *1.*
Annual Responses: 2400.
Hours Per Response: 0.12.
Total Burden Hours: 288.
Grand Total Burden Hours: 1008.

C. Public Comments

A 60-day notice was published in the **Federal Register** at 85 FR 17333 on March 27, 2020. No comments were received.

OBTAINING COPIES OF PROPOSALS: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division (MVCB)by calling 202–501–4755, or emailing *GSARegSec@gsa.gov.* Please cite OMB Control No. 3090–0278, National Contact Center Customer Evaluation Survey, in all correspondence.

Beth Ann Killoran,

Deputy Chief Information Officer.

[FR Doc. 2020–12184 Filed 6–12–20; 8:45 am]

BILLING CODE 6820–CX–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project ''AHRQ Managing Unhealthy Alcohol Use in Primary Care Initiative.'' This proposed information collection was previously published in the **Federal Register** on March 30, 2020 and allowed 60 days for public comment. AHRQ did not receive any comments during the aforementioned public comment period. The purpose of this notice is to allow an additional 30 days for public comment.

DATES: Comments on this notice must be received by 30 days after date of publication of this notice.

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: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at *doris.lefkowitz@AHRQ.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Project

AHRQ Managing Unhealthy Alcohol Use in Primary Care Initiative

The Affordable Care Act established the Patient-Centered Outcomes Research Trust Fund (PCORTF) and authorized AHRQ to broadly disseminate the research findings published by the Patient-Centered Outcomes Research Institute (PCORI) and other government-funded research relevant to comparative clinical effectiveness research. AHRQ's PCORTF-funded initiative identifies research findings that could significantly improve patient outcomes through broader implementation in clinical practice. Under this initiative, in 2019 AHRQ launched a new initiative, Managing Unhealthy Alcohol Use in Primary Care, in order to promote the uptake of evidence-based practices for unhealthy alcohol use (UAU). As part of this initiative, AHRQ selected six grantees and funded a contractor to support and evaluate the grantees. The grantees will collectively work with more than 700 primary care practices over three years to implement and evaluate strategies to increase the use of evidence-based interventions such as screening for unhealthy alcohol use, brief interventions for adult patients who drink too much, and medication-assisted therapy (MAT) for patients with an alcohol use disorder. The contractor will develop a resource center, convene a technical expert panel, conduct an ongoing environmental scan, support a learning community of grantees, and complete a multisite, mixed methods evaluation.

Unhealthy alcohol use, defined as behaviors ranging from risky drinking to alcohol use disorders (AUD), is estimated to be the third leading cause of preventable death in the United States. Between 2006 and 2010, nearly one in ten deaths were alcohol-related. In addition to early mortality, UAU is associated with a host of adverse outcomes, including unintentional injuries and the development or exacerbation of a range of physical and behavioral health conditions. The Centers for Disease Control and Prevention estimates suggest that excessive alcohol consumption costs the United States $249 billion annually.

Under the UAU initiative, six AHRQ grantees will work to improve the management of UAU in primary care by disseminating and implementing evidence-based practices for screening and brief intervention, referral to treatment (SBI/RT), and MAT in primary care practices. The multi-site, mixed-methods evaluation will include primary data collection by the evaluator,

NORC at the University of Chicago. The evaluation will also include secondary data collected by the six grantee teams working with 750 primary care practices. Collectively the data will allow the evaluator to assess the implementation and impact of the six grants.

The project goals, as laid out in the AHRQ request for applications include:

- Success of recruitment and retention strategies across all six grantees to engage primary care practices for implementation of SBI/RT and MAT, across the initiative;
- Effectiveness of the grantees' collective dissemination and implementation strategies, and the factors associated with the success and/or failure of the strategies as it relates to populations, settings and the influence of contextual factors;
- Success at the practice level in increasing the number of patients screened, identified, and treated; and
- Overall impact on changes in processes or outcomes that can be attributed to the initiative.

This study is being conducted pursuant to AHRQ's statutory authority to broadly disseminate research findings published by the Patient-Centered Outcomes Research Institute and other government-funded research relevant to comparative clinical effectiveness research to physicians, health care providers, and patients. 42 U.S.C 299b–37.

Method of Collection

To achieve the goals of the multi-site evaluation (MSE), AHRQ is requesting OMB approval for three years for new data collection by the evaluator. The evaluator's primary data collection is requested to achieve the goals of the MSE and includes the following data collection activities:

Semi-Structured Qualitative Interviews will take place in-person and/or by telephone with key staff from each grantee team (*i.e.,* principal investigator, co-investigator, evaluation lead, practice facilitation/implementation lead, and project manager) and with clinicians and staff at one primary care practice working with each grantee. Interviews will be conducted annually beginning at the end of Year 1, for a total of three time points per grantee. During Years 1 and 3 the interviews will be conducted by phone, while Year 2 interviews will be collected in-person. The interviews for both grantee teams and primary care practice staff will cover domains such as understanding the practice implementation and changes overtime, methods of supporting practices, barriers and facilitators to implementation, strategies to overcome barriers, and the number and type of staff implementing SBI/RT and MAT.

Secondary data collected by grantees and analyzed by the evaluator will include:

Aggregated process measure data that will be used to assess whether the number of patients receiving SBI/RT and/or MAT increased at the practice level. Grantees will survey all participating primary care practices at the beginning of the initiative to collect data on basic practice characteristics (*e.g.,* size, ownership, staff, and patient population) that can be used to evaluate relationships between practice characteristics and the number of patients receiving SBI/RT and/or MAT. Grantees will also collect quantitative information about the number, duration, and function of contact between practice facilitators and primary care practices to evaluate the relationship between duration, frequency, and type of practice facilitator-practice engagement, and the number of patients screened, receiving brief intervention, and/or treated for UAU. The practice facilitators will collect data to track changes in practices over time and facilitate an overall assessment of what activities the practice is conducting to identify and manage UAU.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated annualized burden hours for the respondents' time to complete the semi-structured Key Informant Interviews. For the three-year clearance period, the estimated annualized burden hours for the interviews are 60.

EXHIBIT 1

Data collection activity	Number of respondents	Number of responses per respondent	Hours per response	Total burden hours
Semi-Structured Interviews	60	1	1.0	60
Total	60			60

Exhibit 2 shows the estimated annualized cost burden based on the respondents' time to complete the Key Informant Interviews. The total annualized cost burden is estimated to be $6,109.

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Number of respondents	Total burden hours	Average hourly wage rate *	Total cost burden
Semi-Structured Interviews	60	60	[a] $101.82	$6,109
Total	60	60		6,109

* National Compensation Survey: Occupational wages in the United States May 2018 "U.S. Department of Labor, Bureau of Labor Statistics": *https://www.bls.gov/oes/current/oes_stru.htm.*

[a] Based on the mean wages for *29–1062 Family and General Practitioners.*

Request for Comments

In accordance with the Paperwork Reduction Act, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ's health care research and health care information

dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: June 9, 2020.

Virginia L. Mackay-Smith,

Associate Director.

[FR Doc. 2020–12804 Filed 6–12–20; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day-20–1161; Docket No. CDC–2020–0068]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled ''Evaluation of Enhancing HIV Prevention Communication and Mobilization Efforts through Strategic Partnerships.'' This collection is designed to assess the extent to which partnership activities meet the overarching goals for dissemination, communication, and implementation of national engagement efforts in support of the U.S. Department of Health and Human Services' Ending the HIV Epidemic.

DATES: CDC must receive written comments on or before August 14, 2020.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2020–0068 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov*.

Please note: *Submit all comments through the Federal eRulemaking portal (regulations.gov) or by U.S. mail to the address listed above.*

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

5. Assess information collection costs.

Proposed Project

Evaluation of Enhancing HIV Prevention Communication and Mobilization Efforts through Strategic Partnerships (OMB Control No. 0920–1161)—Reinstatement without Change—National Center for HIV/AIDS, Viral Hepatitis, STD and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

To address the HIV epidemic in the U.S., the Department of Health and Human Services launched Ending the HIV Epidemic: A Plan for America, which is a cross-agency initiative aiming to reduce new HIV infections in the U.S. by 90% by 2030. CDC's Let's Stop HIV Together campaign (formerly known as Act Against AIDS) is part of the national Ending the HIV Epidemic initiative, and includes resources aimed at reducing HIV stigma and promoting testing, prevention, and treatment across the HIV care continuum.

Within this context, CDC's Division of HIV/AIDS Prevention (DHAP) has and will continue implementing various partnership activities to increase HIV awareness among the general public, reduce new HIV infections among disproportionately impacted populations, and improve health outcomes for people living with HIV/AIDS in the US and its territories.

DHAP partners will be funded under to (1) support the dissemination of Together campaign materials, messaging, and other CDC resources that support HIV prevention and (2) implement national engagement efforts focusing on HIV prevention and awareness. Partners represent civic/social, media, and LGBT-focused organizations. In addition, DHAP will continue to engage and support the private sector in promoting HIV education, awareness, and policies in the workplace. This may take the form of encouraging businesses to implement HIV/AIDS policies and education programs in the workplace with the overarching goal of increasing public

understanding of, involvement in, and support for HIV prevention.

Information collected by DHAP will be used to assess the extent to which partnership activities meet the overarching goals for message dissemination and implementation of national engagement and communication efforts for HIV prevention and awareness. The objective is to collect information from partners on their activities for disseminating HIV messages; barriers and facilitators to implementing these activities; factors that may help contextualize their progress towards meeting the initiative's goals; and their involvement in promoting HIV education, awareness, and policies in their organization.

The data gathered under this request will be summarized in reports prepared for CDC by its contractor, such as quarterly reports, semiannual reports, annual reports, and final reports. It is possible that data from this project will be published in peer-reviewed manuscripts or presented at conferences; the manuscripts and conference presentations may appear on the internet. The total estimated annualized burden hours are 4,402.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Partner Organization	Metrics Database	44	4	18	3,160
Partner Organization	Key Informant Interview Guide	25	2	1	50
Partner Organization	Interim Progress Report	10	2	8	160
Partner Organization	Partner Survey & Screener	300	1	40/60	200
Partner Organization	Partnership Activities Form	500	4	25/60	833
Total					4,402

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2020–12811 Filed 6–12–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–20–20PA; Docket No. CDC–2020–0069]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled ''DOP Cross-Site Evaluation of Overdose Data to Action Program.'' This collection is designed to assess the implementation and the effectiveness of the Overdose Data to Action (OD2A) program (CDC–RFA–CE19–1904) activities and identify the conditions under which these activities are effective and for whom.

DATES: CDC must receive written comments on or before August 14, 2020.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2020–0069 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov.*

Please note: Submit all comments through the Federal eRulemaking portal (regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

5. Assess information collection costs.

Proposed Project

DOP Cross-Site Evaluation of Overdose Data to Action Program–New—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Overdose Data to Action Program (OD2A) is a comprehensive, national overdose prevention program developed by CDC's NCIPC. The purpose of the OD2A program is to support funded jurisdictions in obtaining high quality, complete, and timely data on opioid prescribing and overdoses, and to use those data to inform prevention and response efforts. The OD2A (CDC–RFA–CE19–1904) funds a total of 66 recipients (state and local health departments) to implement surveillance and prevention strategies, through a three-year cooperative agreement. OD2A funded recipients consist of 47 state-, 16 city/county-, and three district/territory-level jurisdictions.

The purpose of this information collection is to assess the implementation and the effectiveness of the OD2A program activities and identify the conditions under which these activities are most effective. Activities include key informant interviews (KII) and focus groups (FG), and are focused on the tools needed to evaluate the unique OD2A program.

The implementation evaluation will identify the barriers and facilitators associated with deploying several prevention activities targeting specific populations within specific jurisdictions. The outcome evaluation will assess short term (*e.g.,* increased awareness and coordination of linkages to care) and intermediate (*e.g.,* increased provider, health system, and payer awareness of and supports for guideline-concordant opioid prescribing, non-opioid medications, and non-pharmacological treatments) outcomes.

Data collected from this evaluation will be used by the CDC to obtain valid information regarding how recipients operationalized and implemented their chosen prevention activities, assess the impact of OD2A and different components of OD2A on the trajectory of the opioid epidemic, and through the provision of these data back to the recipients, improve the implementation and impact of further OD2A prevention activities.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response	Total burden (hours)
Jurisdictions implementing OD2A program (*e.g.,* PMs, PIs, SSLs, PSLs, Partners, or Stakeholders).	Key Informant Interview Guides	288	1	60	288
	Focus Group Guides	252	1	90	378
	Permission to be recorded	540	1	5	45
	Interview Recruitment Email	288	1	5	24
	Focus Group Recruitment Email	252	1	5	21
	Interview Recruitment Reminder Email.	288	1	5	24
	Focus Group Recruitment Reminder Email.	252	1	5	21
	Post-information Collection Follow up Email.	540	1	5	45
Total					846

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2020–12808 Filed 6–12–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–20–0666; Docket No. CDC–2020–0065]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on the CDC's National Healthcare Safety Network (NHSN). NHSN is a public health surveillance system that collects, analyzes, reports, and makes available data for monitoring, measuring, and responding to healthcare associated infections (HAIs), antimicrobial use and resistance, blood transfusion safety events, and the extent to which healthcare facilities adhere to infection prevention practices and antimicrobial stewardship.

DATES: CDC must receive written comments on or before August 14, 2020.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2020–0065 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov.*

Please note: Submit all comments through the Federal eRulemaking portal (regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office,

Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.
5. Assess information collection costs.

Proposed Project

National Healthcare Safety Network (NHSN) (OMB Control No. 0920–0666)—Revision—National Center for Emerging and Zoonotic Infection Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Division of Healthcare Quality Promotion (DHQP), National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC) collects data from healthcare facilities in the National Healthcare Safety Network (NHSN) under OMB Control Number 0920–0666. NHSN provides facilities, states, regions, and the nation with data necessary to identify problem areas, measure the progress of prevention efforts, and ultimately eliminate healthcare-associated infections (HAIs) nationwide. NHSN allows healthcare facilities to track blood safety errors and various healthcare-associated infection prevention practice methods such as healthcare personnel influenza vaccine status and corresponding infection control adherence rates.

NHSN currently has six components: Patient Safety (PS), Healthcare Personnel Safety (HPS), Biovigilance (BV), Long-Term Care Facility (LTCF), Outpatient Procedure (OPC), and the Dialysis Component. NHSN's planned Neonatal Component is expected to launch during the winter of 2020/2021. This component will focus on premature neonates and the healthcare-associated events that occur as a result of their prematurity. This component will be released with one module, which includes Late Onset-Sepsis and Meningitis. Late-onset sepsis (LOS) and Meningitis are common complications of extreme prematurity. These infections are usually serious, causing a prolongation of hospital stay, increased cost, and risk of morbidity and mortality. The data for this module will be electronically submitted, and manual data entry will not be available. This will allow more hospital personnel to be available to care for patients and will reduce annual burden across healthcare facilities. Additionally, LOS data will be utilized for prevention initiatives.

Data reported under the Patient Safety Component are used to determine the magnitude of the healthcare-associated adverse events and trends in the rates of the events, in the distribution of pathogens, and in the adherence to prevention practices. Data will help detect changes in the epidemiology of adverse events resulting from new medical therapies and changing patient risks. Additionally, reported data is being used to describe the epidemiology of antimicrobial use and resistance and to better understand the relationship of antimicrobial therapy to this rising problem.

Approved as a New Emergency ICR (National Healthcare Safety Network (NHSN) Patient Impact Module for Coronavirus (COVID–19) Surveillance in Healthcare Facilities, OMB Control No. 0920–1290), NHSN launched a COVID–19 Module in the Patient Safety Component on March 27th, 2020. This Module is designed to collect facility-level COVID–19 data on cases, deaths, capacity, healthcare worker staffing shortages, and personal protective equipment and supplies from hospitals on a daily basis. Facility-level data collected through NSHN as part of the COVID–19 Module are being made available to a broader set of Federal, state, and local agency data users than data typically collected by NHSN. Specifically, COVID–19 data at the state, county, territory, and facility level submitted to NHSN will continue to be used for public health emergency response activities by CDC's emergency COVID–19 response, by the U.S. Department of Health and Human Services' (HHS') COVID–19 tracking system maintained in the Office of the Assistant Secretary of Preparedness and Response as part of the National Response Coordination Center at the Federal Emergency Management Agency (FEMA), and by the White House Coronavirus Task Force.

Under the Healthcare Personnel Safety Component, protocols and data on events—both positive and adverse—are used to determine (1) the magnitude of adverse events in healthcare personnel, and (2) compliance with immunization and sharps injuries safety guidelines. Under the Biovigilance Component, data on adverse reactions and incidents associated with blood transfusions are reported and analyzed to provide national estimates of adverse reactions and incidents. Under the Long-Term Care Facility Component, data is captured from skilled nursing facilities. Reporting methods under the LTCF component have been created by using forms from the PS Component as a model with modifications to specifically address the specific characteristics of LTCF residents and the unique data needs of these facilities reporting into NHSN. A new form has been introduced for field testing-Respiratory Tract Infection (RTI)—not to be used by NHSN users, but as part of an EIP project with 4 EIP sites. Form title will be *Denominators for Healthcare Associated Infections (HAIs): Respiratory Tract Infections.* The purpose of this form is to allow testing prior to introducing a new module and forms to NHSN users. The CDC's Epidemiology Research & Innovations Branch (ERIB) team will use the form to perform field testing of variables to explore the utilization, applicability, and data collection burden associated with these variables. This process will inform areas of improvement prior to incorporating the new module, including protocol, forms, and instructions into NHSN. The estimated burden for this form is 20 minutes, which is based on a similar denominator form. Also approved under New Emergency ICR 0920–1290, NHSN

launched a COVID–19 Module in the Long-Term Care Component April 27th, 2020. As with the COVID–19 Module in the PS Component, the LTC COVID–19 Module is designed to collect facility-level COVID–19 data on cases, deaths, capacity, healthcare worker staffing shortages, and personal protective equipment and supplies from long-term care facilities on at least a weekly basis. Facility-level data collected through NSHN as part of the COVID–19 Module are being made available to a broader set of Federal, state, and local agency data users than data typically collected by NHSN. Specifically, COVID–19 data at the state, county, territory, and facility level submitted to NHSN will continue to be used for public health emergency response activities by CDC's emergency COVID–19 response, by the U.S. Department of Health and Human Services' (HHS') COVID–19 tracking system maintained in the Office of the Assistant Secretary of Preparedness and Response as part of the National Response Coordination Center at the Federal Emergency Management Agency (FEMA), and by the White House Coronavirus Task Force.

The Dialysis Component offers a simplified user interface for dialysis users to streamline their data entry and analyses processes as well as provide options for expanding in the future to include dialysis surveillance in settings other than outpatient facilities. The Outpatient Procedure Component (OPC) gathers data on the impact of infections and outcomes related to operative procedures performed in Ambulatory Surgery Centers (ASCs). The OPC is used to monitor two event types: Same Day Outcome Measures and Surgical Site Infections (SSIs). NHSN has increasingly served as the operating system for HAI reporting compliance through legislation established by the states. As of April 2020, 36 states, the District of Columbia and the City of Philadelphia, Pennsylvania have opted to use NHSN as their primary system for mandated reporting. Reporting compliance is completed by healthcare facilities in their respective jurisdictions, with emphasis on those states and municipalities acquiring varying consequences for failure to use NHSN. Additionally, healthcare facilities in five U.S. territories (Puerto Rico, American Samoa, the U.S. Virgin Islands, Guam, and the Northern Mariana Islands) are voluntarily reporting to NHSN. Additional territories are projected to follow with similar use of NHSN for reporting purposes.

NHSN's data is used to aid in the tracking of HAIs and guide infection prevention activities/practices that protect patients. The Centers for Medicare and Medicaid Services (CMS) and other payers use these data to determine incentives for performance at healthcare facilities across the US and surrounding territories, and members of the public may use some protected data to inform their selection among available providers. Each of these parties is dependent on the completeness and accuracy of the data. CDC and CMS work closely and are fully committed to ensuring complete and accurate reporting, which are critical for protecting patients and guiding national, state, and local prevention priorities.

CMS collects some HAI data and healthcare personnel influenza vaccination summary data, which is done on a voluntary basis as part of its Fee-for-Service Medicare quality reporting programs, while others may report data required by a federal mandate. Facilities that fail to report quality measure data are subject to partial payment reduction in the applicable Medicare Fee-for-Service payment system. CMS links their quality reporting to payment for Medicare-eligible acute care hospitals, inpatient rehabilitation facilities, long-term acute care facilities, oncology hospitals, inpatient psychiatric facilities, dialysis facilities, and ambulatory surgery centers. Facilities report HAI data and healthcare personnel influenza vaccination summary data to CMS via NHSN as part of CMS's quality reporting programs to receive full payment. Still, many healthcare facilities, even in states without HAI reporting legislation, submit limited HAI data to NHSN voluntarily. NHSN's data collection updates continue to support the incentive programs managed by CMS. For example, survey questions support requirements for CMS' quality reporting programs. Additionally, CDC has collaborated with CMS on a voluntary National Nursing Home Quality Collaborative, which focuses on recruiting nursing homes to report HAI data to NHSN and to retain their continued participation. This project has resulted in a significant increase in long-term care facilities reporting to NHSN.

The ICR previously approved in December of 2019 for 5,352,360 responses; 3,113,631 burden hours. The proposed changes in this new ICR include revisions to eight data collection forms and the addition of ten new forms for a total of 86 proposed data collection forms. In this Revision, CDC requests OMB approval for an estimated 2,365,743 annual burden hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Form No. & name	Number of respondents	Number of responses per respondent	Average burden per response (min./hour)	Total burden (hours)
57.100 NHSN Registration Form	2,000	1	5/60	167
57.101 Facility Contact Information	2,000	1	10/60	333
57.103 Patient Safety Component—Annual Hospital Survey	6,765	1	55/60	6,201
57.105 Group Contact Information	1,000	1	5/60	83
57.106 Patient Safety Monthly Reporting Plan	7,821	12	15/60	23,463
57.108 Primary Bloodstream Infection (BSI)	5,775	5	38/60	18,288
57.111 Pneumonia (PNEU)	1,800	2	30/60	18,288
57.112 Ventilator-Associated Event	5,463	8	28/60	20,395
57.113 Pediatric Ventilator-Associated Event (PedVAE)	334	1	30/60	167
57.114 Urinary Tract Infection (UTI)	6,000	5	20/60	10,000
57.115 Custom Event	600	91	35/60	31,850
57.116 Denominators for Neonatal Intensive Care Unit (NICU)	1,100	12	4/60	880
57.117 Denominators for Specialty Care Area (SCA)/Oncology (ONC)	500	12	5/60	503
57.118 Denominators for Intensive Care Unit (ICU)/Other locations (not NICU or SCA)	5,500	60	5/60	27,665
57.120 Surgical Site Infection (SSI)	6,000	9	35/60	31,500

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Form No. & name	Number of respondents	Number of responses per respondent	Average burden per response (min./hour)	Total burden (hours)
57.121 Denominator for Procedure	6,000	602	10/60	602,000
57.122 HAI Progress Report State Health Department Survey	55	1	28/60	26
57.123 Antimicrobial Use and Resistance (AUR)-Microbiology Data Electronic Upload Specification Tables	2,500	12	5/60	1,500
57.124 Antimicrobial Use and Resistance (AUR)-Pharmacy Data Electronic Upload Specification Tables	2,000	12	5/60	2,000
57.125 Central Line Insertion Practices Adherence Monitoring	500	213	25/60	44,375
57.126 MDRO or CDI Infection Form	720	12	30/60	3,960
57.127 MDRO and CDI Prevention Process and Outcome Measures Monthly Monitoring	5,500	29	15/60	39,875
57.128 Laboratory-identified MDRO or CDI Event	4,800	79	20/60	126,400
57.129 Adult Sepsis	50	250	25/60	5,208
57.130 COVID–19 Module: Patient Impact and Hospital Capacity	3,117	540	25/60	701,325
57.131 COVID–19 Module: Healthcare Worker Staffing	3,117	540	25/60	701,325
57.132 COVID–19 Module: Supplies	3,117	540	25/60	701,325
57.135 Late Onset Sepsis/Meningitis Denominator Form: Data Table for monthly electronic upload	300	12	5/60	300
57.136 Late Onset Sepsis/Meningitis Event Form: Data Table for Monthly Electronic Upload	300	4	5/60	100
57.137 Long-Term Care Facility Component—Annual Facility Survey	3,079	1	1/60	51
57.138 Laboratory-identified MDRO or CDI Event for LTCF	1,998	24	12/60	9,590
57.139 MDRO and CDI Prevention Process Measures Monthly Monitoring for LTCF	1,998	12	12/60	4,795
57.140 Urinary Tract Infection (UTI) for LTCF	339	12	12/60	814
57.141 Monthly Reporting Plan for LTCF	2,011	12	12/60	4,826
57.142 Denominators for LTCF Locations	339	12	250/60	814
57.143 Prevention Process Measures Monthly Monitoring for LTCF	130	12	12/60	312
57.144 LTCF COVID–19 Module: Resident Impact and Facility Capacity	14,674	26	20/60	127,175
57.145 LTCF COVID–19 Module: Staff and Personnel Impact	14,674	26	15/60	95,381
57.146 LTCF COVID–19 Module: Supplies and PPE	14,674	26	5/60	31,794
57.147 LTCF COVID–19 Module: Ventilator Capacity and Supplies	14,674	26	5/60	31,794
57.150 LTAC Annual Survey	620	1	10/60	10
57.151 Rehab Annual Survey	1,340	1	10/60	625
57.200 Healthcare Personnel Safety Component Annual Facility Survey	50	1	480/60	400
57.203 Healthcare Personnel Safety Monthly Reporting Plan		1	5/60	
57.204 Healthcare Worker Demographic Data	50	200	20/60	3,333
57.205 Exposure to Blood/Body Fluids	50	50	60/60	2,500
57.206 Healthcare Worker Prophylaxis/Treatment	50	30	15/60	375
57.207 Follow-Up Laboratory Testing	50	50	15/60	625
57.210 Healthcare Worker Prophylaxis/Treatment-Influenza	50	50	10/60	417
57.300 Hemovigilance Module Annual Survey	500	1	85/60	708
57.301 Hemovigilance Module Monthly Reporting Plan	500	12	1/60	100
57.303 Hemovigilance Module Monthly Reporting Denominators	500	12	70/60	7,000
57.305 Hemovigilance Incident	500	10	10/60	833
57.306 Hemovigilance Module Annual Survey—Non-acute care facility	500	1	35/60	292
57.307 Hemovigilance Adverse Reaction—Acute Hemolytic Transfusion Reaction	500	4	20/60	667
57.308 Hemovigilance Adverse Reaction—Allergic Transfusion Reaction	500	4	20/60	667
57.309 Hemovigilance Adverse Reaction—Delayed Hemolytic Transfusion Reaction	500	1	20/60	167
57.310 Hemovigilance Adverse Reaction—Delayed Serologic Transfusion Reaction	500	2	20/60	333
57.311 Hemovigilance Adverse Reaction—Febrile Non-hemolytic Transfusion Reaction	500	4	20/60	667
57.312 Hemovigilance Adverse Reaction—Hypotensive Transfusion Reaction	500	1	20/60	167
57.313 Hemovigilance Adverse Reaction—Infection	500	1	20/60	167
57.314 Hemovigilance Adverse Reaction—Post Transfusion Purpura	500	1	20/60	167
57.315 Hemovigilance Adverse Reaction—Transfusion Associated Dyspnea	500	1	20/60	167
57.316 Hemovigilance Adverse Reaction—Transfusion Associated Graft vs. Host Disease	500	1	20/60	167
57.317 Hemovigilance Adverse Reaction—Transfusion Related Acute Lung Injury	500	1	20/60	167
57.318 Hemovigilance Adverse Reaction—Transfusion Associated Circulatory Overload	500	2	20/60	333
57.319 Hemovigilance Adverse Reaction—Unknown Transfusion Reaction	500	1	20/60	167
57.320 Hemovigilance Adverse Reaction—Other Transfusion Reaction	500	1	20/60	167
57.400 Outpatient Procedure Component—Annual Facility Survey	700	1	10/60	117
57.401 Outpatient Procedure Component—Monthly Reporting Plan	700	12	15/60	2,100

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Form No. & name	Number of respondents	Number of responses per respondent	Average burden per response (min./hour)	Total burden (hours)
57.402 Outpatient Procedure Component Same Day Outcome Measures	200	1	40/60	133
57.403 Outpatient Procedure Component—Monthly Denominators for Same Day Outcome Measures	200	400	40/60	53,333
57.404 Outpatient Procedure Component—SSI Denominator	700	100	40/60	46,667
57.405 Outpatient Procedure Component—Surgical Site (SSI) Event	700	5	40/60	2,333
57.500 Outpatient Dialysis Center Practices Survey	7,200	1	127/60	15,240
57.501 Dialysis Monthly Reporting Plan	7,200	12	5/60	7,200
57.502 Dialysis Event	7,200	30	25/60	90,000
57.503 Denominator for Outpatient Dialysis	7,200	30	10/60	14,400
57.504 Prevention Process Measures Monthly Monitoring for Dialysis	1,730	12	75/60	25,950
57.505 Dialysis Patient Influenza Vaccination	615	50	10/60	5,125
57.506 Dialysis Patient Influenza Vaccination Denominator	615	5	10/60	513
57.507 Home Dialysis Center Practices Survey	430	1	30/60	215
Total				2,365,743

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2020–12809 Filed 6–12–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day-20–1186]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled Information Collection for Tuberculosis Data from Referring Entities to CureTB to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on December 23, 2019 to obtain comments from the public and affected agencies. CDC did not receive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Information Collection for Tuberculosis Data from Referring Entities to CureTB (OMB Control No. 0920–1186, Exp. 06/30/2020)—Revision—National Center for Emerging Zoonotic and Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CureTB at the Centers for Disease Control and Prevention (CDC) works with domestic and international programs to protect the U.S. public by preventing tuberculosis (TB) disease transmission domestically and internationally, as well as preventing the development of drug resistant TB. These goals are accomplished through CureTB referral and continuity of care services for mobile TB patients.

Lack of treatment adherence and inappropriate selection of medications are prime reasons for the continued emergence and spread of resistant strains of tuberculosis. To combat this, CureTB ensures that patients understand how to remain adherent to treatment regimens, despite moving between nations. CureTB also provides information to the health care team that will be continuing care about each patient's TB strain and tailored medication regimen. CureTB gathers demographic and clinical information for each patient and connects that individual to appropriate clinical care. This information is also provided on a real-time basis to medical providers and public health authorities in receiving nations so that follow-up with the patient can be expedited.

The respondents are local health departments (LHD) or Immigration and Customs Enforcement (ICE) detention centers within the United States and foreign national TB programs or healthcare facilities in other countries that provide diagnostic and treatment services to individuals affected by TB.

Individual TB patients may also be respondents if critical clinical or contact information is missing from their referral and CureTB follows-up with them to fill-in gaps to complete the referral service. All 50 US states and territories may refer TB patients to the CureTB program. To date, CureTB has also received referrals from Mexico and Guatemala. Local health departments or ICE detention facilities will submit CureTB referral forms as they request referral services. The number of referrals varies widely between respondents.

To ensure adequate referral to treatment occurs, CDC CureTB may need to follow-up with an individual to complete missing data fields concerning clinical or contact information. This is done to ensure continuity of care. Therefore, individuals with TB are also respondents in this information collection. CDC's CureTB program will also continue working with our public health partners in notifications and referrals for contacts of TB cases. This is a lesser used function of CureTB, but burden is included below. These respondents are health departments.

Finally, CDC staff in the CureTB program also contact the new treating physicians to determine patient outcomes using CureTB Clinician Public Health Department Follow-up Script. The physicians are generally contacted every two months over the course of standard six month TB treatment, for a total of three follow-up contacts per patient.

The revision for this information collection includes a small number of changes to the CureTB Transnational Notification information collection tool for ease of use by the respondents, and adding two pieces of additional data important for clinical decision making and patient contact. Additionally, CDC is clarifying the specific burden attributable to individuals within ICE detention centers by noting this in the Estimated Annualized Burden Hours table. Finally, CDC is updating the number of respondents and associated burden based on program operations over the last 12 months. No other changes are proposed.

OMB approval is requested for three years. Participation in this data collection is voluntary. There are no costs to respondents other than the time required to complete the referral documents and respond to CDC requests for TB patient outcomes. The total estimated annualized burden is 1,081 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Local Health Departments (LHD) in the United States.	CureTB Transnational Notification	70	4	30/60
TB patients referred by LHD	CureTB Transnational Notification	187	1	5/60
TB patients referred by ICE	CureTB Transnational Notification	587	1	45/60
TB treating physicians in new country	Clinician Public Health Department Follow-up Script.	870	3	10/60
LHD in the United States	CureTB Contact/Source Investigation (CI/SI) Notification.	20	5	30/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2020–12806 Filed 6–12–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–20–1193]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled Assessment of Technical Assistance and Training Approaches to Accelerate Comprehensive Cancer Control Outcomes to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on December 6, 2019 to obtain comments from the public and affected agencies. CDC received one comment related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Assessment of Technical Assistance and Training Approaches to Accelerate Comprehensive Cancer Control Outcomes (OMB Control No. 0920–1193, Exp. 7/31/2019)—Reinstatement with Change—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Cancer is the second leading cause of death in the United States, and health care costs for cancer care are expected to rise to $158 billion by 2020. Addressing this public health problem requires primary prevention, early detection and treatment, support for cancer survivors, and a reduction in health disparities. Providing support to state, tribal, territorial and local organizations to implement evidence-based strategies has the potential to impact population-level cancer outcomes and reduce the burden of cancer.

The Centers for Disease Control and Prevention's (CDC) National Comprehensive Cancer Control Program (NCCCP) has been a primary funder for state and community-based cancer control interventions since its inception in the late 1990s. The program supports states and communities in developing a comprehensive approach to cancer prevention and control that includes supporting an infrastructure for state, local, and population-based interventions and multi-sectoral partnerships and coalitions. Currently, NCCCP supports 66 cancer control program grantees including programs in all 50 states, the District of Columbia, and in a number of tribes, tribal organizations, and U.S. Associated Pacific Islands/territories.

In striving to build capacity and maximize the impact of CDC's funded programs, CDC has focused on developing and implementing innovative programs to enhance training and technical assistance (TTA) delivered to NCCCP awardees. CDC funds two awardees under a cooperative agreement—Provision of Technical Assistance and Training to Assure Comprehensive Cancer Control Outcomes (DP18–1805). DP18–1805 awardees are charged with developing and delivering high-quality TTA for NCCCP funded programs, coalition members, and partners focused on improving implementation of evidence-based strategies for cancer prevention and control. The TTA activities DP18–1805 awardees implement include (1) conduct of needs assessment, (2) develop framework for building CCC capacity, (3) coordinate and collaborate with existing partners, (4) develop a TTA plan, (5) implement a TTA plan and conduct performance monitoring and continuous quality improvement; and (6) conduct a comprehensive evaluation of TTA.

CDC proposes to conduct an assessment of DP18–1805 awardees to: (1) Document the nature of the TTA provided by DP18–1805 awardees and the extent to which the cooperative agreement was able to achieve planned short-term outcomes; and (2) identify the extent to which DP18–1805 TTA efforts contributed to NCCCP funded programs' achievement in program outcomes. There are no other data collection efforts currently underway to assess implementation or perceived effectiveness of TTA under DP18–1805.

This information collection request will involve two complementary data collection efforts: (1) Case studies of DP18–1805 awardees (consisting of interviews with DP18–1805 TTA provider program managers/directors, DP18–1805 TTA provider evaluators, and DP18–1805 TTA provider partners) and (2) a cross-sectional web-based survey administered to NCCCP program directors and staff, NCCCP coalition members, and NCCCP partners. The case studies will be used to explore how DP18–1805 awardees are implementing their respective cooperative agreements and administering TTA to NCCCP awardees; the factors that affect the implementation of specific TTA components; and the extent to which they were able to achieve planned short-term outcomes. The web-based survey will inform CDC's understanding of the reach of DP18–1805 TTA efforts; elicit information from NCCCP programs and coalitions about the TTA received, including type, dosage, frequency and format; and assess the perceptions of the effectiveness of the TTA.

CDC will use findings from the assessment to inform development of future TTA efforts to more effectively and efficiently support NCCCP's partner organizations. OMB approval is requested for three years. Participation is voluntary and respondents will not receive incentives for participation. There are no costs to respondents other than their time. The total estimated annualized burden is 51 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
NCCCP Awardee Program Directors and Staff.	Web-based survey	88	1	15/60
NCCCP Coalition Members, and NCCCP Partners.	Web-based survey	88	1	15/60
TTA Provider Organizations	Worksheet for Identifying Case Study Interviewees.	1	1	1
TTA Provider Directors or Managers	Case Study Interview Guide for TTA Provider Program Directors or Managers.	1	1	90/60
TTA Provider Evaluators	Case Study Interview Guide for TTA Provider Evaluators.	1	1	1
TTA Provider Partners	Case Study Interview Guide for TTA Provider Partners.	3	1	1

Jeffrey M. Zirger,
Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2020–12807 Filed 6–12–20; 8:45 am]
BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–20–0909; Docket No. CDC–2020–0070]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on CDC Diabetes Prevention Recognition Program (DPRP). This collection allows CDC to administer the Diabetes Prevention Recognition Program (DPRP) and collects information needed by the Centers for Medicare & Medicaid Services (CMS) to support the Medicare Expanded Model (Medicare Diabetes Prevention Program [MDPP]).

DATES: CDC must receive written comments on or before August 14, 2020.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2020–0070 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov.*

Please note: Submit all comments through the Federal eRulemaking portal (regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.
5. Assess information collection costs.

Proposed Project

CDC Diabetes Prevention Recognition Program (DPRP)—Revision—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC's Division of Diabetes Translation (DDT) established and administers the National DPP's Diabetes Prevention Recognition Program (DPRP), which recognizes organizations that deliver diabetes prevention programs according to evidence-based requirements set forth in the ''Centers for Disease Control and Prevention Diabetes Prevention Recognition Program Standards and Operating Procedures'' (DPRP Standards). Additionally, the Centers for Medicare and Medicaid Services (CMS) Medicare Diabetes Prevention Program (MDPP) expansion of CDC's National DPP was announced in early 2016, when the Secretary of Health and Human Services determined that the Diabetes Prevention Program met the statutory criteria for inclusion in Medicare's expanded list of healthcare services for beneficiaries (*https://innovation.cms.gov/initiatives/medicare-diabetes-prevention-program/*). This is the first time a preventive service model from the CMS Innovation (CMMI) Center has been expanded. After extensive testing of the DPP model in 17 sites across the U.S. in 2014–2016, CMS proposed the MDPP in Sections 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh § 424.59), authorizing CDC-recognized organizations to prepare for enrollment as MDPP suppliers beginning in January 2018 in order to bill CMS for these services. Only organizations in good standing with the CDC DPRP are eligible as MDPP suppliers. CDC continues to work with CMS to support the MDPP.

CDC requests an additional three years of OMB approval to continue collecting the information needed to administer the DPRP and information needed by CMS to support the MDPP benefit. Based on experience with the DPRP from 2011–2020, including data analysis, and feedback from applicant organizations and internal and external partners, CDC plans to revise the DPRP Standards and the associated information collection.

Key changes are a direct result of DPRP data analyses and discussion with National DPP stakeholders, including those serving vulnerable populations. Key changes allow for the optional collection of Hemoglobin A1C levels, and for weight/physical activity minutes to be combined (a new method), to determine Full recognition; the required collection of Application Delivery Mode questions; revised organizational type information; program enrollment motivation/enrollment source information; adding Gender; and the removal of Session ID.

Three data elements have been minimally revised and no other data elements have been added to the one-time application form; and, three elements have been revised, one has been deleted, and four have been added

to the evaluation data elements, as per below:

Application Form:

(1) Delivery Mode—follow-up questions (revised)
(2) Class Type (revised)
(3) Organization Type (revised)

Evaluation Data Elements:

(4) Enrollment Motivation (new)
(5) Enrollment Source (new)
(6) Session ID (deleted)
(7) HBA1C Value (new)
(8) Participant's Gender (new)

During the period of this Revision, CDC estimates receipt of approximately 300 DPRP application forms per year. The estimated burden per one-time, up-front application response is one hour (annualized to 300 hours one-time across all new organizations). In addition, CDC estimates receipt of semi-annual evaluation data submissions from the same 300 additional organizations per year; estimated at two hours per response. The total estimated average annualized evaluation burden to respondents is 6,676 hours. This includes an estimate of the time needed to extract and compile the required data records and fields from an existing electronic database, review the data, create or enter a data file in the required format (*i.e.,* CSV file), and submit the data file via the National DPP website for upload into the DPRP Data Portal. The estimated burden per response is modest since the information requested for DPRP recognition is routinely collected by most organizations that deliver lifestyle change programs for their own internal evaluation and possible insurance reimbursement purposes, including Medicare under the MDPP benefit. Participation in the DPRP is voluntary, data are de-identified, no Personally Identifiable Information (PII) is collected by CDC, and there are no costs to respondents other than their time. CDC is requesting a three-year approval.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Public sector organizations that deliver type 2 diabetes prevention programs.	DPRP Application Form ..	90	1	1	90
	DPRP Evaluation Data	290	2	2	1,160
Private sector organizations that deliver type 2 diabetes prevention programs.	DPRP Application Form ..	210	1	1	210
	DPRP Evaluation Data	1,304	2	2	5,216
Total	.....	.....	.....	.....	6,676

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2020–12810 Filed 6–12–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Income Withholding Order/Notice for Support (IWO)

AGENCY: Office of Child Support Enforcement; Administration for Children and Families; HHS.

ACTION: Request for Public Comment.

SUMMARY: The Administration for Children and Families (ACF) is requesting a three-year extension of the form Income Withholding Order/Notice for Support (IWO) (OMB #0970–0154, expiration 8/31/2020). This request includes minor revisions to the approved forms.

DATES: *Comments due within 30 days of publication.* OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

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.

SUPPLEMENTARY INFORMATION:

Description: The IWO is the standard form that must be used to order and notify employers and income providers to withhold child support payments from an obligor's income. It also indicates where employers and other income providers must remit the payments and other information needed to withhold correctly.

Child support agencies, courts, private attorneys, custodial parties, and others must use the IWO form to initiate an income withholding order for support and give notice of income withholding. State child support agencies are required to have automated data processing systems containing current order and case information. State child support agencies providing services to custodial and/or noncustodial parties enter the terms of a child support order established by a tribunal into the state's automated system, which automatically populates the order information into the IWO form.

Employers and income providers also use the form to respond to the order/notice with termination or income status information. Employers and other income providers may choose to receive the IWO form from child support agencies on paper or electronically, and may respond on paper or electronically to notify the sender of termination of employment or change in the income status.

The information collection activities pertaining to the IWO form are authorized by 42 U.S.C. 666(a)(1), (a)(8), and 666(b)(6), which require the use of the IWO form to order income withholding for all child support orders.

Respondents: Courts, private attorneys, custodial parties or their representatives, employers, and other parties that provide income to noncustodial parents.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Number of responses per respondent	Average burden hours per response	Annual burden hours
Income withholding order/notice (courts, private attorneys, custodial parties or their representatives)	4,091,591	1.00	5 minutes	340,966
Income withholding orders/termination of employment/income status (employers and other income providers)	1,256,624	9.07	2 minutes	379,919
Electronic income withholding orders/termination of employment/income status (employers and other income providers)	19,000	96.30	30 seconds	1,525

Estimated Total Annual Burden Hours: 722,410.

Authority: 42 U.S.C. 666(a)(1), (a)(8), and 666(b)(6).

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2020–12795 Filed 6–12–20; 8:45 am]

BILLING CODE 4184–41–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Advisory Council on Migrant Health Meeting Cancellation

AGENCY: Health Resources and Services Administration; Department of Health and Human Services.

ACTION: Notice of meeting cancellation.

SUMMARY: This is to notify the public that the July 29–30, 2020, and November 4–5, 2020, meetings of the National Advisory Council on Migrant Health (NACMH) are canceled.

FOR FURTHER INFORMATION CONTACT: Esther Paul, NACMH Designated Federal Officer, Strategic Initiatives and Planning Division, Office of Policy and Program Development, Bureau of Primary Health Care, HRSA, 5600 Fishers Lane, 16N38B, Rockville, Maryland 20857; 301–594–4300; or *epaul@hrsa.gov.*

SUPPLEMENTARY INFORMATION: The decision to cancel these NACMH meetings has been made after carefully considering the difficulties of obtaining a quorum in light of the current COVID–19 public health emergency and council members' concerns regarding their inability to access the needed internet speeds to conduct a video meeting. Consistent with the provisions in the NACMH Charter, these meetings were previously announced in the **Federal Register**, as follows:

Meeting I

July 29–30, 2020

Federal Register, Vol. 85, No. 67, Tuesday, April 7, 2020 (FR Doc. 2020–07204, filed 4–6–20)

Meeting II

November 4–5, 2020

Federal Register, Vol. 85, No. 41, Monday, March 2, 2020 (FR Doc. 2020–04169, filed 2–28–20)

Future NACMH meetings will be announced through the **Federal Register** at a later date.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2020–12505 Filed 6–12–20; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Notice of a Supplemental Award to the Zero to Three National Center for Infant, Toddler and Families, Inc. Cooperative Agreement for the Infant-Toddler Court Program

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice of funding award.

SUMMARY: HRSA announces the award of supplemental funding of approximately $7,000,000 to the Zero to Three National Center for Infant, Toddler and Families, Inc. Cooperative Agreement for the Infant-Toddler Court Program (ITCP). The supplemental funding will allow the current recipient, during the period of September 30, 2020–September 29, 2021, to continue to improve the health, safety, well-being and development of infants, toddlers, and families in the child welfare system.

FOR FURTHER INFORMATION CONTACT: Lynlee Tanner Stapleton, Division of Home Visiting and Early Childhood Services, HRSA, 5600 Fishers Lane, Room 18N–146A, Rockville, MD 20857, Phone: 301–443–5764, Email: *lstapleton@hrsa.gov.*

SUPPLEMENTARY INFORMATION:

Intended Recipient of Award: Zero to Three National Center for Infant, Toddler and Families, Inc.

Amount of Non-Competitive Award: $7,000,000.

Period of Supplemental Funding: 09/30/2020–09/29/2021.

CFDA Number: 93.110.

Authority: Social Security Act, Title V, § 501(a)(2) (42 U.S.C. 701(a)(2)).

Justification: Starting in 2014, the Administration for Children and Families supported the Quality Improvement Center for Research Based Infant-Toddler Court Teams to provide technical assistance and implement projects to fully develop and expand research-based child welfare infant-toddler court teams. The program was transferred to HRSA in Fiscal Year (FY) 2018 and awarded to Zero to Three National Center for Infant, Toddler and Families, Inc. ($3,000,000 per year for 3 years) to provide training, technical assistance, implementation support, and evaluation research for a network of infant-toddler court teams.

The Explanatory Statement accompanying the Further Consolidated Appropriations Act, 2020, indicated that ''The agreement includes no less than $10,000,000 for the third year of a cooperative agreement to support research-based Infant-Toddler Court Teams to change child welfare practices to improve the well-being of infants, toddlers, and their families as described in House Report 116–62.'' Furthermore, the House Report (H. Rept. 116–62) included the following language from the House Committee on Appropriations: ''The Committee includes $10,000,000 for the third year of a cooperative agreement to support research-based Infant Toddler Court Teams to change child welfare practices to improve well-being for infants, toddlers, and their families. The Committee expects this increase of $7,000,000 above the fiscal year 2019 enacted level to: (1) Build upon the

work of sites established through the Quality Improvement Center for Research-based Infant Toddler Court Teams, including by providing training and technical assistance in support of such court teams' efforts across the country, and (2) support additional outreach sites to start a court team.'' Providing this funding as a supplement to this cooperative agreement recipient, Zero to Three, Inc. is necessary to improve infant-toddler courts.

ITCP provides high-quality services across multiple systems, building on the previously developed Safe Babies Court Team approach, and works to strengthen and align the child welfare, health, and early childhood and community systems to meet the unique and urgent needs of infants, toddlers, and their families who have experienced, or are at risk for, significant maltreatment and/or foster care placement.

The additional funding will continue to advance outcomes associated with the prevention of infant/toddler maltreatment and the need for child placement into foster care; care linkages for involved children and parents with preventative and indicated health care services; expanded reach of infant-toddler court teams; and improved early identification of and response to child and family risk/need, as well as emphasize the continued expansion of cross-sector engagement and alliances at state and local levels. Expected activities include significantly expanding the number of new sites engaged in outreach and start-up activities, supporting states or other regional networks of sites to plan for and develop common infrastructure and resource sharing, increasing the depth of training and technical assistance offered to existing implementation sites, providing increased sub-awards to implementation sites to increase sites' service capacity, and expanding current evaluation work.

Grantee/organization name	Grant No.	State	FY 2019 authorized funding level	FY 2020 proposed funding level
Zero to Three National Center for Infant, Toddler and Families, Inc	U2DMC32394	DC	$2,986,820	$ 9,938,555

Thomas J. Engels,

Administrator.

[FR Doc. 2020–12834 Filed 6–12–20; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request; Information Collection Request Title: Title V Maternal and Child Health Services Block Grant to States Program: Guidance and Forms for the Title V Application/Annual Report OMB No. 0915–0172—Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects, the Health Resources and Services Administration (HRSA) announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this ICR must be received no later than August 14, 2020.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 14N136B, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call Lisa Wright-Solomon, the HRSA Information Collection Clearance Officer at (301) 443–1984.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information request collection title for reference.

Information Collection Request Title: Title V Maternal and Child Health Services Block Grant to States Program: Guidance and Forms for the Title V Application/Annual Report OMB No. 0915–0172—Revision.

Abstract: HRSA is updating the *Title V Maternal and Child Health Services Block Grant to States Program: Guidance and Forms for the Title V Application/Annual Report.* This Guidance is used annually by the 50 states and nine jurisdictions (hereafter referred to as ''state'') in applying for Block Grants under Title V of the Social Security Act and in preparing the required Annual Report. The updates being proposed by HRSA's Maternal and Child Health Bureau for this edition of the Guidance continue to honor the federal-state partnership that is supported by the Title V Maternal and Child Health Services Block Grant and reinforce the state's role in developing a 5-year Action Plan that addresses its individual priority needs. These proposed updates build on and further refine the reporting structure and vision that was outlined in the previous edition. As such, they are intended to enable a state to provide an articulate and comprehensive description of its Title V program activities and its leadership efforts in advancing and assuring a public health system that serves the Maternal and Child Health population. HRSA's proposed updates to this edition of the Guidance were informed by comments received from State Title V program leadership, national Maternal and Child Health leaders and other stakeholders.

While retaining the current organizational structure, performance measure framework and focus on family partnership, specific updates to this edition of the *Title V Maternal and Child Health Services Block Grant to States Program: Guidance and Forms for the Title V Application/Annual Report* include the following:

(1) Add clarifying language/instructions for completing reporting forms and update the Glossary of terms, references and citations, as needed.

(2) Revise the content of the National Outcome/Performance Measure Detail Sheets to include the 2030 *Healthy People* Objectives and to provide clear links to evidence-based and-informed strategies, federally available/state-reported data and data notes.

(3) Revise the format for Form #10e, which serves as the detail sheet for the state-specific measures (*i.e.,* Evidence-based and -Informed Strategy Measures, State Performance Measures, and State Outcome Measures).

(4) Provide continued emphasis on family partnership and engagement at the systems level and include the

Family Engagement in Systems Assessment Tool and Toolkit as one possible tool for State Title V programs to consider.

(5) Share background information, resources, state examples/metrics and definitions to assist states in their efforts to advance population health strategies for children with special health care needs (CSHCN).

(6) Expand Form 5 to include infants in the state's reporting on the number (5a) and percent (5b) of CSHCN served by Title V, *i.e.,* update the reporting to include infants and children with special health care needs (0–21 years).

(7) Enhance the narrative and performance reporting on State Title V efforts to build or expand program capacity related to Maternal and Child Health data access and cross-program data linkages, Maternal and Child Health workforce development/training, and emergency planning/preparedness.

a. Strengthen the narrative discussion on the State Systems Development Initiative (SSDI) grant and add a reporting form for annually assessing State Title V program capacity to access essential Maternal and Child Health data that supports timely program planning, monitoring, and evaluation.

b. Enhance the annual narrative reporting to include a more robust description of the State Title V workforce capacity (*e.g.,* number/types of Full-Time Equivalents, trends/shifts in Maternal and Child Health workforce, and key external partners) and professional development efforts, while providing resources to assist State Title V programs in their ongoing assessment of Maternal and Child Health workforce and training needs.

c. Expand the annual narrative reporting to include a descriptive analysis of the State Title V program's capacity related to emergency planning and preparedness, with the intended purpose of enabling each state to better assess its capacity for responding to emerging public health threats and disasters that could potentially impact the Maternal and Child Health population.

(8) Expand and enhance the Appendices to include supportive background information, examples, resources and tools.

In consideration of the increasing demands that are being placed on State Title V programs at this time due to the COVID–19 emergency and given that no major changes to the reporting requirements are being proposed, the burden estimates presented in the table below are based on the previous burden estimates for completion of the Title V Maternal and Child Health Services Block Grant Application/Annual Report. These estimates were developed based on prior estimates and consultations with a few States. When the COVID–19 emergency subsides, HRSA can solicit additional information from states to derive more accurate burden estimates.

The addition of clarifying instructions, state examples, expanded background information and supportive resources and tools, where possible, is expected to assist State Title V programs in responding to the reporting requirements. It is anticipated that further reductions in burden will be realized through the proposed revisions to the National Outcome/Performance Measure detail sheets and to Form #10e, which states use to define their state-specific measures. These reductions in burden will be partially offset by the addition of one reporting form (formerly part of the state's annual performance reporting for the SSDI grant), which will enable State Title V programs to annually assess their progress in building/expanding Maternal and Child Health data capacity. This reporting will be coupled with expanded narrative reporting on the state's SSDI grant activities, along with other capacity-building efforts that relate to the Maternal and Child Health workforce and emergency planning and preparedness.

Need and Proposed Use of the Information: Each year, all states are required to submit an Application/Annual Report for Federal funds for their Title V Maternal and Child Health Services Block Grant to States Program to HRSA (Section 505(a) of Title V of the Social Security Act). In addition, the State Maternal and Child Health Services Block Grant programs are required to conduct a state-wide, comprehensive Needs Assessment every 5 years. The information and instructions for the preparation and submission of this Application/Annual Report are contained in the *Title V Maternal and Child Health Services Block Grant to States Program: Guidance and Forms for the Title V Application/Annual Report.*

Likely Respondents: By legislation (Section 505(a) of Title V of the Social Security Act), the Maternal and Child Health Services Block Grant Application/Annual Report must be developed by, or in consultation with, the State Maternal and Child Health agency.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This estimate includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS:

Form name	Number of respondents	Number of responses per respondent	Total responses	Burden per response (in hours)	Total burden hours
Application and Annual Report without Five-Year Needs Assessment Summary	59	1	59	120	7,080
Average Total Annual Burden	59	—	59	—	7,080

States will use the updated edition of the *Title V Maternal and Child Health Services Block Grant to States Program: Guidance and Forms for the Title V Application/Annual Report* to prepare and submit the fiscal year (FY) 2022, FY 2023 and FY 2024 Applications/FY 2020, FY 2021 and FY 2022 Annual Reports, which will not contain the 5-Year Needs Assessment Summary. States will submit the next Five-Year Needs Assessment Summary in 2025, as part of the FY 2026 Application/FY 2024 Annual Report. Instructions for preparing the FY 2025, FY 2026 and FY

2027 Applications/FY 2023, FY 2024 and FY 2025 Annual Reports will be provided in the subsequent edition of the Application/Annual Report Guidance.

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2020–12786 Filed 6–12–20; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Lists of Designated Primary Medical Care, Mental Health, and Dental Health Professional Shortage Areas

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice informs the public of the availability of the complete lists of all geographic areas, population groups, and facilities designated as primary medical care, mental health, and dental health professional shortage areas (HPSAs) as of May 1, 2020. The lists are available on HRSA's HPSAFind website.

ADDRESSES: Complete lists of HPSAs designated as of May 1, 2020, are available on the website at *https://data.hrsa.gov/topics/health-workforce/shortage-areas.* Frequently updated information on HPSAs is available at *https://data.hrsa.gov/tools/shortage-area.* Information on shortage designations is available at *https://bhw.hrsa.gov/shortage-designation.*

FOR FURTHER INFORMATION CONTACT: For further information on the HPSA designations listed on the website or to request additional designation, withdrawal, or reapplication for designation, please contact Janelle D. McCutchen, DHEd, MPH, CHES, Chief, Shortage Designation Branch, Division of Policy and Shortage Designation, Bureau of Health Workforce, HRSA, 5600 Fishers Lane, Room 11W14, Rockville, Maryland 20857, (301) 443–9156, or *sdb@hrsa.gov.*

SUPPLEMENTARY INFORMATION:

Background

Section 332 of the Public Health Service (PHS) Act, 42 U.S.C. 254e, provides that the Secretary shall designate HPSAs based on criteria established by regulation. HPSAs are defined in section 332 to include (1) urban and rural geographic areas with shortages of health professionals, (2) population groups with such shortages, and (3) facilities with such shortages. Section 332 further requires that the Secretary of HHS annually publish lists of the designated geographic areas, population groups, and facilities. The lists of HPSAs are to be reviewed at least annually and revised as necessary.

Final regulations (42 CFR part 5) were published in 1980 that include the criteria for designating HPSAs. Criteria were defined for seven health professional types: Primary medical care, dental, psychiatric, vision care, podiatric, pharmacy, and veterinary care. The criteria for correctional facility HPSAs were revised and published on March 2, 1989 (54 FR 8735). The criteria for psychiatric HPSAs were expanded to mental health HPSAs on January 22, 1992 (57 FR 2473). Currently funded PHS Act programs use only the primary medical care, mental health, or dental HPSA designations.

HPSA designation offers access to potential federal assistance. Public or private nonprofit entities are eligible to apply for assignment of National Health Service Corps (NHSC) personnel to provide primary medical care, mental health, or dental health services in or to these HPSAs. NHSC health professionals enter into service agreements to serve in federally designated HPSAs. Entities with clinical training sites located in HPSAs are eligible to receive priority for certain residency training program grants administered by HRSA's Bureau of Health Workforce. Other federal programs also utilize HPSA designations. For example, under authorities administered by the Centers for Medicare and Medicaid Services, certain qualified providers in geographic area HPSAs are eligible for increased levels of Medicare reimbursement.

Content and Format of Lists

The three lists of designated HPSAs are available on the HRSA Data Warehouse HPSA Find website and include a snapshot of all geographic areas, population groups, and facilities that were designated HPSAs as of May 1, 2020. This notice incorporates the most recent annual reviews of designated HPSAs and supersedes the HPSA lists published in the **Federal Register** on June 25, 2019 (**Federal Register**/Vol. 84, No. 122/Monday, June 25, 2019/Notices 29869).

In addition, all Indian Tribes that meet the definition of such Tribes in the Indian Health Care Improvement Act of 1976, 25 U.S.C. 1603(d), are automatically designated as population groups with primary medical care and dental health professional shortages. Further, the Health Care Safety Net Amendments of 2002 provides eligibility for automatic facility HPSA designations for all federally qualified health centers (FQHCs) and rural health clinics that offer services regardless of ability to pay. Specifically, these entities include FQHCs funded under section 330 of the PHS Act, FQHC Look-Alikes, and Tribal and urban Indian clinics operating under the Indian Self-Determination and Education Act of 1975 (25 U.S.C. 450) or the Indian Health Care Improvement Act. Many, but not all, of these entities are included on this listing. Absence from this list does not exclude them from HPSA designation; facilities eligible for automatic designation are included in the database when they are identified.

Each list of designated HPSAs is arranged by state. Within each state, the list is presented by county. If only a portion (or portions) of a county is (are) designated, a county is part of a larger designated service area, or a population group residing in a county or a facility located in the county has been designated, the name of the service area, population group, or facility involved is listed under the county name. A county that has a whole county geographic or population group HPSA is indicated by the phrase ''County'' following the county name.

Development of the Designation and Withdrawal Lists

Requests for designation or withdrawal of a particular geographic area, population group, or facility as a HPSA are received continuously by HRSA. Under a Cooperative Agreement between HRSA and the 54 state and territorial Primary Care Offices (PCOs), PCOs conduct needs assessments and submit applications to HRSA to designate areas as HPSAs. HRSA refers requests that come from other sources to PCOs for review. In addition, interested parties, including Governors, State Primary Care Associations, and state professional associations, are notified of requests so that they may submit their comments and recommendations.

HRSA reviews each recommendation for possible addition, continuation, revision, or withdrawal. Following review, HRSA notifies the appropriate agency, individuals, and interested organizations of each designation of a HPSA, rejection of recommendation for HPSA designation, revision of a HPSA designation, and/or advance notice of pending withdrawals from the HPSA list. Designations (or revisions of designations) are effective as of the date on the notification from HRSA and are updated daily on the HPSAFind website. The effective date of a withdrawal will be the next publication of a notice regarding the list in the **Federal Register**.

Thomas J. Engels,

Administrator.

[FR Doc. 2020–12832 Filed 6–12–20; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request; Application and Other Forms Used by the National Health Service Corps (NHSC) Scholarship Program (SP), the NHSC Students to Service Loan Repayment Program (S2S LRP), and the Native Hawaiian Health Scholarship Program (NHHSP), OMB No. 0915–0146—Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with of the Paperwork Reduction Act of 1995, HRSA has submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period. OMB may act on HRSA's ICR only after the 30 day comment period for this notice has closed.

DATES: Comments on this ICR should be received no later than July 15, 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 Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email Lisa Wright-Solomon, the HRSA Information Collection Clearance Officer at *paperwork@hrsa.gov* or call (301) 443–1984.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: Application and Other Forms Used by the National Health Service Corps (NHSC) Scholarship Program (SP), the NHSC Students to Service Loan Repayment Program (S2S LRP), and the Native Hawaiian Health Scholarship Program (NHHSP).

OMB No. 0915–0146—Revision

Abstract: Administered by HRSA's Bureau of Health Workforce (BHW), the NHSC SP, NHSC S2S LRP, and the NHHSP provide scholarships or loan repayment to qualified students who are pursuing primary care health professions education and training. In return, students agree to provide primary health care services in underserved communities located in federally designated Health Professional Shortage Areas once they are fully trained and licensed health professionals. Awards are made to applicants who demonstrate the greatest potential for successful completion of their education and training as well as commitment to provide primary health care services to communities of greatest need. The information from program applications, forms, and supporting documentation is used to select the best qualified candidates for these competitive awards, and to monitor program participants' enrollment in school, postgraduate training, and compliance with program requirements.

Although some program forms vary from program to program (see program-specific burden charts below), required forms generally include: A program application, academic and non-academic letters of recommendation, the authorization to release information, and the acceptance/verification of good standing report. Additional forms for the NHSC SP include the data collection worksheet, which is completed by the educational institutions of program participants; the post-graduate training verification form (applicable for NHSC S2S LRP participants), which is completed by program participants and their residency director; and the enrollment verification form, which is completed by program participants and the educational institution for each academic term. The NHHSP program will add 3 new forms including the scholar enrollment verification, change in program curriculum and graduation documentation forms. These forms are completed by the grantee on behalf of the participant and the educational institution to verify the participant's enrollment status for each academic term, to provide notice of any change in the participant's program curriculum and to verify that NHHSP has met its financial obligation to pay tuition and related fees or to hold additional funds to cover any tuition balance or fees on the participant's student account.

Upon review of the 60-day notice, it was determined that The ''Post Graduate Training Form'' was accidentally included as a duplicate entry since it is already captured in the ''NHSC awardees/schools/post graduate training programs/sites'' section, which is the proper program for which it is used. Therefore, it was removed from the NHSC Students to Service Loan Repayment Program Application'' section of the Estimated Burden Table.

A 60-day notice published in the **Federal Register** on March 9, 2020, vol. 85, No. 46; pp. 13662–13664. There was one public comment.

Need and Proposed Use of the Information: The NHSC SP, S2S LRP, and NHHSP applications, forms, and supporting documentation are used to collect necessary information from applicants that enable HRSA to make selection determinations for the competitive awards and monitor compliance with program requirements.

Likely Respondents: Qualified students who are pursuing education and training in primary care health professions and are interested in working in health professional shortage areas.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
NHSC Scholarship Program Application					
NHSC Scholarship Program Application	1,889	1	1,889	2.00	3,778.00
Letters of Recommendation	1,889	2	3,778	1.00	3,778.00
Authorization to Release Information	1,889	1	1,889	.10	188.90
Acceptance/Verification of Good Standing Report	1,889	1	1,889	.25	472.25
Verification of Disadvantaged Background Status	547	1	547	.25	136.75
Total	*1,889		9,992		8,353.9
NHSC awardees/schools/post graduate training programs/sites					
Data Collection Worksheet	400	1	400	1.00	400
Post Graduate Training Verification Form	100	1	100	.50	50
Enrollment Verification Form	600	2	1,200	.50	600
Total	*600		1,700		1,050
NHSC Students to Service Loan Repayment Program Application					
NHSC Students to Service Loan Repayment Program Application	200	1	200	2.00	400.0
Letters of Recommendation	200	2	400	1.00	400.0
Authorization to Release Information	200	1	200	.10	20.0
Acceptance/Verification of Good Standing Report	200	1	200	.25	50.0
Verification of Disadvantaged Background Status	70	1	70	.25	17.5
Total	*150		1,070		887.50
Native Hawaiian Health Scholarship Program Application					
Native Hawaiian Health Scholarship Program Application	310	1	310	2.00	620.0
Letters of Recommendation	310	2	620	.25	155.0
Authorization to Release Information	310	1	310	.25	77.5
Acceptance/Verification of Good Standing Report	30	1	30	.25	7.5
Scholar Enrollment Verification Form	30	7.5	225	0.50	112.5
Change in Program Curriculum Form	30	2	60	.25	15.0
NHHSP Graduation Documentation Form	30	1	30	0.25	7.5
Total	*310		1,585		995

* Please note that the same group of respondents may complete each form as necessary.
* Certain documents are submitted by a subset of respondents consistent with program requirements.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2020–12840 Filed 6–12–20; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; RFA DK19–020 Mechanisms Underlying the Contribution of Type 1 Diabetes Disease-associated Variants (R01).

Date: July 16, 2020.

Time: 11:30 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Ann A. Jerkins, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7119, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–2242, *jerkinsa@niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: June 9, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–12815 Filed 6–12–20; 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; Emotional Well-Being: High-Priority Research Networks.

Date: August 7, 2020.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: NCCIH, Democracy II, 6707 Democracy Blvd., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jessica Marie McKlveen, Ph.D., Scientific Review Officer, Office of Scientific Review, Division of Extramural Activities, NCCIH, NIH, 6707 Democracy Boulevard, Suite 401, Bethesda, MD 20892–547 *jessica.mcklveen@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: June 10, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–12850 Filed 6–12–20; 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 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 Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel; Ancillary Studies Review Meeting.

Date: July 1, 2020.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Arthritis, Musculoskeletal and Skin Diseases, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Yasuko Furumoto, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Arthritis, Musculoskeletal and Skin Diseases, 6701 Democracy Boulevard, Suite 820, Bethesda, MD 20892, (301) 827–7835, *yasuko.furumoto@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: June 9, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–12817 Filed 6–12–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, Small Business: Respiratory Sciences, July 02, 2020, 08:00 a.m. to July 03, 2020, 05:00 p.m., National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892, which was published in the **Federal Register** on June 09, 2020, 85 FR 35315.

This notice is being amended to change the meeting date from to July 2–3, 2020 to July 1–2, 2020. The time and meeting location remain the same. The meeting is closed to the public.

Dated: June 9, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–12819 Filed 6–12–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications/contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Developmental Mechanisms of Human Structural Birth Defects.

Date: July 20–21, 2020.

Time: 5:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NICHD/NIH, 6710B, Rockledge Dr., Bethesda, MD 20892.

Contact Person: Kimberly Lynette Houston, MD, 6710B Rockledge Drive, Bethesda, MD 20892, *kimberly.houston@nih.gov*, 301.827.4902.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: June 10, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–12847 Filed 6–12–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Early Phase Clinical Trials—Pharma/Device Clinical Trials.

Date: July 7, 2020.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Blvd., Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Serena P. Chu, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6135, MSC 9609, Rockville, MD 20892–9609, 301–443–0004, *sechu@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: June 9, 2020.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–12814 Filed 6–12–20; 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: AIDS and Related Research Integrated Review Group; HIV Coinfections and HIV Associated Cancers Study Section.

Date: July 9, 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 Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jingsheng Tuo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3196, Bethesda, MD 20892, (301) 451–5953, *tuoj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Radiation Therapy and Biology.

Date: July 14–15, 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 Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Bo Hong, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6194, MSC 7804, Bethesda, MD 20892, (301) 996–6208, *hongb@csr.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group; HIV Comorbidities and Clinical Studies Study Section.

Date: July 14–15, 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 Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Dimitrios Nikolaos Vatakis, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3190, Bethesda, MD 20892, (301) 827–7480, *dimitrios.vatakis@nih.gov.*

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Drug Discovery and Mechanisms of Antimicrobial Resistance Study Section.

Date: July 15–16, 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 Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Guangyong Ji, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3188, MSC 7808, Bethesda, MD 20892, (301) 435–1146, *jig@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Bioengineering, Surgery, Anesthesiology, and Trauma.

Date: July 15, 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 Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Donald Scott Wright, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7854, Bethesda, MD 20892, (301) 435–8363, *wrightds@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Kidney and Urologic Diseases.

Date: July 15–16, 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 Drive, 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; Member Conflict: Myocardial Ischemia and Metabolism.

Date: July 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 Drive, 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: Center for Scientific Review Special Emphasis Panel; Member Conflict: Motivated Behavior and Alcohol.

Date: July 15, 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 Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Michael Selmanoff, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5164, MSC 7844, Bethesda, MD 20892, (301) 435–1119 *selmanom@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: June 9, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–12818 Filed 6–12–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Social Sciences and Population Studies B Study Section, June 18, 2020, 09:00 a.m. to June 19, 2020, 05:00 p.m., National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892, which was published in the **Federal Register** on May 15, 2020, 85 FR 29464.

This notice is being amended to change the meeting time from 9:00 a.m. to 5:00 p.m. to 10:00 a.m. to 5:00 p.m. The meeting is closed to the public.

Dated: June 9, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–12820 Filed 6–12–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; Review of NIGMS SCORE Applications.

Date: July 13, 2020.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, Room 3AN12, 45 Center Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: John J. Laffan, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 3AN18J, Bethesda, MD 20892, (301) 594–2773, *laffanjo@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: June 9, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–12816 Filed 6–12–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Biobehavioral and Behavioral Processes Integrated Review Group, Child Psychopathology and Developmental Disabilities Study Section, June 22, 2020, 08:00 a.m. to June 23, 2020, 06:00 p.m., National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 which was published in the **Federal Register** on May 20, 2020, 85 FR 30721.

This notice is being amended to change the meeting time from 08:00 a.m. to 06:00 p.m. to 10:00 a.m. to 06:00 p.m. Meeting Date and Location remain the same. The meeting is closed to the public.

Dated: June 10, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–12848 Filed 6–12–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer at (240) 276–0361.

Comments are invited on: (a) Whether the proposed collections of information are 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.

Proposed Project: National Substance Use and Mental Health Services Survey (N–SUMHSS) (OMB No. 0930–)

Historically SAMHSA collected information on substance use and mental health treatment facilities through two (2) separate data collections: The National Survey of Substance Abuse Treatment Services (N–SSATS; OMB No. 0930–0106) and the National Mental Health Services Survey (N–MHSS; OMB No. 0930–0119). SAMHSA also maintain as part of the N–SSATS data collection approval, an inventory of treatment facility, named the Inventory of Behavioral Health Services (I–BHS) (N–SSATS; OMB No. 0930–0106).

Some of the content and questions in the N–SSATS and N–MHSS data collection surveys are similar and represented an additional burden to approximately 14 percent of facilities that received both surveys. SAMHSA recognizes the need to have data collections that are less burdensome to these facilities that provide these services. To help reduce respondent

burden, increase efficiency, and better manage resources, SAMHSA goal is to combine these two surveys into the National Substance Use and Mental Health Services Survey (N–SUMHSS).

The N–SUMHSS, will include the facility characteristics and services questions currently asked in the N–SSATS and the N–MHSS. The survey will also collect, on an annual basis, client counts on those individuals receiving services at these facilities. Historically, client count information was collected every other year; however there is an increasing need to collect and maintain data on current and accurate numbers of clients in treatment at the local level for community to assess capacity and estimate resource requirements. This information on substance use and mental health services has assisted with communities to better respond to life changing events, (*i.e.,* hurricane) and plan for service demands in the event of a natural disaster, (*i.e.,* earthquakes).

SAMHSA requests is for approval of the N–SUMHSS data collection and the extension of the I–BHS data collection. The N–SUMHSS survey will provide data on the numbers and types of patients treated and the characteristics of facilities providing substance use and mental health treatment services. The extension of the duration of the I–BHS survey, which is current authorized as part of N–SSATS (OMB No. 0930–0106), aligns it to the same period as the N–SUMHSS. These surveys are conducted under the authority of Section 505 of the Public Health Service Act (42 U.S.C. 290aa–4) to meet the specific mandates for annual information about public and private substance use/mental health treatment providers and the clients they serve.

This request includes:

- N–SUMHSS, an annual census of substance use and mental health treatment facilities which collects descriptive data on the location, scope of services provided, and operational characteristics of all known substance use and mental health treatment facilities in the United States and jurisdictions, and on utilization of services by means of a single-day count of clients in treatment; and
- I–BHS data collection activities associated with updating the inventory of both mental health treatment facilities and substance use treatment facilities.

The information in N–SUMHSS and I–BHS is needed to assess the nature and extent of these resources, to identify gaps in services, and to provide a database for treatment referrals.

The request for OMB approval will include a request to conduct the N–SUMHSS survey which includes facility characteristics and services and one-day client counts and to update the I–BHS facility listing on a continuous basis in 2021, 2022 and 2023. Also included in this request is the Between Cycle N–SUMHSS data collection (N–SUMHSS BC), to be conducted between annual surveys to collect information on new facilities for inclusion in the Treatment Locator. N–SUMHSS BC use is an abbreviated N–SUMHSS survey questionnaire.

The estimated annual burden for the I–BHS and BHSIS activities is as follows:

Type of respondent and activity	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours	Wage rate	Total hour cost
States							
I–BHS Online [1]	56	75	4,200	0.08	336	$23	$7,728
State Subtotal	56		4,200		336		7,728
Facilities							
I–BHS application [2]	800	1	800	0.08	64	19.40	1,242
Augmentation screener	1,300	1	1,300	0.08	104	19.40	2,018
N–SUMHSS questionnaire (either SU or MH)	32,000	1	32,000	0.67	21,333	47.95	1,022,917
N–SUMHSS (both SU and MH)	5,000	1	5,000	1.17	5,833	47.95	279,692
N–SUMHSS BC	1,000	1	1,000	0.58	580	47.95	27,811
Facility Subtotal	40,100		40,100		27,914		1,333,680
Total	40,156		44,300		28,250		1,341,408

[1] States use the I–BHS Online system to submit information on newly licensed/approved facilities and on changes in facility name, address, status, etc.

[2] New facilities complete and submit the online I–BHS application form in order to get listed on the Inventory.

Send comments to Carlos Graham, SAMHSA Reports Clearance Officer, 5600 Fisher Lane, Room 15E57A, Rockville, MD 20852 *OR* email him a copy at *carlos.graham@samhsa.hhs.gov.* Written comments should be received by August 14, 2020.

Carlos Graham,

Social Science Analyst.

[FR Doc. 2020–12837 Filed 6–12–20; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6217–N–01]

Notice of Annual Factors for Determining Administrative Fees for the Section 8 Housing Choice Voucher, Mainstream, and Moderate Rehabilitation Programs

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: This notice announces the monthly per unit fee rates for use in determining the on-going administrative fees for public housing agencies (PHAs) administering the Housing Choice Voucher (HCV), Mainstream, and Moderate Rehabilitation programs, including Single Room Occupancy, during calendar year (CY) 2020.

DATES: *Applicable Date:* January 1, 2020.

FOR FURTHER INFORMATION CONTACT: Miguel A. Fontánez, Director, Housing Voucher Financial Management

Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 4222, Washington, DC 20410–8000, telephone number 202–402–2934. (This is not a toll-free number). Hearing or speech impaired individuals may call TTY number 1 (800) 877–8337.

SUPPLEMENTARY INFORMATION:

A. Background

This notice provides the HUD's methodology used to determine the CY 2020 administrative fee rates by area, which HUD uses to determine PHA administrative fees for the HCV, Mainstream, and Moderate Rehabilitation programs, including Single Room Occupancy programs. The HCV program is the federal government's major program for assisting very low-income families, the elderly, and the disabled to afford decent, safe, and sanitary housing in the private market. Mainstream Vouchers are tenant-based vouchers serving households that include a non-elderly person with a disability, available to PHAs through a competitive Notice of Funding Availability (NOFA). The moderate rehabilitation program provides project-based rental assistance for low income families. The program was repealed in 1991 and no new projects are authorized for development. Assistance is limited to properties previously rehabilitated pursuant to a housing assistance payments (HAP) contract between an owner and a PHA. PHAs are local offices responsible for administering and maintaining Section 8 housing benefits, located across the country.

B. CY 2020 Methodology

For CY 2020, in accordance with the 2020 Appropriations Act (Pub. L. 116–94), administrative fees are determined based on vouchers leased as of the first day of each month. This data is extracted from the Voucher Management System (VMS) at the close of each reporting cycle and validated prior to use. For Moderate Rehabilitation, including Single Room Occupancy, HAP contracts, administrative fees are earned based on the units under a HAP contract.

In the attached table, two fee rates are provided for each PHA. The first rate, Column A, applies to the first 7200 voucher unit months leased in CY 2020. The second rate, Column B, applies to all remaining voucher unit months leased in CY 2020. In years prior to 2010, Column C applied to all voucher unit months leased in dwelling units owned by the PHA. For CY 2020, as in recent years, there are no Column C administrative fee rates. Fees for leasing PHA-owned units is determined in the same manner and at the same Column A and Column B rates as for all other voucher leasing.

In some cases, the fee rates calculated for CY 2020 are lower than those established for CY 2019. In these cases, the affected PHAs are held harmless at the CY 2019 fee rates.

The fee rates for each PHA generally cover the fees for areas in which the PHA has the greatest proportion of its participants, based on Public Housing Information Center (PIC) data submitted by the PHA. In some cases, PHAs have participants in more than one fee area. If such a PHA chooses, the PHA may request HUD establish a blended fee rate to proportionately consider all areas in which participants are located. Once a blended rate is established, it is used to determine the PHA's fee eligibility for all months in CY 2020. The 2020 HCV Funding Implementation Notice described how to apply for blended fee rates and the deadline date for submitting such requests. The notice can be accessed through the following link: *https://www.hud.gov/sites/dfiles/PIH/documents/pih2020-04.pdf.*

PHAs operating over large geographic areas, defined as multiple counties, may request a higher administrative fee rate if eligible. The 2020 HCV Funding Implementation Notice described when to apply for higher fee rates and the deadline date for such requests. Higher administrative fee rates differ from blended administrative fee rates in how they are calculated. Requests for higher administrative rates must clearly demonstrate that the PHA's published rate cannot cover their projected expenses. Next, a breakeven rate is calculated to ensure the PHA receives sufficient funds to cover their expenses while also ensuring the administrative fee reserves do not grow.

This notice identifies the monthly per-voucher-unit fee rates to be used to determine PHA administrative fee eligibility. These fee rates remain posted at: *http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/hcv.,* under Program Related Information.

Direct questions to the PHA's assigned representative at the Financial Management Center or the Financial Management Division at *PIHFinancialManagementDivision@hud.gov.*

C. Moving to Work (MTW) Agencies

Where an MTW Agency has an alternative formula for calculating HCV Administrative Fees in Attachment A of their MTW Agreements, HUD calculates the HCV Administrative Fees in accordance with that MTW Agreement provision.

The Assistant Secretary for Public and Indian Housing, R. Hunter Kurtz, having reviewed and approved the annual announcement of Administrative Fee Rates, is delegating the authority to electronically sign this document to Aaron Santa Anna, who is the **Federal Register** Liaison for HUD, for purposes of publication in the **Federal Register**.

Dated: June 9, 2020.

Aaron Santa Anna,

Federal Liaison for the Department of Housing and Urban Development.

PHA num	A rate	B rate
AK901	$102.40	$95.58
AL001	68.38	63.82
AL002	69.46	64.84
AL004	67.48	62.98
AL005	70.23	65.55
AL006	67.48	62.98
AL007	67.48	62.98
AL008	66.11	61.70
AL011	66.11	61.70
AL012	67.48	62.98
AL014	66.11	61.70
AL047	69.48	64.86
AL048	67.48	62.98
AL049	67.48	62.98
AL050	67.48	62.98
AL052	66.11	61.70
AL053	66.11	61.70
AL054	67.48	62.98
AL060	66.11	61.70
AL061	67.48	62.98
AL063	68.38	63.82
AL068	67.48	62.98
AL069	68.38	63.82
AL072	68.38	63.82
AL073	66.27	61.85
AL075	66.11	61.70
AL077	67.48	62.98
AL086	68.38	63.82
AL090	66.11	61.70
AL091	66.11	61.70
AL099	66.11	61.70
AL105	66.11	61.70
AL107	66.11	61.70
AL112	66.11	61.70
AL114	66.11	61.70
AL115	66.11	61.70
AL116	66.11	61.70
AL118	66.11	61.70
AL121	66.11	61.70
AL124	66.27	61.85
AL125	68.38	63.82
AL129	67.48	62.98
AL131	67.48	62.98
AL138	67.48	62.98
AL139	67.48	62.98
AL152	67.48	62.98
AL154	66.11	61.70
AL155	66.11	61.70
AL160	66.11	61.70
AL165	70.47	65.78
AL169	69.46	64.84
AL171	66.11	61.70
AL172	67.48	62.98

PHA num	A rate	B rate
AL174	66.11	61.70
AL177	66.11	61.70
AL181	66.11	61.70
AL192	66.11	61.70
AL202	69.46	64.84
AR002	71.21	66.47
AR003	65.27	60.92
AR004	71.21	66.47
AR006	71.21	66.47
AR010	62.63	58.45
AR012	62.63	58.45
AR015	65.43	61.07
AR016	62.63	58.45
AR017	65.27	60.92
AR020	62.78	58.59
AR024	69.33	64.71
AR031	65.27	60.92
AR033	62.63	58.45
AR034	65.27	60.92
AR035	62.63	58.45
AR037	62.63	58.45
AR039	62.63	58.45
AR041	71.21	66.47
AR042	65.27	60.92
AR045	62.63	58.45
AR052	62.63	58.45
AR059	62.63	58.45
AR066	62.63	58.45
AR068	62.63	58.45
AR082	62.63	58.45
AR104	65.27	60.92
AR117	62.63	58.45
AR121	62.63	58.45
AR131	65.27	60.92
AR135	62.63	58.45
AR152	62.63	58.45
AR161	62.63	58.45
AR163	65.27	60.92
AR166	62.63	58.45
AR170	71.21	66.47
AR175	71.21	66.47
AR176	62.63	58.45
AR177	62.63	58.45
AR181	65.27	60.92
AR194	65.27	60.92
AR197	62.63	58.45
AR200	62.63	58.45
AR210	62.63	58.45
AR211	62.63	58.45
AR213	62.63	58.45
AR214	62.63	58.45
AR215	62.63	58.45
AR219	71.21	66.47
AR223	62.63	58.45
AR224	62.63	58.45
AR225	62.63	58.45
AR232	65.27	60.92
AR240	62.63	58.45
AR241	65.47	61.10
AR247	62.63	58.45
AR252	71.21	66.47
AR257	62.63	58.45
AR264	69.33	64.71
AR265	62.63	58.45
AR266	62.63	58.45
AZ001	73.98	69.04
AZ003	73.98	69.04
AZ004	73.14	68.26
AZ005	73.98	69.04
AZ006	80.89	75.50
AZ008	58.76	54.84
AZ009	73.98	69.04
AZ010	73.98	69.04
AZ013	82.19	76.72
AZ021	73.98	69.04
AZ023	61.91	57.78
AZ025	73.14	68.26
AZ028	73.98	69.04
AZ031	73.98	69.04
AZ032	73.98	69.04
AZ033	73.14	68.26
AZ034	60.78	56.73
AZ035	82.19	76.72
AZ037	60.78	56.73
AZ041	80.89	75.50
AZ043	99.06	92.46
AZ045	60.88	56.82
AZ880	73.98	69.04
AZ901	80.89	75.50
CA001	128.02	119.49
CA002	128.02	119.49
CA003	128.02	119.49
CA004	128.02	119.49
CA005	97.22	90.74
CA006	89.20	83.25
CA007	97.22	90.74
CA008	97.56	91.06
CA011	128.02	119.49
CA014	128.02	119.49
CA019	102.13	95.33
CA021	125.01	116.65
CA022	102.13	95.33
CA023	83.81	78.24
CA024	93.29	87.08
CA026	93.94	87.67
CA027	102.13	95.33
CA028	89.20	83.25
CA030	83.18	77.65
CA031	128.02	119.49
CA032	128.02	119.49
CA033	110.29	102.93
CA035	128.02	119.49
CA039	92.82	86.63
CA041	111.14	103.73
CA043	85.73	80.00
CA044	97.22	90.74
CA048	73.56	68.66
CA052	128.02	119.49
CA053	80.51	75.14
CA055	111.14	103.73
CA056	128.02	119.49
CA058	128.02	119.49
CA059	128.02	119.49
CA060	128.02	119.49
CA061	84.88	79.22
CA062	128.02	119.49
CA063	114.46	106.82
CA064	110.82	103.43
CA065	111.14	103.73
CA066	111.14	103.73
CA067	128.02	119.49
CA068	128.02	119.49
CA069	89.20	83.25
CA070	77.68	72.50
CA071	128.02	119.49
CA072	128.02	119.49
CA073	111.14	103.73
CA074	128.02	119.49
CA075	128.02	119.49
CA076	125.01	116.65
CA077	114.46	106.82
CA079	128.02	119.49
CA082	128.02	119.49
CA084	91.48	85.38
CA085	124.86	116.54
CA086	87.44	81.60
CA088	124.86	116.54
CA092	128.02	119.49
CA093	128.02	119.49
CA094	128.02	119.49
CA096	89.20	83.25
CA102	128.02	119.49
CA103	128.02	119.49
CA104	128.02	119.49
CA105	128.02	119.49
CA106	89.20	83.25
CA108	114.46	106.82
CA110	128.02	119.49
CA111	128.02	119.49
CA114	128.02	119.49
CA116	114.46	106.82
CA117	128.02	119.49
CA118	128.02	119.49
CA119	128.02	119.49
CA120	128.02	119.49
CA121	128.02	119.49
CA123	128.02	119.49
CA125	111.14	103.73
CA126	128.02	119.49
CA128	97.22	90.74
CA131	111.14	103.73
CA132	114.46	106.82
CA136	128.02	119.49
CA143	92.82	86.63
CA144	84.88	79.22
CA149	97.22	90.74
CA151	97.22	90.74
CA155	114.46	106.82
CO001	78.01	72.81
CO002	72.06	67.25
CO005	81.04	75.63
CO006	69.37	64.74
CO016	88.52	82.61
CO019	78.01	72.81
CO024	69.37	64.74
CO028	72.78	67.92
CO031	69.37	64.74
CO034	83.88	78.30
CO035	72.33	67.52
CO036	78.01	72.81
CO040	107.12	99.99
CO041	83.88	78.30
CO043	81.04	75.63
CO045	69.37	64.74
CO048	78.01	72.81
CO049	78.01	72.81
CO050	78.01	72.81
CO051	91.26	85.17
CO052	78.01	72.81
CO057	78.01	72.81
CO058	78.01	72.81
CO061	88.52	82.61
CO070	88.52	82.61
CO071	72.78	67.92
CO072	78.01	72.81
CO079	81.04	75.63
CO087	107.12	99.99
CO090	72.33	67.52
CO095	102.43	95.60
CO101	69.37	64.74
CO103	83.88	78.30
CO888	72.06	67.25
CO911	78.01	72.81
CO921	78.01	72.81
CT001	100.19	93.52
CT002	107.40	100.25
CT003	94.44	88.13
CT004	104.10	97.16
CT005	94.44	88.13
CT006	85.30	79.61
CT007	107.40	100.25
CT008	94.44	88.13

PHA num	A rate	B rate
CT009	94.44	88.13
CT010	85.30	79.61
CT011	104.10	97.16
CT013	94.44	88.13
CT015	100.19	93.52
CT017	100.19	93.52
CT018	92.71	86.53
CT019	107.40	100.25
CT020	107.40	100.25
CT023	94.44	88.13
CT024	85.30	79.61
CT026	94.44	88.13
CT027	100.19	93.52
CT028	94.44	88.13
CT029	104.10	97.16
CT030	100.19	93.52
CT031	85.30	79.61
CT032	94.44	88.13
CT033	94.44	88.13
CT036	94.44	88.13
CT038	94.44	88.13
CT039	94.44	88.13
CT040	94.44	88.13
CT041	94.44	88.13
CT042	104.10	97.16
CT047	85.30	79.61
CT048	94.44	88.13
CT049	94.44	88.13
CT051	94.44	88.13
CT052	100.19	93.52
CT053	94.44	88.13
CT058	85.30	79.61
CT061	85.30	79.61
CT063	104.10	97.16
CT067	104.10	97.16
CT068	94.44	88.13
CT901	94.44	88.13
DC001	116.27	108.53
DC880	116.27	108.53
DE001	93.31	87.09
DE002	80.59	75.21
DE003	93.31	87.09
DE005	93.31	87.09
DE901	80.59	75.21
FL001	75.03	70.03
FL002	79.21	73.92
FL003	79.21	73.92
FL004	82.73	77.21
FL005	107.49	100.34
FL007	79.41	74.12
FL008	86.94	81.14
FL009	83.94	78.34
FL010	100.65	93.94
FL011	65.93	61.54
FL013	108.66	101.43
FL015	70.50	65.79
FL017	107.49	100.34
FL018	64.40	60.11
FL019	76.37	71.30
FL020	76.37	71.30
FL021	83.94	78.34
FL022	79.41	74.12
FL023	86.94	81.14
FL024	79.41	74.12
FL025	76.37	71.30
FL026	65.93	61.54
FL028	100.65	93.94
FL030	79.41	74.12
FL031	63.20	58.99
FL032	64.92	60.58
FL033	82.73	77.21
FL034	79.21	73.92
FL035	64.40	60.11
FL037	75.03	70.03
FL041	84.39	78.77
FL045	84.39	78.77
FL046	64.40	60.11
FL047	83.28	77.74
FL049	63.20	58.99
FL053	64.92	60.58
FL057	63.20	58.99
FL060	81.10	75.69
FL062	79.21	73.92
FL063	71.18	66.44
FL066	107.49	100.34
FL068	107.49	100.34
FL069	64.40	60.11
FL070	71.18	66.44
FL071	65.93	61.54
FL072	79.41	74.12
FL073	70.50	65.79
FL075	79.21	73.92
FL079	100.65	93.94
FL080	83.94	78.34
FL081	100.65	93.94
FL083	83.94	78.34
FL092	64.92	60.58
FL093	82.73	77.21
FL102	64.40	60.11
FL104	79.21	73.92
FL105	86.94	81.14
FL106	82.73	77.21
FL110	64.40	60.11
FL113	79.41	74.12
FL116	100.65	93.94
FL119	83.94	78.34
FL123	79.74	74.42
FL128	83.28	77.74
FL132	84.08	78.49
FL136	100.65	93.94
FL137	79.21	73.92
FL139	65.93	61.54
FL141	86.66	80.89
FL144	108.66	101.43
FL145	107.49	100.34
FL147	64.40	60.11
FL201	82.73	77.21
FL202	63.20	58.99
FL881	107.49	100.34
FL888	79.21	73.92
GA001	70.23	65.55
GA002	70.23	65.55
GA004	70.23	65.55
GA006	85.63	79.91
GA007	70.23	65.55
GA009	70.23	65.55
GA010	85.63	79.91
GA011	85.63	79.91
GA023	70.23	65.55
GA062	67.12	62.64
GA078	85.63	79.91
GA095	85.63	79.91
GA116	85.63	79.91
GA188	85.63	79.91
GA228	85.63	79.91
GA232	85.63	79.91
GA237	85.63	79.91
GA264	85.63	79.91
GA269	85.63	79.91
GA285	70.23	65.55
GA901	85.63	79.91
GQ901	118.25	110.38
HI002	120.91	112.85
HI003	131.38	122.63
HI004	131.39	122.64
HI005	136.18	127.11
HI901	131.38	122.63
IA002	67.21	62.73
IA004	70.66	65.95
IA015	67.21	62.73
IA018	70.90	66.17
IA020	80.19	74.85
IA022	81.73	76.29
IA023	71.25	66.50
IA024	77.63	72.45
IA030	67.21	62.73
IA038	77.93	72.74
IA042	67.21	62.73
IA045	74.56	69.59
IA047	67.21	62.73
IA049	67.21	62.73
IA050	77.93	72.74
IA054	67.21	62.73
IA056	67.21	62.73
IA057	67.21	62.73
IA084	67.21	62.73
IA087	71.84	67.05
IA098	70.81	66.10
IA100	67.21	62.73
IA107	67.21	62.73
IA108	67.21	62.73
IA113	77.93	72.74
IA114	67.21	62.73
IA117	71.25	66.50
IA119	67.21	62.73
IA120	80.19	74.85
IA122	67.21	62.73
IA124	67.21	62.73
IA125	67.21	62.73
IA126	74.56	69.59
IA127	67.21	62.73
IA128	67.21	62.73
IA129	67.21	62.73
IA130	67.21	62.73
IA131	80.19	74.85
IA132	77.93	72.74
IA136	67.21	62.73
ID005	68.89	64.30
ID013	85.61	79.91
ID016	85.61	79.91
ID021	85.61	79.91
ID901	71.32	66.55
IL002	98.72	92.13
IL003	77.95	72.76
IL004	71.04	66.30
IL006	69.57	64.94
IL009	74.56	69.59
IL010	74.56	69.59
IL011	63.13	58.92
IL012	67.22	62.74
IL014	74.93	69.94
IL015	67.77	63.25
IL016	62.64	58.46
IL018	74.56	69.59
IL020	74.56	69.59
IL022	70.89	66.17
IL024	98.72	92.13
IL025	98.72	92.13
IL026	98.72	92.13
IL028	71.04	66.30
IL030	67.77	63.25
IL032	74.93	69.94
IL034	69.57	64.94
IL035	74.93	69.94
IL037	62.64	58.46
IL038	62.64	58.46
IL039	67.35	62.87
IL040	62.64	58.46
IL042	62.64	58.46
IL043	62.64	58.46
IL050	63.13	58.92
IL051	69.33	64.72

PHA num	A rate	B rate
IL052	62.64	58.46
IL053	63.13	58.92
IL054	98.72	92.13
IL056	98.72	92.13
IL057	62.64	58.46
IL059	62.64	58.46
IL061	63.38	59.15
IL074	67.77	63.25
IL076	62.64	58.46
IL079	62.64	58.46
IL082	62.64	58.46
IL083	70.89	66.17
IL084	66.44	62.01
IL085	63.95	59.69
IL086	66.44	62.01
IL087	62.64	58.46
IL088	62.64	58.46
IL089	78.24	73.02
IL090	98.72	92.13
IL091	62.64	58.46
IL092	98.72	92.13
IL095	73.47	68.57
IL096	62.64	58.46
IL101	98.72	92.13
IL103	98.72	92.13
IL104	77.95	72.76
IL107	98.72	92.13
IL116	98.72	92.13
IL117	69.33	64.72
IL120	62.64	58.46
IL122	70.89	66.17
IL123	62.64	58.46
IL124	77.95	72.76
IL126	63.13	58.92
IL130	98.72	92.13
IL131	74.56	69.59
IL136	98.72	92.13
IL137	99.57	92.92
IL901	98.72	92.13
IN002	53.46	49.90
IN003	59.27	55.33
IN004	55.21	51.53
IN005	55.21	51.53
IN006	65.53	61.16
IN007	57.66	53.82
IN009	53.46	49.90
IN010	72.36	67.55
IN011	72.36	67.55
IN012	62.61	58.44
IN015	58.34	54.46
IN016	57.29	53.47
IN017	65.53	61.16
IN018	53.46	49.90
IN019	57.16	53.34
IN020	58.34	54.46
IN021	55.21	51.53
IN022	58.74	54.83
IN023	62.61	58.44
IN025	62.61	58.44
IN026	57.28	53.46
IN029	72.36	67.55
IN031	53.46	49.90
IN032	54.42	50.79
IN035	55.21	51.53
IN037	57.29	53.47
IN041	53.46	49.90
IN043	53.46	49.90
IN047	53.46	49.90
IN048	53.46	49.90
IN050	53.46	49.90
IN055	54.42	50.79
IN056	55.96	52.23
IN058	59.81	55.83
IN060	57.28	53.46
IN062	57.39	53.58
IN067	53.46	49.90
IN071	63.30	59.07
IN073	53.46	49.90
IN077	54.42	50.79
IN078	55.96	52.23
IN079	65.53	61.16
IN080	65.53	61.16
IN086	53.46	49.90
IN091	53.46	49.90
IN092	53.46	49.90
IN094	55.35	51.65
IN100	58.34	54.46
IN901	65.53	61.16
KS001	65.89	61.49
KS002	62.39	58.24
KS004	67.22	62.73
KS006	58.67	54.76
KS017	58.67	54.76
KS038	58.67	54.76
KS041	58.67	54.76
KS043	65.89	61.49
KS053	68.95	64.35
KS062	58.67	54.76
KS063	59.23	55.28
KS068	65.89	61.49
KS073	67.22	62.73
KS091	58.67	54.76
KS149	58.67	54.76
KS159	65.89	61.49
KS161	58.67	54.76
KS162	65.89	61.49
KS165	58.67	54.76
KS166	58.67	54.76
KS167	59.23	55.28
KS168	62.39	58.24
KS170	58.67	54.76
KY001	62.61	58.44
KY003	56.90	53.11
KY004	69.34	64.72
KY007	55.86	52.14
KY008	55.86	52.14
KY009	62.61	58.44
KY011	70.23	65.55
KY012	57.29	53.47
KY015	71.51	66.74
KY017	55.86	52.14
KY021	55.86	52.14
KY022	55.86	52.14
KY026	55.86	52.14
KY027	55.86	52.14
KY035	55.86	52.14
KY040	55.86	52.14
KY047	55.86	52.14
KY053	55.86	52.14
KY056	55.86	52.14
KY061	69.34	64.72
KY071	62.10	57.96
KY086	55.86	52.14
KY107	55.86	52.14
KY121	55.86	52.14
KY132	61.86	57.74
KY133	71.51	66.74
KY135	71.51	66.74
KY136	71.51	66.74
KY137	55.86	52.14
KY138	55.86	52.14
KY140	69.34	64.72
KY141	55.86	52.14
KY142	62.44	58.28
KY157	55.86	52.14
KY160	55.86	52.14
KY161	62.44	58.28
KY163	55.86	52.14
KY169	55.86	52.14
KY171	62.61	58.44
KY901	69.34	64.72
LA001	73.17	68.28
LA002	71.63	66.86
LA003	79.00	73.74
LA004	68.37	63.81
LA005	68.37	63.81
LA006	68.37	63.81
LA009	79.00	73.74
LA012	73.17	68.28
LA013	73.17	68.28
LA023	68.37	63.81
LA024	67.58	63.08
LA029	68.37	63.81
LA031	67.58	63.08
LA032	68.37	63.81
LA033	67.58	63.08
LA036	67.58	63.08
LA037	72.99	68.13
LA046	68.37	63.81
LA057	68.37	63.81
LA063	68.37	63.81
LA067	67.58	63.08
LA074	67.58	63.08
LA086	67.58	63.08
LA094	73.17	68.28
LA097	67.58	63.08
LA101	79.00	73.74
LA103	73.17	68.28
LA104	68.37	63.81
LA111	67.58	63.88
LA114	67.58	63.08
LA115	67.58	63.08
LA120	68.37	63.81
LA122	68.37	63.81
LA125	67.58	63.08
LA128	67.58	63.08
LA129	68.37	63.81
LA132	67.58	63.08
LA159	67.58	63.08
LA163	67.58	63.08
LA165	68.37	63.81
LA166	67.58	63.08
LA169	67.58	63.08
LA171	68.37	63.81
LA172	68.37	63.81
LA173	68.37	63.81
LA174	68.37	63.81
LA178	68.37	63.81
LA181	73.17	68.28
LA182	67.58	63.08
LA184	71.63	66.86
LA186	68.37	63.81
LA187	73.17	68.28
LA188	67.58	63.08
LA189	68.37	63.81
LA190	71.63	66.86
LA192	67.58	63.08
LA194	70.06	65.40
LA195	67.58	63.08
LA196	68.37	63.81
LA199	79.00	73.74
LA202	79.00	73.74
LA204	79.00	73.74
LA205	79.00	73.74
LA206	68.37	63.81
LA207	68.37	63.81
LA211	70.06	65.40
LA212	67.58	63.08
LA213	72.99	68.13
LA214	68.37	63.81
LA215	67.58	63.08
LA220	67.58	63.08

PHA num	A rate	B rate
LA222	67.58	63.08
LA229	67.58	63.08
LA230	71.63	66.86
LA232	67.58	63.08
LA233	67.58	63.08
LA238	73.17	68.28
LA241	67.58	63.08
LA242	67.58	63.08
LA246	67.58	63.08
LA247	67.58	63.08
LA248	67.58	63.08
LA253	70.06	65.40
LA257	67.58	63.08
LA258	67.58	63.08
LA266	68.37	63.81
LA888	71.63	66.86
LA889	73.17	68.28
LA903	73.17	68.28
MA001	121.02	112.96
MA002	130.81	122.08
MA003	130.81	122.08
MA005	121.02	112.96
MA006	118.28	110.40
MA007	121.02	112.96
MA008	121.02	112.96
MA010	121.02	112.96
MA012	121.02	112.96
MA013	130.81	122.08
MA014	130.81	122.08
MA015	130.81	122.08
MA016	130.81	122.08
MA017	130.81	122.08
MA018	118.28	110.40
MA019	130.81	122.08
MA020	130.81	122.08
MA022	130.81	122.08
MA023	130.81	122.08
MA024	121.02	112.96
MA025	130.81	122.08
MA026	121.02	112.96
MA027	130.81	122.08
MA028	130.81	122.08
MA029	121.02	112.96
MA031	130.81	122.08
MA032	130.81	122.08
MA033	130.81	122.08
MA034	121.02	112.96
MA035	121.02	112.96
MA036	130.81	122.08
MA037	121.02	112.96
MA039	121.02	112.96
MA040	130.81	122.08
MA041	121.02	112.96
MA042	130.81	122.08
MA043	121.02	112.96
MA044	130.81	122.08
MA045	130.81	122.08
MA046	131.11	122.38
MA047	131.11	122.38
MA048	130.81	122.08
MA050	121.02	112.96
MA051	121.02	112.96
MA053	130.81	122.08
MA054	130.81	122.08
MA055	130.81	122.08
MA056	130.81	122.08
MA057	130.81	122.08
MA059	130.81	122.08
MA060	121.02	112.96
MA061	130.81	122.08
MA063	130.81	122.08
MA065	130.81	122.08
MA066	121.02	112.96
MA067	130.81	122.08
MA069	130.81	122.08
MA070	130.81	122.08
MA072	130.81	122.08
MA073	130.81	122.08
MA074	130.81	122.08
MA075	130.81	122.08
MA076	121.02	112.96
MA077	121.02	112.96
MA078	121.02	112.96
MA079	130.81	122.08
MA080	121.02	112.96
MA081	121.02	112.96
MA082	121.02	112.96
MA084	121.02	112.96
MA085	121.02	112.96
MA086	121.02	112.96
MA087	121.02	112.96
MA088	121.02	112.96
MA089	130.81	122.08
MA090	130.81	122.08
MA091	130.81	122.08
MA092	130.81	122.08
MA093	130.81	122.08
MA094	119.92	111.93
MA095	131.11	122.38
MA096	119.92	111.93
MA098	130.81	122.08
MA099	130.81	122.08
MA100	121.02	112.96
MA101	130.81	122.08
MA105	121.02	112.96
MA106	121.02	112.96
MA107	121.02	112.96
MA108	121.02	112.96
MA109	130.81	122.08
MA110	131.11	122.38
MA111	130.81	122.08
MA112	130.81	122.08
MA116	130.81	122.08
MA117	130.81	122.08
MA118	130.81	122.08
MA119	130.81	122.08
MA121	130.81	122.08
MA122	130.81	122.08
MA123	121.02	112.96
MA125	130.81	122.08
MA127	121.02	112.96
MA133	130.81	122.08
MA134	130.81	122.08
MA135	130.81	122.08
MA138	131.11	122.38
MA139	121.02	112.96
MA140	130.81	122.08
MA147	130.81	122.08
MA154	130.81	122.08
MA155	130.81	122.08
MA165	130.81	122.08
MA170	118.28	110.40
MA172	121.02	112.96
MA174	130.81	122.08
MA180	131.11	122.38
MA181	131.11	122.38
MA188	121.02	112.96
MA880	130.81	122.08
MA881	130.81	122.08
MA882	121.02	112.96
MA883	130.81	122.08
MA901	130.81	122.08
MD001	87.10	81.28
MD002	87.10	81.28
MD003	116.27	108.53
MD004	116.27	108.53
MD006	68.32	63.76
MD007	116.27	108.53
MD014	78.28	73.06
MD015	116.27	108.53
MD016	93.31	87.09
MD018	87.10	81.28
MD019	76.79	71.66
MD021	98.80	92.21
MD022	116.27	108.53
MD023	87.10	81.28
MD024	116.27	108.53
MD025	87.10	81.28
MD027	87.10	81.28
MD028	68.32	63.76
MD029	93.31	87.09
MD032	87.10	81.28
MD033	87.10	81.28
MD034	87.10	81.28
MD901	116.27	108.53
ME001	66.51	62.08
ME002	66.51	62.08
ME003	105.84	98.80
ME004	66.51	62.08
ME005	75.74	70.68
ME006	80.94	75.53
ME007	75.74	70.68
ME008	69.93	65.26
ME009	76.88	71.77
ME011	93.12	86.90
ME015	105.84	98.80
ME018	76.88	71.77
ME019	84.84	79.16
ME020	105.84	98.80
ME021	76.88	71.77
ME025	66.51	62.08
ME027	68.27	63.73
ME028	93.12	86.90
ME030	69.93	65.26
ME901	65.29	60.93
MI001	67.95	63.42
MI005	67.95	63.42
MI006	58.11	54.23
MI008	67.95	63.42
MI009	58.49	54.58
MI010	59.23	55.29
MI019	56.79	53.00
MI020	56.79	53.00
MI023	56.79	53.00
MI027	67.95	63.42
MI030	56.79	53.00
MI031	64.14	59.87
MI032	59.23	55.29
MI035	61.24	57.17
MI036	56.79	53.00
MI037	67.95	63.42
MI038	58.73	54.82
MI039	67.95	63.42
MI040	67.95	63.42
MI044	67.95	63.42
MI045	67.95	63.42
MI047	56.79	53.00
MI048	67.95	63.42
MI049	56.79	53.00
MI050	56.79	53.00
MI051	67.95	63.42
MI052	67.95	63.42
MI055	67.95	63.42
MI058	65.15	60.80
MI059	67.95	63.42
MI060	60.91	56.84
MI061	61.30	57.21
MI063	56.79	53.00
MI064	80.96	75.56
MI066	64.14	59.87
MI070	60.91	56.84
MI073	64.14	59.87

PHA num	A rate	B rate
MI074	61.30	57.21
MI080	63.03	58.84
MI084	60.91	56.84
MI087	60.91	56.84
MI089	67.95	63.42
MI093	64.14	59.87
MI094	56.79	53.00
MI096	67.95	63.42
MI097	67.95	63.42
MI100	67.95	63.42
MI112	56.79	53.00
MI115	64.14	59.87
MI117	56.79	53.00
MI119	56.79	53.00
MI120	59.23	55.29
MI121	61.30	57.21
MI132	56.79	53.00
MI139	67.95	63.42
MI157	67.95	63.42
MI167	65.15	60.80
MI168	65.15	60.80
MI186	56.79	53.00
MI194	65.15	60.80
MI198	64.14	59.87
MI880	65.15	60.80
MI901	67.95	63.42
MN001	92.99	86.79
MN002	92.99	86.79
MN003	68.78	64.20
MN006	64.25	59.97
MN007	68.78	64.20
MN008	63.37	59.14
MN009	63.37	59.14
MN018	63.37	59.14
MN021	76.95	71.82
MN032	63.37	59.14
MN034	63.37	59.14
MN037	63.43	59.21
MN038	70.85	66.12
MN049	63.37	59.14
MN063	69.08	64.47
MN067	92.99	86.79
MN073	68.78	64.20
MN077	69.13	64.53
MN085	63.37	59.14
MN090	63.37	59.14
MN101	63.37	59.14
MN107	63.37	59.14
MN128	63.37	59.14
MN144	92.99	86.79
MN147	92.99	86.79
MN151	76.99	71.87
MN152	92.99	86.79
MN153	63.37	59.14
MN154	63.37	59.14
MN158	76.95	71.82
MN161	66.48	62.04
MN163	92.99	86.79
MN164	76.95	71.82
MN166	63.37	59.14
MN167	69.08	64.47
MN168	66.48	62.04
MN169	63.37	59.14
MN170	92.99	86.79
MN171	65.48	61.10
MN172	70.85	66.12
MN173	63.37	59.14
MN174	63.37	59.14
MN176	63.37	59.14
MN177	63.37	59.14
MN178	66.48	62.04
MN179	63.37	59.14
MN180	63.37	59.14
MN182	63.37	59.14
MN184	92.99	86.79
MN188	63.37	59.14
MN190	63.37	59.14
MN191	63.37	59.14
MN192	63.37	59.14
MN193	71.20	66.46
MN197	63.37	59.14
MN200	63.37	59.14
MN203	66.48	62.04
MN212	92.99	86.79
MN216	92.99	86.79
MN219	69.08	64.47
MN220	69.13	64.53
MN801	92.99	86.79
MN802	92.99	86.79
MO001	67.77	63.25
MO002	65.89	61.49
MO003	64.97	60.64
MO004	67.77	63.25
MO006	67.77	63.25
MO007	64.97	60.64
MO008	64.75	60.44
MO009	64.97	60.64
MO010	64.75	60.44
MO014	64.97	60.64
MO016	64.75	60.44
MO017	65.89	61.49
MO030	65.89	61.49
MO037	64.75	60.44
MO040	64.75	60.44
MO053	65.89	61.49
MO058	64.97	60.64
MO064	64.75	60.44
MO065	64.75	60.44
MO072	64.75	60.44
MO074	64.75	60.44
MO107	64.75	60.44
MO129	64.75	60.44
MO133	64.75	60.44
MO145	64.75	60.44
MO149	64.75	60.44
MO188	64.97	60.64
MO190	64.75	60.44
MO193	65.89	61.49
MO196	65.89	61.49
MO197	65.89	61.49
MO198	64.97	60.64
MO199	67.77	63.25
MO200	64.75	60.44
MO203	64.97	60.64
MO204	65.89	61.49
MO205	67.77	63.25
MO206	64.75	60.44
MO207	64.75	60.44
MO209	64.75	60.44
MO210	65.89	61.49
MO212	64.75	60.44
MO213	65.89	61.49
MO215	64.97	60.64
MO216	64.97	60.64
MO217	64.75	60.44
MO227	67.77	63.25
MS004	64.41	60.11
MS005	67.01	62.54
MS006	64.41	60.11
MS016	69.33	64.71
MS019	64.41	60.11
MS030	64.41	60.11
MS040	67.01	62.54
MS057	64.41	60.11
MS058	79.07	73.79
MS095	64.41	60.11
MS103	79.07	73.79
MS107	64.41	60.11
MS128	64.41	60.11
MS301	67.01	62.54
MT001	89.44	83.48
MT002	79.19	73.92
MT003	73.94	69.00
MT004	85.97	80.24
MT006	69.65	65.02
MT015	75.47	70.43
MT033	80.51	75.13
MT036	75.47	70.43
MT901	89.44	83.48
NC001	67.86	63.34
NC002	81.07	75.66
NC003	74.35	69.38
NC004	64.25	59.97
NC006	70.23	65.56
NC007	67.86	63.34
NC008	74.35	69.38
NC009	68.98	64.37
NC011	70.23	65.56
NC012	70.23	65.56
NC013	81.07	75.66
NC014	64.25	59.97
NC015	67.86	63.34
NC018	64.25	59.97
NC019	67.86	63.34
NC020	64.25	59.97
NC021	81.07	75.66
NC022	67.86	63.34
NC025	64.25	59.97
NC032	64.25	59.97
NC035	64.86	60.53
NC039	66.81	62.36
NC050	67.55	63.04
NC056	71.50	66.74
NC057	74.35	69.38
NC059	70.23	65.56
NC065	74.35	69.38
NC070	70.73	66.00
NC071	66.81	62.36
NC072	70.43	65.74
NC075	64.25	59.97
NC077	64.25	59.97
NC081	70.23	65.56
NC087	67.86	63.34
NC089	64.25	59.97
NC098	67.86	63.34
NC102	70.73	66.00
NC104	81.07	75.66
NC118	64.25	59.97
NC120	81.07	75.66
NC134	70.73	66.00
NC137	67.86	63.34
NC138	64.25	59.97
NC139	64.25	59.97
NC140	67.86	63.34
NC141	64.25	59.97
NC144	67.86	63.34
NC145	64.25	59.97
NC146	64.25	59.97
NC147	67.86	63.34
NC149	64.25	59.97
NC150	64.25	59.97
NC151	64.68	60.37
NC152	67.86	63.34
NC155	64.25	59.97
NC159	71.50	66.74
NC160	64.25	59.97
NC161	64.25	59.97
NC163	67.55	63.04
NC164	81.07	75.66
NC165	64.25	59.97
NC166	70.23	65.56
NC167	65.46	61.09

PHA num	A rate	B rate
NC173	67.86	63.34
NC175	67.86	63.34
NC901	64.25	59.97
ND001	76.95	71.82
ND002	76.20	71.12
ND003	76.20	71.12
ND009	76.20	71.12
ND010	76.95	71.82
ND011	76.20	71.12
ND012	76.95	71.82
ND013	76.20	71.12
ND014	76.95	71.82
ND015	76.20	71.12
ND016	76.20	71.12
ND017	76.20	71.12
ND019	76.20	71.12
ND021	76.95	71.82
ND022	76.20	71.12
ND025	76.20	71.12
ND026	76.20	71.12
ND030	76.20	71.12
ND031	76.20	71.12
ND035	76.20	71.12
ND036	76.20	71.12
ND037	76.20	71.12
ND038	76.20	71.12
ND039	76.20	71.12
ND044	76.20	71.12
ND049	76.20	71.12
ND052	76.20	71.12
ND054	76.20	71.12
ND055	76.20	71.12
ND070	76.20	71.12
ND901	76.95	71.82
NE001	71.25	66.50
NE002	70.90	66.17
NE003	70.90	66.17
NE004	70.90	66.17
NE010	70.90	66.17
NE041	70.90	66.17
NE078	70.90	66.17
NE083	70.90	66.17
NE094	70.90	66.17
NE100	70.90	66.17
NE104	70.90	66.17
NE114	70.90	66.17
NE120	70.90	66.17
NE123	70.90	66.17
NE141	70.90	66.17
NE143	70.90	66.17
NE150	70.90	66.17
NE153	71.25	66.50
NE157	70.90	66.17
NE174	71.25	66.50
NE175	70.90	66.17
NE179	70.90	66.17
NE180	70.90	66.17
NE181	70.90	66.17
NE182	70.90	66.17
NH001	94.66	88.34
NH002	100.56	93.85
NH003	98.01	91.49
NH004	98.01	91.49
NH005	107.75	100.56
NH006	98.01	91.49
NH007	84.87	79.21
NH008	98.01	91.49
NH009	87.61	81.76
NH010	100.69	93.98
NH011	77.24	72.10
NH012	82.28	76.80
NH013	98.01	91.49
NH014	98.01	91.49
NH015	77.24	72.10
NH016	77.24	72.10
NH022	121.02	112.96
NH888	100.56	93.85
NH901	94.66	88.34
NJ002	111.43	103.98
NJ003	111.43	103.98
NJ004	95.11	88.76
NJ006	114.11	106.51
NJ007	111.71	104.26
NJ008	111.71	104.26
NJ009	95.11	88.76
NJ010	93.31	87.09
NJ011	114.11	106.51
NJ012	95.11	88.76
NJ013	114.11	106.51
NJ014	94.22	87.96
NJ015	95.11	88.76
NJ021	114.11	106.51
NJ022	114.11	106.51
NJ023	111.43	103.98
NJ025	111.43	103.98
NJ026	95.11	88.76
NJ030	95.11	88.76
NJ032	111.43	103.98
NJ033	114.11	106.51
NJ035	114.11	106.51
NJ036	95.11	88.76
NJ037	111.43	103.98
NJ039	111.43	103.98
NJ042	114.11	106.51
NJ043	114.11	106.51
NJ044	114.11	106.51
NJ046	111.71	104.26
NJ047	114.11	106.51
NJ048	111.71	104.26
NJ049	90.58	84.54
NJ050	111.43	103.98
NJ051	93.31	87.09
NJ052	111.43	103.98
NJ054	111.71	104.26
NJ055	114.11	106.51
NJ056	111.71	104.26
NJ058	93.31	87.09
NJ059	94.22	87.96
NJ060	111.71	104.26
NJ061	90.58	84.54
NJ063	90.58	84.54
NJ065	111.71	104.26
NJ066	111.43	103.98
NJ067	114.11	106.51
NJ068	111.43	103.98
NJ070	114.11	106.51
NJ071	114.11	106.51
NJ073	93.31	87.09
NJ074	93.31	87.09
NJ075	114.11	106.51
NJ077	95.11	88.76
NJ081	111.71	104.26
NJ083	95.11	88.76
NJ084	114.11	106.51
NJ086	111.43	103.98
NJ088	111.43	103.98
NJ089	114.11	106.51
NJ090	114.11	106.51
NJ092	111.43	103.98
NJ095	111.71	104.26
NJ097	114.11	106.51
NJ099	111.43	103.98
NJ102	111.43	103.98
NJ105	111.43	103.98
NJ106	114.11	106.51
NJ108	111.43	103.98
NJ109	111.43	103.98
NJ110	114.11	106.51
NJ112	114.11	106.51
NJ113	111.43	103.98
NJ114	114.11	106.51
NJ118	93.31	87.09
NJ204	93.31	87.09
NJ212	109.48	102.18
NJ214	111.71	104.26
NJ880	111.71	104.26
NJ881	114.11	106.51
NJ882	111.43	103.98
NJ912	111.43	103.98
NM001	80.56	75.19
NM002	62.05	57.91
NM003	63.93	59.67
NM006	80.18	74.83
NM009	95.34	88.97
NM020	62.79	58.59
NM033	62.05	57.91
NM039	62.05	57.91
NM050	95.34	88.97
NM057	80.56	75.19
NM061	62.05	57.91
NM063	62.79	58.59
NM066	79.28	73.99
NM067	62.05	57.91
NM077	80.56	75.19
NM088	66.17	61.76
NV001	84.09	78.48
NV018	94.46	88.17
NV905	84.09	78.48
NY001	82.33	76.85
NY002	76.95	71.83
NY003	128.16	119.62
NY005	111.40	103.97
NY006	75.37	70.36
NY009	89.47	83.51
NY012	89.47	83.51
NY015	89.47	83.51
NY016	78.07	72.86
NY017	62.96	58.77
NY018	66.75	62.30
NY019	75.37	70.36
NY020	89.47	83.51
NY021	72.69	67.85
NY022	89.47	83.51
NY023	128.16	119.62
NY025	89.47	83.51
NY027	82.33	76.85
NY028	89.47	83.51
NY033	89.47	83.51
NY034	75.37	70.36
NY035	128.16	119.62
NY038	128.16	119.62
NY041	94.19	87.91
NY042	128.16	119.62
NY044	94.19	87.91
NY045	100.76	94.04
NY048	59.72	55.74
NY049	114.50	106.87
NY050	128.16	119.62
NY051	114.50	106.87
NY054	87.99	82.14
NY057	128.16	119.62
NY059	75.37	70.36
NY060	76.49	71.39
NY061	68.94	64.35
NY062	114.50	106.87
NY065	69.85	65.20
NY066	70.39	65.70
NY067	66.62	62.17
NY068	65.27	60.91
NY070	76.95	71.83
NY071	78.04	72.84
NY077	128.16	119.62

PHA num	A rate	B rate
NY079	84.71	79.06
NY084	111.40	103.97
NY085	128.16	119.62
NY086	128.16	119.62
NY087	64.19	59.90
NY088	128.16	119.62
NY089	94.19	87.91
NY091	76.95	71.83
NY094	128.16	119.62
NY098	75.37	70.36
NY102	82.33	76.85
NY103	100.76	94.04
NY107	82.33	76.85
NY109	75.37	70.36
NY110	111.40	103.97
NY113	128.16	119.62
NY114	111.40	103.97
NY117	128.16	119.62
NY120	128.16	119.62
NY121	128.16	119.62
NY123	128.16	119.62
NY125	114.50	106.87
NY127	128.16	119.62
NY128	128.16	119.62
NY130	128.16	119.62
NY132	128.16	119.62
NY134	114.50	106.87
NY137	114.50	106.87
NY138	111.40	103.97
NY141	128.16	119.62
NY146	128.16	119.62
NY147	128.16	119.62
NY148	111.40	103.97
NY149	128.16	119.62
NY151	128.16	119.62
NY152	128.16	119.62
NY154	128.16	119.62
NY158	114.50	106.87
NY159	128.16	119.62
NY160	111.40	103.97
NY165	128.16	119.62
NY402	79.50	74.19
NY403	59.45	55.49
NY404	76.95	71.83
NY405	76.95	71.83
NY406	94.19	87.91
NY408	89.47	83.51
NY409	76.95	71.83
NY413	76.49	71.39
NY416	89.47	83.51
NY417	75.37	70.36
NY421	89.47	83.51
NY422	89.47	83.51
NY424	89.47	83.51
NY427	89.47	83.51
NY428	89.47	83.51
NY430	89.47	83.51
NY431	89.47	83.51
NY433	59.72	55.74
NY443	75.37	70.36
NY447	89.47	83.51
NY449	76.95	71.83
NY501	89.47	83.51
NY503	89.47	83.51
NY504	82.33	76.85
NY505	78.07	72.86
NY512	89.47	83.51
NY513	89.47	83.51
NY516	89.47	83.51
NY519	89.47	83.51
NY521	82.33	76.85
NY527	82.33	76.85
NY529	100.76	94.04
NY530	76.49	71.39
NY532	89.47	83.51
NY534	75.37	70.36
NY535	89.47	83.51
NY538	89.47	83.51
NY541	65.27	60.91
NY552	75.37	70.36
NY557	89.47	83.51
NY561	89.47	83.51
NY562	89.47	83.51
NY564	89.47	83.51
NY630	89.47	83.51
NY888	128.16	119.62
NY889	62.96	58.77
NY891	128.16	119.62
NY892	128.16	119.62
NY895	128.16	119.62
NY904	111.40	103.97
NY912	76.95	71.83
OH001	70.05	65.37
OH002	63.62	59.37
OH003	73.85	68.92
OH004	71.51	66.74
OH005	65.24	60.89
OH006	73.41	68.51
OH007	72.65	67.81
OH008	63.62	59.37
OH009	61.01	56.94
OH010	61.01	56.94
OH012	73.85	68.92
OH014	64.05	59.78
OH015	71.51	66.74
OH016	62.59	58.41
OH018	62.59	58.41
OH019	62.44	58.28
OH020	61.09	57.02
OH021	65.24	60.89
OH022	65.24	60.89
OH024	61.01	56.94
OH025	73.85	68.92
OH026	62.01	57.87
OH027	73.85	68.92
OH028	64.96	60.63
OH029	71.99	67.18
OH030	61.01	56.94
OH031	72.65	67.81
OH032	61.25	57.16
OH033	61.01	56.94
OH034	61.25	57.16
OH035	61.01	56.94
OH036	61.29	57.20
OH037	61.01	56.94
OH038	71.51	66.74
OH039	61.01	56.94
OH040	61.01	56.94
OH041	61.01	56.94
OH042	73.85	68.92
OH043	70.05	65.37
OH044	63.62	59.37
OH045	61.01	56.94
OH046	61.01	56.94
OH047	61.01	56.94
OH049	71.51	66.74
OH050	61.01	56.94
OH053	61.01	56.94
OH054	63.57	59.33
OH056	61.01	56.94
OH058	61.01	56.94
OH059	70.05	65.37
OH060	61.01	56.94
OH061	62.41	58.25
OH062	65.24	60.89
OH063	61.01	56.94
OH066	61.01	56.94
OH067	61.01	56.94
OH069	61.01	56.94
OH070	70.05	65.37
OH071	73.41	68.51
OH072	61.01	56.94
OH073	73.85	68.92
OH074	62.72	58.53
OH075	61.01	56.94
OH076	61.01	56.94
OH077	61.01	56.94
OH078	61.01	56.94
OH079	70.05	65.37
OH080	62.50	58.32
OH081	62.59	58.41
OH082	61.16	57.07
OH083	70.05	65.37
OH085	73.41	68.51
OH086	61.01	56.94
OH882	73.85	68.92
OK002	66.45	62.02
OK005	64.64	60.33
OK006	63.78	59.53
OK024	63.78	59.53
OK027	63.78	59.53
OK032	63.78	59.53
OK033	64.64	60.33
OK044	63.78	59.53
OK062	63.78	59.53
OK067	63.78	59.53
OK073	64.64	60.33
OK095	65.57	61.20
OK096	63.78	59.53
OK099	63.78	59.53
OK111	63.78	59.53
OK118	63.78	59.53
OK139	66.45	62.02
OK142	64.64	60.33
OK146	63.78	59.53
OK148	65.57	61.20
OK901	66.45	62.02
OR001	87.03	81.22
OR002	87.03	81.22
OR003	87.64	81.80
OR005	81.56	76.13
OR006	100.01	93.35
OR007	83.85	78.26
OR008	93.43	87.21
OR011	93.43	87.21
OR014	93.43	87.21
OR015	99.36	92.73
OR016	87.03	81.22
OR017	80.04	74.71
OR019	88.35	82.45
OR020	87.64	81.80
OR022	87.03	81.22
OR026	88.71	82.80
OR027	80.04	74.71
OR028	87.03	81.22
OR031	90.52	84.50
OR032	83.85	78.26
OR034	96.07	89.66
PA001	65.12	60.78
PA002	93.31	87.09
PA003	63.13	58.92
PA004	79.47	74.16
PA005	65.12	60.78
PA006	65.12	60.78
PA007	93.31	87.09
PA008	81.33	75.91
PA009	77.50	72.32
PA010	65.12	60.78
PA011	79.47	74.16
PA012	93.31	87.09
PA013	79.05	73.78
PA014	65.12	60.78

PHA num	A rate	B rate
PA015	65.12	60.78
PA016	71.40	66.64
PA017	65.12	60.78
PA018	65.12	60.78
PA019	66.83	62.37
PA020	73.37	68.47
PA021	66.83	62.37
PA022	74.65	69.67
PA023	93.31	87.09
PA024	79.47	74.16
PA026	65.55	61.17
PA027	62.12	57.97
PA028	84.75	79.11
PA029	67.11	62.64
PA030	63.13	58.92
PA031	68.82	64.23
PA032	66.41	61.98
PA033	65.55	61.17
PA034	71.00	66.26
PA035	81.33	75.91
PA036	82.60	77.10
PA037	71.40	66.64
PA038	63.13	58.92
PA039	76.49	71.39
PA041	65.40	61.04
PA042	63.13	58.92
PA043	63.13	58.92
PA044	63.13	58.92
PA045	66.12	61.71
PA046	93.31	87.09
PA047	63.13	58.92
PA048	76.82	71.70
PA050	63.82	59.57
PA051	93.31	87.09
PA052	81.33	75.91
PA053	66.12	61.71
PA054	64.69	60.37
PA055	66.12	61.71
PA056	63.27	59.04
PA057	63.13	58.92
PA058	65.55	61.17
PA059	63.27	59.04
PA060	66.12	61.71
PA061	66.12	61.71
PA063	66.12	61.71
PA064	63.82	59.57
PA065	66.12	61.71
PA067	79.47	74.16
PA068	63.82	59.57
PA069	68.82	64.23
PA071	77.50	72.32
PA073	63.13	58.92
PA074	63.82	59.57
PA075	81.33	75.91
PA076	79.47	74.16
PA077	64.69	60.37
PA078	103.02	96.15
PA079	65.55	61.17
PA080	64.69	60.37
PA081	79.47	74.16
PA082	74.82	69.84
PA083	63.68	59.43
PA085	62.12	57.97
PA086	63.27	59.04
PA087	79.05	73.78
PA088	88.59	82.67
PA090	82.60	77.10
PA091	75.31	70.28
PA092	63.97	59.71
RI001	118.28	110.40
RI002	118.28	110.40
RI003	118.28	110.40
RI004	118.28	110.40
RI005	112.99	105.45
RI006	118.28	110.40
RI007	118.28	110.40
RI008	102.85	95.99
RI009	118.28	110.40
RI010	118.28	110.40
RI011	118.28	110.40
RI012	118.28	110.40
RI014	118.28	110.40
RI015	118.28	110.40
RI016	118.28	110.40
RI017	118.28	110.40
RI018	118.28	110.40
RI019	118.28	110.40
RI020	118.28	110.40
RI022	118.28	110.40
RI024	118.28	110.40
RI026	118.28	110.40
RI027	118.28	110.40
RI028	118.28	110.40
RI029	118.28	110.40
RI901	118.28	110.40
RQ005	79.99	74.65
RQ006	79.99	74.65
RQ007	74.42	69.46
RQ008	79.99	74.65
RQ009	74.42	69.46
RQ010	74.42	69.46
RQ011	79.99	74.65
RQ012	74.42	69.46
RQ013	79.99	74.65
RQ014	79.99	74.65
RQ015	79.99	74.65
RQ016	79.99	74.65
RQ017	74.42	69.46
RQ018	74.42	69.46
RQ019	79.99	74.65
RQ020	81.73	76.28
RQ021	79.99	74.65
RQ022	79.99	74.65
RQ023	79.99	74.65
RQ024	79.99	74.65
RQ025	79.99	74.65
RQ026	74.42	69.46
RQ027	79.99	74.65
RQ028	79.99	74.65
RQ029	74.42	69.46
RQ030	74.42	69.46
RQ031	74.42	69.46
RQ032	79.99	74.65
RQ033	74.42	69.46
RQ034	79.99	74.65
RQ035	74.42	69.46
RQ036	79.99	74.65
RQ037	74.42	69.46
RQ038	79.99	74.65
RQ039	81.73	76.28
RQ040	81.73	76.28
RQ041	74.42	69.46
RQ042	74.42	69.46
RQ043	74.42	69.46
RQ044	79.99	74.65
RQ045	79.99	74.65
RQ046	74.42	69.46
RQ047	79.99	74.65
RQ048	74.42	69.46
RQ049	79.99	74.65
RQ050	79.99	74.65
RQ052	74.42	69.46
RQ053	79.99	74.65
RQ054	79.99	74.65
RQ055	74.42	69.46
RQ056	79.99	74.65
RQ057	74.42	69.46
RQ058	74.42	69.46
RQ059	74.42	69.46
RQ060	74.42	69.46
RQ061	74.42	69.46
RQ062	74.42	69.46
RQ063	79.99	74.65
RQ064	79.99	74.65
RQ065	74.42	69.46
RQ066	74.42	69.46
RQ067	74.42	69.46
RQ068	74.42	69.46
RQ069	74.42	69.46
RQ070	79.99	74.65
RQ071	74.42	69.46
RQ072	79.99	74.65
RQ073	74.42	69.46
RQ074	74.42	69.46
RQ075	79.99	74.65
RQ077	79.99	74.65
RQ080	74.42	69.46
RQ081	79.99	74.65
RQ082	79.99	74.65
RQ083	79.99	74.65
SC001	72.44	67.61
SC002	73.23	68.34
SC003	66.84	62.39
SC004	66.84	62.39
SC005	66.84	62.39
SC007	70.23	65.55
SC008	66.84	62.39
SC015	65.28	60.92
SC016	66.84	62.39
SC018	66.84	62.39
SC019	66.84	62.39
SC020	66.84	62.39
SC021	65.28	60.92
SC022	74.35	69.38
SC023	66.84	62.39
SC024	72.44	67.61
SC025	66.84	62.39
SC026	68.22	63.66
SC027	66.84	62.39
SC028	65.28	60.92
SC029	66.84	62.39
SC030	65.28	60.92
SC031	65.28	60.92
SC032	66.84	62.39
SC033	65.28	60.92
SC034	66.84	62.39
SC035	65.28	60.92
SC036	74.35	69.38
SC037	66.84	62.39
SC046	74.35	69.38
SC056	72.44	67.61
SC057	72.44	67.61
SC059	65.28	60.92
SC911	73.23	68.34
SD010	70.38	65.68
SD011	68.37	63.81
SD014	68.37	63.81
SD016	70.38	65.68
SD021	68.37	63.81
SD026	68.37	63.81
SD034	68.37	63.81
SD035	74.29	69.33
SD036	68.37	63.81
SD037	68.37	63.81
SD039	70.38	65.68
SD043	68.37	63.81
SD045	68.54	63.97
SD047	68.37	63.81
SD048	68.37	63.81
SD055	68.37	63.81
SD056	68.37	63.81
SD057	68.37	63.81

PHA num	A rate	B rate
SD058	68.37	63.81
SD059	68.37	63.81
TN001	69.33	64.71
TN002	64.29	60.00
TN003	64.67	60.37
TN004	70.28	65.60
TN005	76.84	71.71
TN006	64.29	60.00
TN007	64.29	60.00
TN012	64.67	60.37
TN013	63.68	59.43
TN020	76.84	71.71
TN024	63.68	59.43
TN026	63.68	59.43
TN035	76.84	71.71
TN038	64.29	60.00
TN042	63.68	59.43
TN054	64.29	60.00
TN062	63.68	59.43
TN065	64.67	60.37
TN066	64.29	60.00
TN076	64.29	60.00
TN079	76.84	71.71
TN088	64.67	60.37
TN113	64.67	60.37
TN117	70.28	65.60
TN903	76.84	71.71
TQ901	118.25	110.38
TX001	85.12	79.45
TX003	72.32	67.49
TX004	81.33	75.91
TX005	77.21	72.07
TX006	74.83	69.85
TX007	66.35	61.92
TX008	76.29	71.20
TX009	87.28	81.47
TX010	65.43	61.07
TX011	65.43	61.07
TX012	77.21	72.07
TX014	65.43	61.07
TX016	62.40	58.24
TX017	77.21	72.07
TX018	65.43	61.07
TX019	62.40	58.24
TX021	62.40	58.24
TX023	74.77	69.77
TX025	66.35	61.92
TX027	87.28	81.47
TX028	65.59	61.21
TX029	65.59	61.21
TX030	65.43	61.07
TX031	85.12	79.45
TX032	77.21	72.07
TX034	74.77	69.77
TX035	62.55	58.37
TX037	74.77	69.77
TX039	62.40	58.24
TX042	62.40	58.24
TX044	62.40	58.24
TX046	65.59	61.21
TX048	62.40	58.24
TX049	62.40	58.24
TX051	65.59	61.21
TX062	65.59	61.21
TX064	65.59	61.21
TX065	66.35	61.92
TX072	62.40	58.24
TX073	65.59	61.21
TX075	62.40	58.24
TX079	65.43	61.07
TX085	90.66	84.61
TX087	85.12	79.45
TX095	87.28	81.47
TX096	62.40	58.24
TX105	62.40	58.24
TX111	66.96	62.49
TX114	62.40	58.24
TX128	87.28	81.47
TX134	62.40	58.24
TX137	65.43	61.07
TX147	62.40	58.24
TX152	62.40	58.24
TX158	65.43	61.07
TX163	76.29	71.20
TX164	76.29	71.20
TX173	66.35	61.92
TX174	76.29	71.20
TX175	62.40	58.24
TX177	65.59	61.21
TX178	62.40	58.24
TX183	62.40	58.24
TX189	62.40	58.24
TX193	74.83	69.85
TX197	65.43	61.07
TX201	62.40	58.24
TX202	65.59	61.21
TX206	66.35	61.92
TX208	65.43	61.07
TX210	65.43	61.07
TX217	62.40	58.24
TX224	65.59	61.21
TX236	65.43	61.07
TX242	62.40	58.24
TX257	65.43	61.07
TX259	85.12	79.45
TX263	62.40	58.24
TX264	85.12	79.45
TX266	85.12	79.45
TX272	62.40	58.24
TX284	62.40	58.24
TX298	62.40	58.24
TX300	62.40	58.24
TX302	76.29	71.20
TX303	74.83	69.85
TX309	62.40	58.24
TX313	76.29	71.20
TX322	85.12	79.45
TX327	65.43	61.07
TX330	62.40	58.24
TX332	62.40	58.24
TX335	62.40	58.24
TX341	73.38	68.49
TX343	74.83	69.85
TX349	81.33	75.91
TX350	74.83	69.85
TX358	62.40	58.24
TX372	62.40	58.24
TX376	62.40	58.24
TX377	85.12	79.45
TX378	62.55	58.37
TX381	62.40	58.24
TX392	87.28	81.47
TX395	64.46	60.16
TX396	62.40	58.24
TX397	62.40	58.24
TX421	62.40	58.24
TX431	81.33	75.91
TX432	72.32	67.49
TX433	81.33	75.91
TX434	87.28	81.47
TX435	87.28	81.47
TX436	87.28	81.47
TX439	72.32	67.49
TX440	77.21	72.07
TX441	77.21	72.07
TX444	65.43	61.07
TX445	65.59	61.21
TX447	65.59	61.21
TX448	65.59	61.21
TX449	62.40	58.24
TX452	74.83	69.85
TX454	62.40	58.24
TX455	84.08	78.48
TX456	74.60	69.63
TX457	69.98	65.31
TX458	65.43	61.07
TX459	73.38	68.49
TX461	66.38	61.97
TX470	65.43	61.07
TX472	65.43	61.07
TX480	85.12	79.45
TX481	65.43	61.07
TX482	65.43	61.07
TX483	77.21	72.07
TX484	83.39	77.82
TX485	62.40	58.24
TX486	63.43	59.19
TX488	62.40	58.24
TX493	87.28	81.47
TX495	81.33	75.91
TX497	65.59	61.21
TX498	66.96	62.49
TX499	65.43	61.07
TX500	62.40	58.24
TX505	77.21	72.07
TX509	66.35	61.92
TX511	62.40	58.24
TX512	62.40	58.24
TX514	65.43	61.07
TX516	62.40	58.24
TX519	62.40	58.24
TX522	87.28	81.47
TX523	66.96	62.49
TX526	87.44	81.61
TX533	87.28	81.47
TX534	84.08	78.48
TX535	62.40	58.24
TX537	62.40	58.24
TX542	65.43	61.07
TX546	65.43	61.07
TX559	87.28	81.47
TX560	77.21	72.07
TX901	77.21	72.07
UT002	73.48	68.58
UT003	73.48	68.58
UT004	73.48	68.58
UT006	77.30	72.13
UT007	73.48	68.58
UT009	73.48	68.58
UT011	73.48	68.58
UT014	87.93	82.05
UT015	87.93	82.05
UT016	87.93	82.05
UT020	73.48	68.58
UT021	75.67	70.64
UT022	73.48	68.58
UT025	73.48	68.58
UT026	73.48	68.58
UT028	87.93	82.05
UT029	87.93	82.05
UT030	73.48	68.58
UT031	77.30	72.13
VA001	78.86	73.60
VA002	64.29	60.00
VA003	78.86	73.60
VA004	116.27	108.53
VA005	71.53	66.76
VA006	78.86	73.60
VA007	71.53	66.76
VA010	60.63	56.59
VA011	62.95	58.75
VA012	78.86	73.60

PHA num	A rate	B rate
VA013	63.66	59.41
VA014	63.66	59.41
VA015	57.04	53.24
VA016	79.98	74.65
VA017	78.86	73.60
VA018	57.04	53.24
VA019	116.27	108.53
VA020	71.53	66.76
VA021	57.04	53.24
VA022	57.87	54.01
VA023	57.87	54.01
VA024	57.04	53.24
VA025	78.86	73.60
VA028	116.27	108.53
VA030	57.04	53.24
VA031	64.29	60.00
VA032	64.29	60.00
VA034	57.04	53.24
VA035	116.27	108.53
VA036	79.98	74.65
VA037	57.18	53.36
VA038	57.04	53.24
VA039	78.86	73.60
VA040	57.04	53.24
VA041	78.86	73.60
VA042	64.29	60.00
VA044	57.84	53.99
VA046	116.27	108.53
VA901	71.53	66.76
VQ901	100.63	93.93
VT001	98.31	91.76
VT002	84.37	78.75
VT003	87.27	81.45
VT004	86.40	80.64
VT005	80.89	75.50
VT006	98.31	91.76
VT008	80.89	75.50
VT009	81.76	76.31
VT901	98.31	91.76
WA001	106.19	99.09
WA002	106.19	99.09
WA003	93.79	87.54
WA004	87.76	81.90
WA005	90.17	84.18
WA006	106.19	99.09
WA007	72.30	67.48
WA008	87.03	81.22
WA011	106.19	99.09
WA012	81.92	76.45
WA013	81.44	76.00
WA014	67.67	63.16
WA017	68.89	64.30
WA018	87.76	81.90
WA020	72.30	67.48
WA021	81.92	76.45
WA024	103.11	96.21
WA025	100.81	94.08
WA036	93.79	87.54
WA039	106.19	99.09
WA042	85.17	79.49
WA049	96.90	90.43
WA054	90.17	84.18
WA055	81.57	76.14
WA057	88.55	82.65
WA061	92.17	86.02
WA064	83.87	78.27
WA071	74.16	69.21
WI001	68.78	64.20
WI002	66.70	62.26
WI003	74.24	69.29
WI006	63.82	59.56
WI011	56.72	52.93
WI020	92.99	86.79
WI031	55.80	52.08
WI043	56.16	52.43
WI045	55.80	52.08
WI047	55.80	52.08
WI048	55.80	52.08
WI060	92.99	86.79
WI064	61.89	57.77
WI065	56.16	52.43
WI068	56.72	52.93
WI069	56.72	52.93
WI070	55.80	52.08
WI083	66.70	62.26
WI085	55.80	52.08
WI091	55.80	52.08
WI096	55.80	52.08
WI127	55.80	52.08
WI131	55.80	52.08
WI142	66.70	62.26
WI160	55.80	52.08
WI166	55.80	52.08
WI183	60.94	56.87
WI186	55.91	52.18
WI193	55.80	52.08
WI195	68.98	64.37
WI201	66.70	62.26
WI203	61.89	57.77
WI204	56.72	52.93
WI205	55.80	52.08
WI206	55.80	52.08
WI208	55.80	52.08
WI213	56.16	52.43
WI214	74.24	69.29
WI218	66.70	62.26
WI219	61.89	57.77
WI221	55.80	52.08
WI222	55.80	52.08
WI231	55.80	52.08
WI233	55.80	52.08
WI237	56.84	53.05
WI241	55.80	52.08
WI244	61.26	57.17
WI245	55.80	52.08
WI246	56.41	52.64
WI248	55.80	52.08
WI256	55.80	52.08
WI901	55.80	52.08
WV001	75.74	70.69
WV003	61.09	57.02
WV004	62.44	58.28
WV005	59.94	55.94
WV006	63.13	58.91
WV009	63.80	59.54
WV010	65.66	61.29
WV015	59.94	55.94
WV016	64.05	59.78
WV017	58.81	54.89
WV018	58.81	54.89
WV027	60.03	56.04
WV034	58.81	54.89
WV035	60.03	56.04
WV037	62.44	58.28
WV039	59.94	55.94
WV042	59.94	55.94
WV045	58.81	54.89
WY002	86.18	80.44
WY003	69.31	64.69
WY004	103.83	96.92
WY013	69.31	64.69

[FR Doc. 2020–12801 Filed 6–12–20; 8:45 am]

BILLING CODE 4210–67–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1198]

Certain Spa Pumps, Jet Pump Housings, Pedicure Spas, Components Thereof, and Products Containing the Same; Commission Determination Not To Review an Initial Determination Granting an Unopposed Motion To Terminate the Investigation; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (''ID'') (Order No. 5) of the presiding administrative law judge (''ALJ'') granting an unopposed motion to terminate the investigation based on withdrawal of the complaint.

FOR FURTHER INFORMATION CONTACT: Amanda Pitcher Fisherow, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2737. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on May 11, 2020, based on a complaint filed by Luraco Health & Beauty, LLC of Arlington, Texas (''Complainant''). 85 FR 27762 (May 11, 2020). The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain spa pumps, jet pump housings, pedicure spas, components thereof, and products containing same by reason of infringement of certain claims in U.S. Patent No. 9,926,933; U.S. Patent No. D622,736; U.S. Patent No. D751,723; and U.S. Patent No. 10,451,071. The complaint, as amended, further alleges that a domestic industry exists. The

notice of investigation named as respondents GTP International Corp. of Dallas, Texas; Lac Long U.S., Inc. of Westminster, California; Lac Long Co. Ltd. of Long An, Vietnam; and Alfalfa Nail Supply, Inc., Baton Rouge, Louisiana. *Id.* The Office of Unfair Import Investigations was also named as a party to the investigation. *Id.*

On May 19, 2020, Complainant moved to withdraw the complaint and to stay the procedural schedule. No one filed a response to the motion.

On May 22, 2020, the presiding ALJ issued Order No. 5, terminating the investigation based on withdrawal of the complaint. The ALJ notes that the motion is granted, *inter alia,* because granting the motion is in the public interest. No petitions for review were filed.

The Commission has determined not to review the subject ID. This investigation is terminated.

The Commission vote for this determination took place on June 9, 2020.

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).

While temporary remote operating procedures are in place in response to COVID–19, the Office of the Secretary is not able to serve parties that have not retained counsel or otherwise provided a point of contact for electronic service. Accordingly, pursuant to Commission Rule §§ 201.16(a) and 210.7(a)(1) (19 CFR 201.16(a), 210.7(a)(1)), the Commission orders that the Complainant(s) complete service for any party/parties without a method of electronic service noted on the attached Certificate of Service and shall file proof of service on the Electronic Document Information System (EDIS).

By order of the Commission.
Issued: June 9, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–12833 Filed 6–12–20; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–664]

Importer of Controlled Substances Application: VHG Labs DBA LGC Standards

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before July 15, 2020. Such persons may also file a written request for a hearing on the application on or before July 15, 2020.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA **Federal Register** Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA **Federal Register** Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on May 25, 2020, VHG Labs DBA LGC Standards, 3 Perimeter Road, Manchester, New Hampshire 03103, applied to be registered as an importer of the following basic class(es) of controlled substances:

Controlled substance	Drug code	Schedule
Norfentanyl (N-phenyl-N-(piperidin-4-yl) propionamide).	8366	II
Methadone intermediate	9254	II
Morphine	9300	II
Thebaine	9333	II

The company plans to import the listed controlled substances for sale to research facilities for drug testing and analysis. No other activities for these drug codes are authorized for this registration.

William T. McDermott,

Assistant Administrator.

[FR Doc. 2020–12858 Filed 6–12–20; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under The Comprehensive Environemental Response, Compensation and Liability Act

On June 8, 2020, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of Montana in the lawsuit entitled *United States* v. *Atlantic Richfield Company, et al.,* Civil Action No. Civil Action No. CV–89–39–BU–SEH.

The proposed Consent Decree would resolve claims the United States and State of Montana have brought pursuant to Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9607(a), against the Atlantic Richfield Company and the City and County of Butte Silver Bow (''BSB'') related to the Butte Priority Soils Operable Unit.

The Consent Decree requires Atlantic Richfield to remove contaminated mine tailings in numerous locations in and near Butte, Montana, capture and treat certain contaminated groundwater, and construct stormwater retention basins to protect surface waters from contaminated runoff. In addition, Atlantic Richfield will pay EPA $3.5 million for past costs, $11.2 million in future oversight costs, and $20.5 million to the State of Montana to undertake certain remedial and restoration actions. BSB will implement stormwater control and operation and maintenance activities with funding from Atlantic Richfield. The Consent Decree also requires certain federal agencies to pay $10 million of EPA's past costs to resolve Atlantic Richfield's counterclaims. The Consent Decree provides Defendants and certain related persons covenants not to sue relating to the BPSOU under Sections 106, 107(a) and 113(f) of CERCLA, 42 U.S.C. 9606, 9607(a) and 9613(f); Sections 3004(u) and (v), 3008 and 7003 of RCRA, 42 U.S.C. 6924(u) and (v), 6928 and 6973; and Sections 309(b), 311 and 504 of the Clean Water Act, 33 U.S.C. 1319(b), 1321 and 1364.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Office of the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and State of Montana* v. *Atlantic Richfield Company, et al.,* D.J. Ref. No. 90–11–2–430. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*

To submit comments:	*Send them to:*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Under section 7003(d) of RCRA, a commenter may request an opportunity for a public meeting in the affected area.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $355.50 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the exhibits, the cost is $39.75.

Jeffrey Sands,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2020–12797 Filed 6–12–20; 8:45 am]

BILLING CODE 4410–15–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (20–052)]

Updates to Centennial Challenges Cube Quest Challenge

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of updates.

SUMMARY: The Cube Quest (CQ) Challenge is scheduled and teams that wish to compete in the in-space competition may now register. New teams are responsible for securing a launch provider for their candidate CubeSat. Centennial Challenges is a program of prize competitions to stimulate innovation in technologies of interest and value to NASA and the nation. The Cube Quest Challenge is a prize competition designed to encourage development of new technologies or application of existing technologies in unique ways to advance CubeSat communication and propulsion systems. NASA is providing the prize purse.

DATES: Challenge registration opened on December 2, 2014. The In-Space Competition starts when the team's CubeSat is deployed. The In-Space Competition ends exactly 365 competition days after team's CubeSat deployment, or 365 days after the Artemis-I launch, whichever occurs first.

ADDRESSES: The Cube Quest Challenge will be conducted in the cis-lunar and trans-lunar locations in space.

FOR FURTHER INFORMATION CONTACT: To register for or get additional information regarding the Cube Quest Challenge, please visit: *http://www.nasa.gov/cubequestchallenge.* For general information on the NASA Centennial Challenges Program please visit: *http://www.nasa.gov/challenges.* General questions and comments regarding the program should be addressed to Monsi Roman, Centennial Challenges Program, NASA Marshall Space Flight Center, Huntsville, AL 35812. 256–544–4071; Email address: *hq-stmd-centennialchallenges@mail.nasa.gov.*

SUPPLEMENTARY INFORMATION: Competitors will design, build, and launch a 6U CubeSat to a lunar distance and/or beyond. Prizes will be awarded for: Placing the CubeSat into lunar orbit; transmitting the largest amount of data in both the 30 minute time frame from lunar orbit, or from a 3,000,000 km distance; transmitting the largest amount of data in a 28 day time frame from lunar orbit or a 3,000,000 distance; surviving the longest amount of time in lunar orbit or deep space environment (≤3,000,000 distance); communicating from the furthest distance from Earth.

I. Prize Amounts: The total Cube Quest prize purse is $5,000,000 (five million U.S. dollars). Prizes will be offered for entries that meet specific requirements detailed in the Rules.

II. Rules and Eligibility: The complete rules and eligibility requirements for the Cube Quest Challenge can be found at: *http://www.nasa.gov/cubequest.*

Cheryl Parker,

Federal Register Liaison Officer.

[FR Doc. 2020–12785 Filed 6–12–20; 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 25 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:

Dance (review of applications): This meeting will be closed.

Date and time: July 1, 2020; 12:00 p.m. to 2:00 p.m.

Dance (review of applications): This meeting will be closed.

Date and time: July 1, 2020; 3:00 p.m. to 5:00 p.m.

Research Labs (review of applications): This meeting will be closed.

Date and time: July 1, 2020; 11:30 a.m. to 1:30 p.m.

Dance (review of applications): This meeting will be closed.

Date and time: July 2, 2020; 12:00 p.m. to 2:00 p.m.

Dance (review of applications): This meeting will be closed.

Date and time: July 2, 2020; 3:00 p.m. to 5:00 p.m.

Arts Education (review of applications): This meeting will be closed.

Date and time: July 9, 2020; 1:30 p.m. to 3:30 p.m.

Theater (review of applications): This meeting will be closed.

Date and time: July 9, 2020; 1:00 p.m. to 3:00 p.m.

Theater (review of applications): This meeting will be closed.

Date and time: July 9, 2020; 4:00 p.m. to 6:00 p.m.

Research Labs (review of applications): This meeting will be closed.

Date and time: July 10, 2020; 2:30 p.m. to 4:30 p.m.

Museums (review of applications): This meeting will be closed.

Date and time: July 14, 2020; 11:30 a.m. to 1:30 p.m.

Museums (review of applications): This meeting will be closed.

Date and time: July 14, 2020; 2:30 p.m. to 4:30 p.m.

Museums (review of applications): This meeting will be closed.

Date and time: July 15, 2020; 11:30 a.m. to 1:30 p.m.

Design (review of applications): This meeting will be closed.

Date and time: July 16, 2020; 11:30 a.m. to 1:30 p.m.

Design (review of applications): This meeting will be closed.

Date and time: July 16, 2020; 2:30 p.m. to 4:30 p.m.

Design (review of applications): This meeting will be closed.

Date and time: July 17, 2020; 11:30 a.m. to 1:30 p.m.

Arts Education (review of applications): This meeting will be closed.

Date and time: July 24, 2020; 11:30 a.m. to 1:30 p.m.

Arts Education (review of applications): This meeting will be closed.

Date and time: July 24, 2020; 2:30 p.m. to 4:30 p.m.

Literature Fellowships (review of applications): This meeting is closed.

Date and time: July 28, 2020; 2:00 p.m. to 4:00 p.m.

Locals (review of applications): This meeting will be closed.

Date and time: July 28, 2020; 1:00 p.m. to 3:00 p.m.

Locals (review of applications): This meeting will be closed.

Date and time: July 28, 2020; 3:30 p.m. to 5:30 p.m.

Literature Fellowships (review of applications): This meeting will be closed.

Date and time: July 29, 2020, 2:00 p.m. to 4:00 p.m.

Visual Arts (review of applications): This meeting will be closed.

Date and time: July 29, 2020; 11:30 a.m. to 1:30 p.m.

Visual Arts (review of applications): This meeting will be closed.

Date and time: July 29, 2020; 2:30 p.m. to 4:30 p.m.

Visual Arts (review of applications): This meeting will be closed.

Date and time: July 30, 2020; 11:30 a.m. to 1:30 p.m.

Visual Arts (review of applications): This meeting will be closed.

Date and time: July 30, 2020; 2:30 p.m. to 4:30 p.m.

Dated: June 10, 2020.

Sherry P. Hale,

Staff Assistant, National Endowment for the Arts.

[FR Doc. 2020–12824 Filed 6–12–20; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request: NSF INCLUDES National Network Survey

AGENCY: National Science Foundation.

ACTION: Notice.

SUMMARY: The National Science Foundation (NSF) is announcing plans to establish this collection. In accordance with the requirements of the Paperwork Reduction Act of 1995, we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting Office of Management and Budget (OMB) clearance of this collection for no longer than 3 years.

DATES: Written comments on this notice must be received by August 14, 2020 to be assured consideration. Comments received after that date will be considered to the extent practicable. Send comments to address below.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Avenue, Suite W18200, Alexandria, Virginia 22314; telephone (703) 292–7556; or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including Federal holidays).

SUPPLEMENTARY INFORMATION:

Title of Collection: NSF INCLUDES National Network Survey.

OMB Number: 3145–NEW.

Expiration Date of Approval: Not applicable.

Type of Request: Intent to seek approval to establish an information collection.

Abstract: In 2016, the National Science Foundation (NSF) unveiled a set of ''Big Ideas,'' 10 bold, long-term research and process ideas that identify areas for future investment at the frontiers of science and engineering (see *https://www.nsf.gov/news/special_reports/big_ideas/index.jsp*). The Big Ideas represent unique opportunities to position our Nation at the cutting edge of global science and engineering leadership by bringing together diverse disciplinary perspectives to support convergence research.

The NSF INCLUDES Big Idea is a comprehensive national initiative to enhance U.S. leadership in science, technology, engineering, and mathematics (STEM) discoveries and innovations focused on NSF's commitment to diversity, inclusion, and broadening participation in these fields. The vision of NSF INCLUDES is to catalyze the STEM enterprise to work collaboratively for inclusive change, resulting in a STEM workforce that reflects the population of the Nation.

More specifically, NSF INCLUDES seeks to improve collaborative efforts aimed at enhancing the preparation, increasing the participation, and ensuring the contributions of individuals from groups that have been historically underrepresented and underserved in the STEM enterprise such as African Americans, Alaska Natives, Hispanics, Native Americans, Native Hawaiians, Native Pacific Islanders, persons with disabilities, persons from economically disadvantaged backgrounds, and women and girls. Significant advancement in the inclusion of underrepresented groups in STEM will result in a new generation of STEM talent and leadership to secure our nation's future and long-term economic competitiveness.

The NSF INCLUDES Big Idea aligns with the NSF Strategic Plan, directly supporting the strategic objectives to: Advance knowledge through investments in ideas, people, and infrastructure (Strategic Objective 1.1); support research and promote partnerships to accelerate innovation and to provide new capabilities to meet pressing societal needs (Strategic Objective 2.1); foster the growth of a more capable and diverse research workforce and advance the scientific and innovation skills of the Nation (Strategic Objective 2.2) ; and attract, retain, and empower a talented and diverse workforce (Strategic Objective 3.1). The work of NSF INCLUDES contributes to the successful performance of NSF as a Federal agency.

The NSF INCLUDES initiative is supported by the NSF INCLUDES Coordination Hub (*www.includesnetwork.org*), an NSF-supported project that provides a framework for communication and networking, network assistance and reinforcement, and visibility and expansion for the NSF INCLUDES National Network. The Hub leads and

supports the National Network, working to (1) facilitate the sharing of promising practices and data for broadening participation in STEM, (2) contribute to the knowledge base on broadening participation in STEM through research, and (3) establish a framework for communications and networking among partners, as well as across the National Network. The NSF INCLUDES National Network is composed of over 1200 members that represent:

- NSF INCLUDES-funded projects,
- Other broadening participation projects and research efforts, including projects funded by other NSF programs (*e.g.,* Louis Stokes Alliances for Minority Participation, Engineering Research Centers, Alliances for Graduate Education and the Professoriate, ADVANCE: Organizational Change for Gender Equity in STEM Academic Professions, Broadening Participation in Computing, Improving Undergraduate STEM Education),
- Federal Coordination in STEM (FC–STEM) agencies, and
- Organizations that support the development of talent from all sectors of society to build an inclusive STEM workforce.

NSF is requesting OMB approval for the NSF INCLUDES Coordination Hub to collect information from members of the NSF INCLUDES National Network. The NSF INCLUDES Coordination Hub seeks to collect data from Network members to: (1) *Inform Hub activities* (*e.g.,* to identify support needs in the coming year; to inform shared measures work and network support and expansion goals); (2) *assess development* of the NSF INCLUDES National Network; and (3) *track progress* against the Hub's theory of action for building collaborative infrastructure at the Network level. This information will be shared with Network members.

Information collected will include respondents' names, their affiliated organizations, email addresses, and home states. This personally identifiable information (PII) is collected primarily to categorize responses based on respondents' roles in the NSF INCLUDES National Network. PII will be accessed only by the Coordination Hub. Any public reporting of data will be in aggregate form, and any personal identifiers will be removed.

Use of the Information: The information collected is primarily for the use of the NSF INCLUDES Coordination Hub to understand the utility of the network in supporting their project success, and for informing design decisions the Coordination Hub will make regarding future programming and support provided to network members.

Estimate burden on the public: Estimated at 450 hours, per year, for the duration of the Coordination Hub's cooperative agreement with NSF. It is beneficial for NSF and the Coordination Hub to have access to this information annually in order to track progress toward the NSF INCLUDES goals of supporting stakeholders in identifying shared goals and objectives and supporting partnerships and networks that help to foster the spread and adaptation of proven effective practices.

Respondents: All members of the NSF INCLUDES National Network will be invited to respond to the survey. The NSF INCLUDES National Network is comprised of individuals who are interested in or working directly to broaden participation in STEM. Some of these individuals are NSF INCLUDES grantees; others who have received NSF awards, or pursue broadening participation in STEM with support from other sources, including grants from federal, state, philanthropic, or business entities. Some are themselves representatives of these various types of funders or businesses, such as program officers at NSF, other Federal agencies, and private foundations.

Estimated number of respondents: 900 (representing a 75% response rate).

Average Time per Reporting: The online survey is comprised primarily of closed-ended questions and is designed to be completed by respondents in under 30 minutes.

Frequency: Once per year for the duration of the Coordination Hub's cooperative agreement with NSF

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

Please submit one copy of your comments by only one method. All submissions received must include the agency name and collection name identified above for this information collection. Commenters are strongly encouraged to transmit their comments electronically via email. Comments, including any personal information provided become a matter of public record. They will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request.

Dated: June 10, 2020.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2020–12865 Filed 6–12–20; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

675th Meeting of the Advisory Committee on Reactor Safeguards (ACRS)

In accordance with the purposes of Sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards (ACRS) will hold meetings on July 8–11, 2020. As part of the coordinated government response to combat COVID–19, the Committee will conduct virtual meetings. The public will be able to participate any open sessions via 1–866–822–3032, pass code 8272423#.

Wednesday, July 8, 2020

9:30 a.m.–9:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

9:35 a.m.–11:00 a.m.: Review of Latest Update of BTP 7–19, ''Guidance for Evaluation of Diversity and Defense-In-Depth in Digital Computer-Based I&C Systems (Open)—The Committee will have presentations and discussion with the U.S. Nuclear Regulatory Commission (NRC) staff and possibly Nuclear Energy Institute regarding the subject topic.

11:15 a.m.–12:45 p.m.: EPRI Topical Report on Uranium Oxycarbide Tristructural Isotropic Coated Particle Fuel Performance (Open/Closed)—The Committee will have presentations and discussion with EPRI and the NRC staff regarding the subject topic. [NOTE: A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C 552b(c)(4)].

1:45 p.m.–5:45 p.m.: NuScale Area of Focus: Boron Redistribution (Open/Closed)—The Committee will have presentations and discussion with NuScale and the NRC staff regarding subject topic. [NOTE: A portion of this session may be closed in order to

discuss and protect information designated as proprietary, pursuant to 5 U.S.C 552b(c)(4)].

6:00 p.m.–7:00 p.m.: Preparation of ACRS Reports (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports. [NOTE: A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C 552b(c)(4)].

Thursday, July 9, 2020

9:30 a.m.–1:30 p.m.: NuScale Area of Focus: Boron Redistribution (Open/Closed)—The Committee will have presentations and discussion with NuScale and the NRC staff regarding subject topic. [NOTE: A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C 552b(c)(4)].

2:30 p.m.–6:00 p.m.: Preparation of ACRS Reports (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports. [NOTE: A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C 552b(c)(4)].

Friday, July 10, 2020

9:30 a.m.–11:30 a.m.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee and Reconciliation of ACRS Comments and Recommendations/Preparation of Reports (Open/Closed)—The Committee will (1) hear discussion of the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the Full Committee during future ACRS meetings, and/or proceed to preparation of reports as determined by the Chairman. [NOTE: A portion of this meeting may be closed pursuant to 5 U.S.C. 552b (c) (2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.] [NOTE: A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C 552b(c)(4)].

11:30 a.m.–6:00 p.m.: Preparation of ACRS Reports (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports. [NOTE: A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C 552b(c)(4)]. [NOTE: Portions of this meeting may be closed pursuant to 5 U.S.C. 552b (c) (2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.]

Saturday, July 11, 2020

9:30 a.m.–2:00 p.m.: Preparation of ACRS Reports (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports. [NOTE: A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C 552b(c)(4)]. [NOTE: Portions of this meeting may be closed pursuant to 5 U.S.C. 552b (c) (2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.]

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on June 13, 2019 (84 FR 27662). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Persons desiring to make oral statements should notify Quynh Nguyen, Cognizant ACRS Staff and the Designated Federal Official (DFO) (Telephone: 301–415–5844, Email: *Quynh.Nguyen@nrc.gov*), 5 days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Cognizant ACRS staff if such rescheduling would result in major inconvenience.

An electronic copy of each presentation should be emailed to the Cognizant ACRS Staff at least one day before meeting.

In accordance with Subsection 10(d) of Public Law 92–463 and 5 U.S.C. 552b(c), certain portions of this meeting may be closed, as specifically noted above. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Electronic recordings will be permitted only during the open portions of the meeting.

ACRS meeting agendas, meeting transcripts, and letter reports are available through the NRC Public Document Room (PDR) at *pdr.resource@nrc.gov,* or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System component of NRC's Agencywide Documents Access and Management System (ADAMS) which is accessible from the NRC website at *https://www.nrc.gov/reading-rm/adams.html* or *https://www.nrc.gov/reading-rm/doc-collections/#ACRS/.*

Video teleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service should contact Thomas Dashiell, ACRS Audio Visual Technician at (301–415–7907), between 7:30 a.m. and 3:45 p.m. (Eastern Time), at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the video teleconferencing link. The availability of video teleconferencing services is not guaranteed.

Dated: June 9, 2020.

Russell E. Chazell,

Federal Advisory Committee Management Officer, Office of the Secretary.

[FR Doc. 2020–12800 Filed 6–12–20; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2020–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of June 15, 22, 29, July 6, 13, 20, 2020.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public.

Week of June 15, 2020

There are no meetings scheduled for the week of June 15, 2020.

Week of June 22, 2020—Tentative

There are no meetings scheduled for the week of June 22, 2020.

Week of June 29, 2020—Tentative

There are no meetings scheduled for the week of June 29, 2020.

Week of July 6, 2020—Tentative

There are no meetings scheduled for the week of July 6, 2020.

Week of July 13, 2020—Tentative

There are no meetings scheduled for the week of July 13, 2020.

Week of July 20, 2020—Tentative

There are no meetings scheduled for the week of July 20, 2020.

CONTACT PERSON FOR MORE INFORMATION: For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.* The schedule for Commission meetings is subject to change on short notice.

The NRC Commission Meeting Schedule can be found on the internet at: *https://www.nrc.gov/public-involve/public-meetings/schedule.html.*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Anne Silk, NRC Disability Program Specialist, at 301–287–0745, by videophone at 240–428–3217, or by email at *Anne.Silk@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or by email at *Wendy.Moore@nrc.gov* or *Tyesha.Bush@nrc.gov.*

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: June 11, 2020.

For the Nuclear Regulatory Commission.

Denise L. McGovern,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2020–12942 Filed 6–11–20; 11:15 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

676th Meeting of the Advisory Committee on Reactor Safeguards (ACRS)

In accordance with the purposes of Sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards (ACRS) will hold meetings on July 21–25, 2020. This ACRS meeting was approved by the Committee in accordance with the ACRS bylaws as a special meeting for the primary purpose of discussing and making recommendations on the topic of the NuScale design certification application review. As part of the coordinated government response to combat COVID–19, the Committee will conduct virtual meetings. The public will be able to participate any open sessions via 1–866–822–3032, pass code 8272423#.

Tuesday, July 21, 2020

9:30 a.m.–9:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

9:35 a.m.–11:00 a.m.: GEH Topical Report NEDC–3391P, ''BWRX–300 Reactor Pressure Vessel and Overpressure Protection'' (Open/Closed)—The Committee will have presentations and discussion with GEH and the NRC staff regarding the subject topic. [*Note*: A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C 552b(c)(4)].

12:00 p.m.–6:00 p.m.: NuScale Area of Focus: Boron Redistribution (Open/Closed)—The Committee will have presentations and discussion with NuScale and the NRC staff regarding subject topic. Report preparation is included in this topic. [*Note*: A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C. 552b(c)(4)].

Wednesday, July 22, 2020

9:30 a.m.–6:00 p.m.: Preparation of ACRS Reports (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports. [*Note*: A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C 552b(c)(4)].

Thursday, July 23, 2020

9:30 a.m.–6:00 p.m.: Preparation of ACRS Reports (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports. [*Note*: A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C 552b(c)(4)].

Friday, July 24, 2020

9:30 a.m.–11:30 a.m.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee and Reconciliation of ACRS Comments and Recommendations/Preparation of Reports (Open/Closed)—The Committee will (1) hear discussion of the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the Full Committee during future ACRS meetings, and/or (2) proceed to preparation of reports. [*Note*: A portion of this meeting may be closed pursuant to 5 U.S.C. 552b (c) (2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.] [*Note*: A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C 552b(c)(4)].

11:30 a.m.–6:00 p.m.: Preparation of ACRS Reports (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports. [*Note*: A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C 552b(c)(4)]. [*Note*: Portions of this meeting may be closed pursuant to 5 U.S.C. 552b (c) (2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.]

Saturday, July 25, 2020

9:30 a.m.–2:00 p.m.: Preparation of ACRS Reports (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports. [*Note*: A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C 552b(c)(4)]. [*Note*: Portions of this meeting may be closed pursuant to 5 U.S.C. 552b (c) (2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.]

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on June 13, 2019 (84 FR 27662). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Persons desiring to make oral statements should notify Quynh Nguyen, Cognizant ACRS Staff and the Designated Federal Official (DFO) (Telephone: 301–415–5844, Email: *Quynh.Nguyen@nrc.gov*), 5 days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Cognizant ACRS staff if such rescheduling would result in major inconvenience.

An electronic copy of each presentation should be emailed to the Cognizant ACRS Staff at least one day before meeting.

In accordance with Subsection 10(d) of Public Law 92–463 and 5 U.S.C. 552b(c), certain portions of this meeting may be closed, as specifically noted above. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Electronic recordings will be permitted only during the open portions of the meeting.

ACRS meeting agendas, meeting transcripts, and letter reports are available through the NRC Public Document Room (PDR) at *pdr.resource@nrc.gov,* or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System component of NRC's Agencywide Documents Access and Management System (ADAMS) which is accessible from the NRC website at *https://www.nrc.gov/reading-rm/adams.html* or *https://www.nrc.gov/reading-rm/doc-collections/#ACRS/.*

Video teleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service should contact Thomas Dashiell, ACRS Audio Visual Technician (301–415–7907), between 7:30 a.m. and 3:45 p.m. (Eastern Time), at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the video teleconferencing link. The availability of video teleconferencing services is not guaranteed.

Dated: June 9, 2020.

Russell E. Chazell,

Federal Advisory Committee Management Officer, Office of the Secretary.

[FR Doc. 2020–12798 Filed 6–12–20; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 72–1032, 72–78, 50–317 and 50–318; NRC–2020–0113]

Exelon Generation Company, LLC; Calvert Cliffs Nuclear Power Station, Units 1 and 2; Independent Spent Fuel Storage Installation

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an exemption in response to a request submitted by Exelon Generation Company, LLC (EGC) on October 3, 2019, for the Calvert Cliffs Nuclear Power Plant (CCNPP). This exemption would permit CCNPP to load and store spent fuel with a larger pellet diameter than is authorized in the Holtec International, Inc. (Holtec) HI–STORM FW storage system in Certificate of Compliance No. 1032, Amendment 1, Revision 1.

DATES: The exemption was issued on June 8, 2020.

ADDRESSES: Please refer to Docket ID NRC–2020–0113 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0113. Address questions about NRC docket IDs to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.

FOR FURTHER INFORMATION CONTACT: Chris Allen, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6877; email: *William.Allen@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

CCNPP has been storing PWR spent fuel in its specific licensed independent spent fuel storage installation (ISFSI) utilizing Special Nuclear Materials License No. SNM–2505, which was issued in November 1992. However, for the loading campaign commencing in early summer of 2021, CCNPP is transitioning to store its PWR fuel at a separate on-site ISFSI, which will use the HI–STORM FW dry storage system, Certificate of Compliance No. 1032, Amendment No. 1, Revision 1 (ADAMS Package Accession No. ML15152A358) under the general license provisions in part 72 of title 10 of the *Code of Federal Regulations* (10 CFR). Although the HI–STORM FW storage system is approved for a fuel pellet diameter of 0.3805 inches (0.9665 centimeters), some of the CCNPP spent fuel assemblies would be precluded from being loaded in an upcoming loading campaign because they have fuel pellets with a maximum diameter of 0.3810 inches (0.9677 centimeters).

II. Request/Action

By application dated October 3, 2019 (ADAMS Accession No. ML19276D398), EGC submitted a request for an exemption from those provisions of 10 CFR 72.212(b)(3) and 72.212(b)(11) that require compliance with the terms, conditions, and specifications of Certificate of Compliance No. 1032, Amendment No. 1, Revision 1 to allow CCNPP to load spent fuel with a maximum fuel pellet diameter of 0.3810 inches (0.9677 centimeters), utilizing Amendment No. 1, Revision 1 for the Holtec HI–STORM FW storage system. In evaluating the request, the NRC also considered, pursuant to authority in 10 CFR 72.7, exempting Exelon from similar requirements in 10 CFR 72.212(a)(2) and (b)(5)(i) and 10 CFR 72.214, ''List of approved spent fuel storage casks.''

III. Discussion

Pursuant to 10 CFR 72.7, the Commission may, upon application by any interested person or upon its own initiative, grant such exemptions from the requirements of the regulations of 10 CFR part 72 as it determines are authorized by law and will not endanger life or property or the common defense and security, and are otherwise in the public interest.

The NRC staff prepared a safety evaluation report (ADAMS Accession No. ML20115E378) to document its safety evaluation of the proposed action (*i.e.,* granting an exemption to authorize loading spent fuel with a maximum fuel pellet diameter of 0.3810 inches (0. 9677 centimeters)), to assure that the exemption is authorized by law, will protect life or property or the common defense and security and are otherwise in the public interest. As summarized in this document, the NRC's safety review concludes that the requested exemption meets the requirements for issuance in 10 CFR 72.7.

A. The Exemption Is Authorized by Law

This exemption would permit CCNPP to load spent fuel with a larger fuel pellet diameter than authorized in Certificate of Compliance No. 1032, Amendment No. 1, Revision 1. Section 72.7 allows the Commission to grant exemptions from the requirements of 10 CFR part 72 if the exemption is authorized by law and will not endanger life or property or the common defense and security. Issuance of this exemption is consistent with the Atomic Energy Act of 1954, as amended, and is not otherwise inconsistent with NRC's regulations or other applicable laws. Therefore, issuance of the exemption is authorized by law.

B. Will Not Endanger Life or Property or the Common Defense and Security

As discussed in the safety evaluation report and summarized in the following sections, the NRC staff has found that EGC's proposed action is acceptable and will not endanger life or property or the common defense and security.

Safety Review of the Requested Exemption

EGC submitted an exemption request to deviate from the maximum fuel pellet diameter for 14x14C fuel, stored in the Holtec HI–STORM FW storage system. The staff reviewed the exemption request and concludes that the proposed exemption from certain requirements of 10 CFR part 72 will not cause the HI–STORM FW storage system to encounter conditions beyond those for which it has been evaluated and demonstrated to meet the applicable safety requirements in 10 CFR part 72. As explained below, the staff evaluated the potential thermal, radiation and criticality safety impacts of granting the exemption.

Thermal

EGC stated that the small change in fuel pellet diameter, which is used in the effective fuel thermal conductivity calculations, has a second order impact on the effective fuel thermal properties, and that a larger fuel pellet diameter reduces the resistance to heat transfer by decreasing the helium gap between the fuel pellet and cladding. In addition, EGC asserted that the 14x14C fuel assembly is bounded by the WE 17x17 fuel assembly adopted in the licensing basis analyses. Staff reviewed the information provided and concluded that the impact of loading a fuel pellet with a slightly increased diameter is negligible to the thermal design functions of the loaded cask. Staff also reviewed the HI–STORM FW final safety analysis report (FSAR) and confirmed that the heat load of the 14x14C fuel assembly is bounded by the head load of the 17x17 fuel assembly.

Shielding

EGC evaluated the impact of increasing the fuel pellet diameter from 0.3805 inches (0.9665 cm) to 0.3810 inches (0.9677 cm). EGC determined that the small increase in heavy metal from 438 kg to 439.15 kg caused by increasing the fuel pellet diameter is conservatively bounded by the uranium weight for the design basis fuel assembly in Table 5.2.1 of the HI–STORM FW FSAR of 469 kg. The staff reviewed this information and determined that the proposed change to the fuel pellet diameter will not significantly change the system shielding analyses in the HI–STORM FW FSAR. Further, the staff determined that the WE17X17 design basis fuel assembly in the HI–STORM FW FSAR with 469 kg of heavy metal bounds the CCNPP 14X14C fuel assemblies with 439.15 kg of heavy metal since the system shielding analyses in the FSAR also bound the expected increase in radiation from the slightly larger fuel pellets.

Criticality

EGC stated that Holtec evaluated a fuel pellet diameter of 0.3805 inches (0.9665 cm) in the HI–STORM FW FSAR, to determine the effect of an upper manufacturing tolerance of 0.0005 inches (0.0013 cm) applied to the nominal value of 0.3805 inches (0.9665 cm). In that final safety analysis report, Holtec determined that the system k-effective with this larger diameter of fuel pellet is statistically the same as the system k-effective with the nominal fuel pellet diameter. Therefore, EGC stated that its proposed exemption has no effect on the criticality safety of the HI–STORM FW storage system. The staff reviewed the final safety analysis report and determined that the proposed change to the fuel pellet diameter will not result in changes to system k-effective that are statistically significant. The staff finds that this proposed exemption does not affect the ability of the HI–STORM FW storage system to meet the criticality safety requirements of 10 CFR part 72.

Review of Common Defense and Security

EGC's exemption request is not related to any aspect of the physical security or defense of the CCNPP ISFSI. Modification of the fuel pellet diameter does not affect the ISFSI security plans. Therefore, granting the exemption would not result in any potential impacts to common defense and security.

Based on its review, the NRC staff has determined that under the requested exemption, the storage system will continue to meet the safety requirements of 10 CFR part 72 and the offsite dose limits of 10 CFR part 20 and, therefore, will not endanger life or property. The NRC staff also found that the exemption would not endanger the common defense and security.

D. Otherwise in the Public Interest

In determining whether the exemption is in the public interest, the staff considered the no-action alternative of denying the exemption request. Denial of the exemption request would cause CCNPP to postpone loading of spent fuel that contains the larger fuel pellet diameter until it is approved in an amendment for CoC No. 1032 or alternative loading arrangements are implemented.

EGC stated that the proposed exemption is in the public interest because it would allow CCNPP to load spent fuel in an inherently safe, passive system on schedule, which would enable CCNPP to continue to maintain full-core offload capability. The staff reviewed the information provided by EGC, and based upon the above stated information, concludes that granting the requested exemption continues to provide adequate protection of public health and safety and is otherwise in the public interest.

E. Environmental Considerations

The NRC staff also considered whether there would be any significant environmental impacts associated with the exemption. For this proposed action, the NRC staff performed an environmental assessment pursuant to 10 CFR 51.30. The environmental assessment concluded that the proposed action would not significantly impact the quality of the human environment. The NRC staff concluded that the proposed action would not result in any changes in the types or amounts of any radiological or non-radiological effluents that may be released offsite, and there is no significant increase in occupational or public radiation exposure because of the proposed action. The environmental assessment and the finding of no significant impact was published on June 1, 2020 (85 FR 33204).

IV. Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 72.7, this exemption is authorized by law, will not endanger life or property

or the common defense and security, and is otherwise in the public interest. Therefore, the Commission hereby grants EGC an exemption from those provisions of 10 CFR 72.212(a)(2), (b)(3), and (b)(5)(i), 10 CFR 72.214, and the portion of 10 CFR 72.212(b)(11) that require compliance with terms, conditions, and specifications of the Certificate of Compliance No. 1032, Amendment No. 1, Revision 1 for the CCNPP to load spent fuel with a maximum fuel pellet diameter of 0.3810 inches (0.9677 centimeters) in the HI–STORM FW storage system using Certificate of Compliance No. 1032, Amendment No. 1, Revision 1.

The exemption is effective upon issuance.

Dated: June 10, 2020.

For the Nuclear Regulatory Commission.

John B. McKirgan,

Chief, Storage and Transportation Licensing Branch, Division of Fuel Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2020–12846 Filed 6–12–20; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2020–0001]

Sunshine Act Meetings

TIME AND DATE: Week of June 15, 2020.

PLACE: via Teleconference.

STATUS: Open.

Week of June 15, 2020

Monday, June 15, 2020

3 p.m.—Affirmation Session (Public Meeting via Teleconference) (Tentative), Southern Nuclear Operating Co., Inc. (Vogtle Electric Generating Plant, Unit 3)—Request for Hearing in Inspections, Test, Analysis and Acceptance Criteria (ITAAC) Proceeding (Tentative) (Contact: Denise McGovern: 301–415–0681)

Additional information: By a vote of 5–0 on June 11, 2020, the Commission determined pursuant to U.S.C. 552b(e) and '9.107(a) of the Commission's rules that the above referenced Affirmation Session be held with less than one week notice to the public. The meeting is scheduled on June 15, 2020, and will be held via teleconference. Details for joining the teleconference in listen only mode can be found at *https://www.nrc.gov/pmns/mtg.*

CONTACT PERSON FOR MORE INFORMATION: For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.* The schedule for Commission meetings is subject to change on short notice.

The NRC Commission Meeting Schedule can be found on the internet at: *https://www.nrc.gov/public-involve/public-meetings/schedule.html.*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Anne Silk, NRC Disability Program Specialist, at 301–287–0745, by videophone at 240–428–3217, or by email at *Anne.Silk@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or by email at *Wendy.Moore@nrc.gov* or *Tyesha.Bush@nrc.gov.*

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: June 11, 2020.

For the Nuclear Regulatory Commission.

Denise L. McGovern,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2020–12974 Filed 6–11–20; 4:15 pm]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket No. MT2020–2; Order No. 5539]

Market Test of Experimental Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently filed Postal Service proposal to conduct a market test of an experimental product called Extended Mail Forwarding. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* June 30, 2020.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Background
III. Compliance with Legal Requirements
IV. Data Collection
V. Notice of Commission Action
VI. Ordering Paragraphs

I. Introduction

In accordance with 39 U.S.C. 3641 and 39 CFR part 3045, the Postal Service filed notice of its intent to conduct a market test of an experimental product called Extended Mail Forwarding.[1] The Postal Service states that currently, when residential and commercial postal customers move, they may file a permanent Change of Address (COA) request for the forwarding of mail addressed to their old address to the new address for one year. Notice at 1. After one year, mail bearing the customer's old address is returned to sender or wasted. *Id.* at 2. Extended Mail Forwarding will provide customers who submit a permanent COA request with the option of extending forwarding of all First-Class Mail, First-Class Package Service Commercial, and Priority Mail pieces beyond the one year period for a fee. *Id.* The Postal Service intends for the market test to run for two full years beginning on August 1, 2020. *Id.* at 3.

II. Background

On June 8, 2020, the Postal Service filed the Notice proposing the Extended Mail Forwarding market test. The Postal Service asserts that Extended Mail Forwarding will ensure customers receive mailpieces for which they are the intended recipient and which is more essential than ever before in light of the Coronavirus-19 pandemic. It states that customers will exercise greater control over their mail forwarding expiration dates with more time to update and communicate with their mailing contacts. *Id.* The Postal Service also asserts that Extended Mail Forwarding will provide cost savings for the Postal Service because the cost of forwarding is less than the cost of handling Undeliverable as Addressed mailpieces. *Id.* at 4.

The Postal Service states that Extended Mail Forwarding will be

[1] United States Postal Service Notice of Market Test of Experimental Product—Extended Mail Forwarding, June 8, 2020 (Notice).

available to customers when they submit their permanent COA request. After that time, customers would be able to request and pay for Extended Mail Forwarding either up until the end date of the market test, or within 18 months of submitting their initial COA request, whichever comes first. *Id.*

The Postal Service states that Extended Mail Forwarding will be tested in nine postal districts throughout the country that represent a cross-sample of COA requests by volume according to 2019 data. *Id.* at 3. Customers submitting permanent COA requests in these districts during the market test will be eligible to participate in the market test. *Id.*

The Postal Service plans to offer initial pricing for Extended Mail Forwarding of $19.95 for one 6-month extension, $29.95 for two 6-month extensions, and $39.98 for three 6-month extensions. *Id.* at 2. Any customer who signs up initially for one or two extensions for $19.95 or $29.95 would be able to request additional extensions up to a total of three 6-month extensions for $19.95 for each extension. *Id.*

III. Compliance With Legal Requirements

The Postal Service asserts that the proposed market test meets the requirements in 39 U.S.C. 3641 and 39 CFR part 3045. First, the Postal Service explains that Extended Mail Forwarding is ''significantly different from all products offered by the Postal Service within the last two years'' as required by 39 U.S.C. 3641(b)(1). *Id.* at 4. The Postal Service states that Extended Mail Forwarding is ''critically different'' from the Premium Forwarding Service competitive product because Extended Mail Forwarding is associated with a permanent COA request enabled by the Postal Automated Redirection System (PARS). Premium Forwarding Service is first delivered to the address on the mailpiece, then repackaged and inducted back into the postal network for delivery to the forwarding address. *Id.*

The Postal Service also asserts that the proposed service is ''significantly distinct'' from Commercial P.O. Box Redirect Service because that service will be available only to Commercial P.O. Box customers to redirect automated First-Class Mail letters to a P.O. Box with Caller Service using a different postal system. *Id.* at 5. Thus, the Postal Service asserts that Extended Mail Forwarding, while it may be considered similar to Commercial P.O. Box Redirect Service, will service a significantly different market with different cost characteristics. *Id.*

Second, the Postal Service asserts that Extended Mail Forwarding ''will not create an unfair or otherwise inappropriate competitive advantage for the Postal Service or any mailer'' as required by 39 U.S.C. 3641(b)(2). *Id.* The Postal Service states that all individuals, families, and businesses who are currently eligible to file a permanent COA request moving from or into one of the test districts may participate. *Id.*

The Postal Service asserts that because only it forwards mail under a permanent COA request, no other business offers a similar product or service. It also asserts that Extended Mail Forwarding will have no impact on small business concerns except to provide them with the option of extending their forwarding requests if they permanently change addresses. *Id.*

Third, the Postal Service states that Extended Mail Forwarding is properly categorized as market dominant as required by 39 U.S.C. 3641(b)(3). *Id.*

IV. Data Collection

To better understand the results of the market test, the Postal Service asserts that it will collect the following data on a quarterly basis: Number of extension requests, number of customers, ratio of individuals, families, and businesses, volume of mailpieces forwarded, and revenues. *Id.* at 6. The Postal Service also states that it will collect data on the attributable costs of Extended Mail Forwarding, including administrative costs. *Id.*

V. Notice of Commission Action

The Commission establishes Docket No. MT2020–2 to consider matters raised by the Notice. The Commission invites comments on whether the Postal Service's filing is consistent with the requirements of 39 U.S.C. 3641 and 39 CFR part 3045. Comments are due no later than June 30, 2020. The filing can be accessed via the Commission's website (*http://www.prc.gov*).

The Commission appoints Richard A. Oliver to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).

VI. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. MT2020–2 to consider the matters raised by the Notice.

2. Pursuant to 39 U.S.C. 505, Richard A. Oliver is appointed to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).

3. Comments are due no later than June 30, 2020.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Erica A. Barker,

Secretary.

[FR Doc. 2020–12838 Filed 6–12–20; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89032; File No. SR–CboeBZX–2020–044]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Allow Members and Clearing Members To Establish or Adjust the Risk Settings Set Forth in Interpretation and Policy .03 of Exchange Rule 11.13 on a Risk Group Identifier Basis

June 9, 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 28, 2020, Cboe BZX Exchange, Inc. (the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] 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 the Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (''BZX'' or the ''Exchange'') is filing with the Securities and Exchange Commission (the ''Commission'') a proposed rule change to allow Members and Clearing Members to establish or adjust the risk settings set forth in Interpretation and Policy .03 of Exchange Rule 11.13 on a risk group identifier basis. The text of the proposed rule change is provided in Exhibit 5.

---

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to offer Members [5] and Clearing Members [6] a more granular option to manage their credit risk in equity securities. Specifically, the Exchange proposes to allow Members and Clearing Members to establish a risk profile(s) on a risk group identifier basis that would apply the risk settings offered in Interpretation and Policy .03 of Exchange Rule 11.13 to a subset of orders.

Recently, the Exchange adopted Interpretation and Policy .03 to Exchange Rule 11.13 which provides Members certain optional risk settings.[7] As set forth in paragraph (a), the Exchange currently offers the Gross Credit Risk Limit [8] and Net Credit Risk Limit [9] that are applicable to a Member's activities on the Exchange and are available to either the Member or its Clearing Member. Specifically, pursuant to paragraph (c), a Member that does not self-clear may allocate the responsibility of establishing and adjusting the applicable risk settings to its Clearing Member. Further, paragraph (b)(1) provides that the risk limits may only be set at the market participant identifier (''MPID'') level. Now, the Exchange is proposing to amend paragraph (b)(1) to provide that the Gross Credit Risk Limit and Net Credit Risk Limit may be set at the MPID level or at a more granular risk profile level. The Exchange believes the proposed functionality will provide an effective tool for Members and Clearing Members to manage their credit risk associated with equities trading.

As provided in the Original Filing, a Member can allocate responsibility for establishing and adjusting the applicable risk settings to its Clearing Member on an MPID basis via the Exchange's web portal. The proposal would allow a Member or its Clearing Member, if allocated such responsibility, to utilize ''Purge Ports'' to apply Gross Credit Risk Limits and/or Net Credit Risk Limits to more granular subsets of orders associated with the relevant MPID.[10] The Exchange believes the proposal will allow for proactive and reactive risk management and may be useful to firms operating multiple strategies at a given time, those operating multiple groups under a single MPID with disparate risk profiles, or Sponsoring Members [11] managing risk on behalf of a Sponsored Participant.[12] Specifically, Members or Clearing Members may assign a risk group identifier to a specific strategy, group, or Sponsored Participant and then set up a risk profile applicable to that risk group identifier. Without such functionality, the Member or its Clearing Member would only be able to manage risk at the MPID level.

A ''Purge Port'' is a dedicated port that permits a User to simultaneously cancel all or a subset of its orders in one or more symbols across multiple logical ports [13] by requesting the Exchange to effect such cancellation.[14] Currently, in order to effect a purge request on a specific subset of orders, a Member must identify which orders should be purged by applying a risk group identifier to such orders. As proposed, the risk group identifiers available for purge requests through Purge Ports would also be utilized to define risk profiles which constitute risk limits at the more granular order subset level. Specifically, through the Exchange's proposed functionality, a Member or its Clearing Member would be able to set risk profiles for up to 10 risk group identifiers per Purge Port that specify different Gross Credit Risk Limits and/or Net Credit Risk Limits to orders bearing the applicable risk group identifier. The Gross Credit Risk Limit and Net Credit Risk Limit would only be applied to the specified subset of orders with the applicable risk group identifier.[15] As such, only open orders or new orders bearing the applicable risk group identifier would be canceled or automatically blocked, respectively, in the event of a risk limit breach as set forth in paragraph (e) of Interpretation and Policy .03.

As noted above, Purge Ports enable Users to simultaneously cancel all open orders, or a subset thereof, across multiple logical ports through a single cancel message. Therefore, Purge Ports allow Members to manage risk for some subset of their business, such as by

[5] *See* Exchange Rule 1.5(n).

[6] A ''Clearing Member'' refers to a Member that is also a member of a Qualified Clearing Agency and clears transactions on behalf of another Member. *See* Exchange Rule 11.15(a).

[7] *See* Securities Exchange Act No. 88599 (April 8, 2020) 85 FR 20793 (April 14, 2020) (the ''Approval Order''); Securities Exchange Act No. 88263 (February 21, 2020) 85 FR 11421 (February 27, 2020) (the ''Original Filing'').

[8] The ''Gross Credit Risk Limit'' refers to a pre-established maximum daily dollar amount for purchases and sales across all symbols, where both purchases and sales are counted as positive values. For purposes of calculating the Gross Credit Risk Limit, only executed orders are included. *See* Interpretation and Policy .03(a)(1) of Exchange Rule 11.13.

[9] The ''Net Credit Risk Limit'' refers to a pre-established maximum daily dollar amount for purchases and sales across all symbols, where purchases are counted as positive values and sales are counted as negative values. For purposes of calculating the Net Credit Risk Limit, only executed orders are included. *See* Interpretation and Policy .03(a)(2) of Exchange Rule 11.13.

[10] The risk group identifier is a subset level of an MPID. Members can use MPID and risk group identifier risk settings in conjunction.

[11] *See* Exchange Rule 1.5(y).

[12] *See* Exchange Rule 1.5(x). As noted in the Original Filing, the Exchange does not guarantee that the proposed risk settings described in proposed Interpretation and Policy .03, are sufficiently comprehensive to meet all of a Member's risk management needs. Pursuant to Rule 15c3–5 under the Act, a broker-dealer with market access must perform appropriate due diligence to assure that controls are reasonably designed to be effective, and otherwise consistent with the rule. Use of the Exchange's risk settings included in proposed Interpretation and Policy .03 will not automatically constitute compliance with Exchange or federal rules and responsibility for compliance with all Exchange and SEC rules remains with the Member. *See* supra note 7.

[13] A logical port represents a port established by the Exchange within the Exchange's system for trading and billing purposes. Each logical port established is specific to a Member or non-Member and grants that Member or non-Member the ability to accomplish a specific function, such as order entry, order cancellation, or data receipt. In addition, logical ports enable Users to access information such as execution reports, execution report messages, auction notifications, and administrative data through a single feed.

[14] A User initiating such a request may also request that the Exchange block all or a subset of its new inbound orders in one or more symbols across multiple logical ports. The block will remain in effect until the User requests the Exchange remove the block. *See* Interpretation and Policy .02(b) of Exchange Rule 11.13. Purge Ports are available to Users while risk settings are only available to Members and its Clearing Member.

[15] As proposed, a new optional port level attribute will be available to validate that each new order submitted through that specific logical port contains a risk group identifier. Once this logical port level setting is selected, any orders submitted through that session that are not tagged with a risk group identifier will be rejected in an effort to ensure intended risk thresholds are maintained.

trading strategy. The proposal would expand the existing Purge Port functionality to allow Members and Clearing Members to use the Exchange's automated risk management functionality in a similar manner. As a result, Members and Clearing Members would be able to set automated gross and net notional risk limits for particular risk group identifiers, while retaining the ability to mass cancel and/or block orders entered with that risk group identifier using current purge functionality, *e.g.,* in response to alerts that the Member is approaching designated limits.

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.[16] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [17] 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.

The Exchange believes that the proposed rule change would promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market because the proposal would enhance Members' and Clearing Members' ability to manage their credit risk associated with equities trading, which would, in turn, improve their risk controls to the benefit of all market participants. Specifically, as discussed above, the proposal would allow a Member or its Clearing Member, if allocated such responsibility, to utilize the existing Purge Port risk group identifier functionality to set risk profiles for up to 10 risk group identifiers per Purge Port. Each risk profile would specify the applicable Gross Credit Risk Limits and/or Net Credit Risk Limits that would be applied to the subset of orders bearing the risk group identifier. Further, the proposal would allow the automatic mass cancellation of all open orders and block new orders bearing the risk group identifier in the event of a risk limit breach. As such, the Exchange believes that the proposal will allow for proactive and reactive risk management and may be useful to firms operating multiple strategies at a given time, those operating multiple groups under a single MPID with disparate risk profiles, or Sponsoring Members managing risk on behalf of a Sponsored Participant.[18]

In addition, the Exchange believes that the proposed rule change is designed to protect investors and the public interest because the proposed functionality is a form of risk mitigation that will aid Members, and Clearing Members for firms who do not self-clear, in minimizing their risk associated with operating or clearing multiple business lines with disparate risk profiles. In turn, the introduction of such risk management functionality could enhance the integrity of trading on the securities markets and help to assure the stability of the financial system.

The Exchange also believes that building on the Purge Port functionality to provide the proposed changes would foster cooperation and coordination with persons engaged in facilitating transactions in securities because it offers enhanced use of existing functionality. This may enable more efficient use of Members' and Clearing Members' resources.

Finally, the Exchange believes that the proposed rule change does not unfairly discriminate among the Exchange's Members and Clearing Members because use of the risk settings is optional and are not a prerequisite for participation on the Exchange, and will be available to all Members and Clearing Members as an enhancement to existing Purge Port functionality. The proposed risk settings are completely voluntary and, as they relate solely to optional risk management functionality, no Member or Clearing Member is required or under any regulatory obligation to utilize 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 may have a positive effect on competition because it would allow the Exchange to offer enhanced risk management functionality. Further, by providing Members and their Clearing Members more granular means to monitor and control risk, the proposed rule may increase confidence in the proper functioning of the markets and contribute to additional competition among trading venues and broker-dealers. Rather than impede competition, the proposal is designed as an innovative way to facilitate more robust risk management by Members and Clearing Members, which, in turn, could enhance the integrity of trading on the securities markets and help to assure the stability of the financial system. Furthermore, other exchanges are free to propose similar functionality as they see fit.[19]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [20] and Rule 19b–4(f)(6) thereunder.[21]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [22] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [23] 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 Exchange may implement the proposed rule change on the anticipated launch date of May 29, 2020. The Exchange states that waiver of the operative delay would

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

[18] *Supra* note 12.

[19] The NYSE has adopted similar provisions that allow for risk settings at a ''sub-ID'' level. *See* Securities Exchange Act No. 88776 (April 29, 2020) 85 FR 26768 (May 5, 2020) (SR–NYSE–2020–17).

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 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.

[22] 17 CFR 240.19b–4(f)(6).

[23] 17 CFR 240.19b–4(f)(6)(iii).

allow Members and Clearing Members to immediately utilize the proposed functionality to manage their risk. For this reason, 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 proposal as operative upon filing.[24]

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–CboeBZX–2020–044 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeBZX–2020–044. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBZX–2020–044, and should be submitted on or before July 6, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–12790 Filed 6–12–20; 8:45 am]

BILLING CODE 8011–01–P

[24] 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).

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89035; File No. SR–MIAX–2020–12)

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule

June 9, 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 May 29, 2020, Miami International Securities Exchange LLC (''MIAX Options'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a 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

The Exchange is filing a proposal to amend the MIAX Options Fee Schedule (the ''Fee Schedule'').

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings,* at MIAX's 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 the Fee Schedule to extend the cap waiver of 1,000 contracts per leg for complex PRIME (''cPRIME'')[3] Agency Order rebates for all tiers under the Priority Customer Rebate Program (''PCRP'')[4] until July 31, 2020.

[3] ''cPRIME'' is the process by which a Member may electronically submit a ''cPRIME Order'' (as defined in Rule 518(b)(7)) it represents as agent (a ''cPRIME Agency Order'') against principal or solicited interest for execution (a ''cPRIME Auction''), subject to the restrictions set forth in Exchange Rule 515A, Interpretation and Policy .12. *See* Exchange Rule 515A.

[4] Under the PCRP, MIAX credits each Member the per contract amount resulting from each Priority Customer order transmitted by that Member which is executed electronically on the Exchange in all multiply-listed option classes (excluding, in simple or complex as applicable, QCC and cQCC Orders, mini-options, Priority Customer-to-Priority Customer Orders, C2C and cC2C Orders, PRIME and cPRIME AOC Responses, PRIME and cPRIME Contra-side Orders, PRIME and cPRIME Orders for which both the Agency and Contra-side Order are Priority Customers, and executions related to contracts that are routed to one or more exchanges in connection with the Options Order Protection and Locked/Crossed Market Plan referenced in Exchange Rule 1400), provided the Member meets certain percentage thresholds in a month as described in the PCRP table. *See* Fee Schedule, Section 1)a)iii. ''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

Continued

Background

Exchange Rule 518(b)(7) defines a cPRIME Order as a type of complex order [5] that is submitted for participation in a cPRIME Auction and trading of cPRIME Orders is governed by Rule 515A, Interpretations and Policies .12.[6] cPRIME Orders are processed and executed in the Exchange's PRIME mechanism, the same mechanism that the Exchange uses to process and execute simple PRIME orders, pursuant to Exchange Rule 515A.[7] PRIME is a process by which a Member may electronically submit for execution an order it represents as agent (an ''Agency Order'') against principal interest and/or solicited interest. The Member that submits the Agency Order (''Initiating Member'') agrees to guarantee the execution of the Agency Order by submitting a contra-side order representing principal interest or solicited interest (''Contra-Side Order''). When the Exchange receives a properly designated Agency Order for Auction processing, a request for response (''RFR'') detailing the option, side, size and initiating price is broadcasted to MIAX Options participants up to an optional designated limit price. Members may submit responses to the RFR, which can be either an Auction or Cancel (''AOC'') order or an AOC eQuote. A cPRIME Auction is the price-improvement mechanism of the Exchange's System pursuant to which an Initiating Member electronically submits a complex Agency Order into a cPRIME Auction. The Initiating Member, in submitting an Agency Order, must be willing to either (i) cross the Agency Order at a single price against principal or solicited interest, or (ii) automatically match against principal or solicited interest, the price and size of a RFR that is broadcast to MIAX Options participants up to an optional designated limit price. Such responses are defined as cPRIME AOC Responses or cPRIME eQuotes. The PRIME mechanism is used for orders on the Exchange's Simple Order Book.[8] The cPRIME mechanism is used for Complex Orders [9] on the Exchange's Strategy Book,[10] with the cPRIME mechanism operates in the same manner for processing and execution of cPRIME Orders that is used for PRIME Orders on the Simple Order Book.

The Exchange proposes to amend footnote ''*'' in Section 1)a)iii) of the Fee Schedule to extend the waiver of the contracts cap per leg for cPRIME Agency Order rebates for all tiers under the PCRP until July 31, 2020. Prior to a rule filing by the Exchange (described below), the Exchange limited the cPRIME Agency Order Credit to be payable only to the first 1,000 contracts per leg for each cPRIME Agency Order in all tiers under the PCRP. On February 28, 2020, the Exchange filed, and the Commission approved [sic], the Exchange's proposal to waive the 1000 contracts cap per leg for cPRIME Agency Order rebates for all tiers under the PCRP from March 1, 2020 until May 31, 2020.[11] The Exchange now proposes to extend the cap waiver of 1,000 contracts per leg for cPRIME Agency Order rebates for all tiers under the PCRP until July 31, 2020. The purpose of this proposed change is for business and competitive reasons and to continue to entice market participants to submit larger-sized cPRIME Agency Orders.

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 self-regulatory organization (''SRO'') revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [12] 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 approximately 14% of the market share of executed volume of multiply-listed equity and exchange-traded fund (''ETF'') options trades as of May 18, 2020, for the month of May 2020.[13] Therefore, no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, as of May 18, 2020 for the month of May 2020, the Exchange had a total market share of 5.09% of all equity options volume.[14]

The Exchange believes that the ever-shifting market shares among the exchanges from month to month demonstrates that market participants can shift order flow (as further described below), or discontinue or reduce use of certain categories of products, in response to transaction and non-transaction fee changes. For example, on March 1, 2019, the Exchange filed with the Commission an immediately effective filing to decrease certain credits assessable to Members pursuant to the PCRP.[15] The Exchange experienced a decrease in total market share between the months of February and March of 2019. Accordingly, the Exchange believes that the March 1, 2019 fee change may have contributed to the decrease in the Exchange's market share and, as such, the Exchange believes competitive forces constrain options exchange transaction and non-transaction fees.

a calendar month for its own beneficial accounts(s). A ''Priority Customer Order'' means an order for the account of a Priority Customer. *See* Exchange Rule 100.

[5] A ''complex order'' is any order involving the concurrent purchase and/or sale of two or more different options in the same underlying security (the ''legs'' or ''components'' of the complex order), for the same account, in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00) and for the purposes of executing a particular investment strategy. A complex order can also be a ''stock-option'' order, which is an order to buy or sell a stated number of units of an underlying security coupled with the purchase or sale of options contract(s) on the opposite side of the market, subject to certain contingencies set forth in the proposed rules governing complex orders. For a complete definition of a ''complex order,'' *see* Exchange Rule 518(a)(5). *See also* Securities Exchange Act Release No. 78620 (August 18, 2016), 81 FR 58770 (August 25, 2016) (SR–MIAX–2016–26).

[6] *See* Securities Exchange Act Release No. 81131 (July 12, 2017), 82 FR 32900 (July 18, 2017) (SR–MIAX–2017–19). (Order Granting Approval of a Proposed Rule Change to Amend MIAX Options Rules 515, Execution of Orders and Quotes; 515A, MIAX Price Improvement Mechanism (''PRIME'') and PRIME Solicitation Mechanism; and 518, Complex Orders).

[7] *Id.*

[8] The ''Simple Order Book'' is the Exchange's regular electronic book of orders and quotes. *See* Exchange Rule 518(a)(15).

[9] A ''complex order'' is any order involving the concurrent purchase and/or sale of two or more different options in the same underlying security (the ''legs'' or ''components'' of the complex order), for the same account, in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00) and for the purposes of executing a particular investment strategy. Mini-options may only be part of a complex order that includes other mini-options. Only those complex orders in the classes designated by the Exchange and communicated to Members via Regulatory Circular with no more than the applicable number of legs, as determined by the Exchange on a class-by-class basis and communicated to Members via Regulatory Circular, are eligible for processing. *See* Exchange Rule 518(a)(5).

[10] The ''Strategy Book'' is the Exchange's electronic book of complex orders and complex quotes. *See* Exchange Rule 518(a)(17).

[11] *See* Securities Exchange Act Release No. 88349 (March 10, 2020), 85 FR 14995 (March 15, 2020) (SR–MIAX–2020–05).

[12] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

[13] The OCC publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, available at: *https://www.theocc.com/market-data/volume/default.jsp.*

[14] *See id.*

[15] *See* Securities Exchange Act Release No. 85301 (March 13, 2019), 84 FR 10166 (March 19, 2019) (SR–MIAX–2019–09).

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act [16] in general, and furthers the objectives of Section 6(b)(4) of the Act [17] in particular, in that it is an equitable allocation of reasonable fees and other charges among its members and issuers and other persons using its facilities. The Exchange also believes the proposal furthers the objectives of Section 6(b)(5) of the Act 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 and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

The Exchange believes its proposal to extend the waiver of the cap of 1,000 contracts per leg for cPRIME Agency Order rebates for all tiers under the PCRP until July 31, 2020 provides for the equitable allocation of reasonable dues and fees and is not unfairly discriminatory for the following reasons. 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.'' [18] 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 approximately 14% of the market share of executed volume of multiply-listed equity and ETF options trades as of May 18, 2020, for the month of May 2020.[19] Therefore, no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, as of May 18, 2020 for the month of May 2020, the Exchange had a total market share of 5.09% of all equity options volume.[20]

The Exchange believes that the ever-shifting market shares 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 transaction and/or non-transaction fee changes. For example, on March 1, 2019, the Exchange filed with the Commission an immediately effective filing to decrease certain credits assessable to Members pursuant to the PCRP.[21] The Exchange experienced a decrease in total market share between the months of February and March of 2019. Accordingly, the Exchange believes that the March 1, 2019 fee change may have contributed to the decrease in the Exchange's market share and, as such, the Exchange believes competitive forces constrain options exchange transaction and non-transaction fees and market participants can shift order flow based on fee changes instituted by the exchanges.

The Exchange believes that its proposal to continue to waive the 1,000 contracts cap per leg for cPRIME Agency Order rebates for all tiers in the PCRP until July 31, 2020 is reasonable, equitably allocated and not unfairly discriminatory because this change is for business and competitive reasons and available equally to all market participants. The Exchange cannot predict with certainty whether any market participant would submit additional cPRIME Agency Orders in excess of 1,000 contracts per leg in light of the proposal to continue to waive the cap of 1,000 contracts per leg for cPRIME Agency Order rebates for all tiers under the PCRP, but believes that market participants would continue to be encouraged to submit larger orders to obtain the additional credits. The Exchange believes that this proposed change would encourage increased cPRIME Agency Order flow, which will bring greater volume and liquidity to the Exchange, which benefits all market participants by providing more trading opportunities and tighter spreads.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[22] the Exchange believes that the proposed rule changes would not impose any burden on competition that are not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the Exchange believes that the proposed change would continue to 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.

Intra-Market Competition

The Exchange does not believe that other market participants at the Exchange would be placed at a relative disadvantage by the proposed change to continue to waive the cap of 1,000 contracts per leg for cPRIME Agency Order rebates for all tiers under the PCRP until July 31, 2020. The proposed change is designed to attract additional order flow to the Exchange. The Exchange believes that this proposal will continue to encourage Members to submit Priority Customer cPRIME Agency Orders, which will increase liquidity and benefit all market participants by providing more trading opportunities and tighter spreads. Accordingly, the Exchange believes that the proposed change will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act because it will continue to encourage order flow, which provides greater volume and liquidity, benefiting all market participants by providing more trading opportunities and tighter spreads.

Inter-Market Competition

The Exchange operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. 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 approximately 14% of the market share of executed volume of multiply-listed equity and ETF options trades as of May 18, 2020, for the month of May 2020.[23] Therefore, no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, as of May 18, 2020 for the month of May 2020, the Exchange had a total market share of 5.09% of all equity options volume.[24] In such an

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(4) and (5).

[18] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

[19] *See supra* note 13.

[20] *See id.*

[21] *See supra* note 15.

[22] 15 U.S.C. 78f(b)(8).

[23] *See supra* note 13.

[24] *See id.*

environment, the Exchange must continually adjust its transaction and non-transaction fees to remain competitive with other exchanges and to attract order flow. The Exchange believes that the proposed rule change reflects this competitive environment because it continues to encourage market participants to provide and send order flow to the Exchange. To the extent this is achieved, all the Exchange's market participants should benefit from the improved market quality.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[25] and Rule 19b–4(f)(2) [26] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MIAX–2020–12 on the subject line.

Paper Comments

- Send paper comments in triplicate to Vanessa Countryman, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–MIAX–2020–12. 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–2020–12 and should be submitted on or before July 6, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–12791 Filed 6–12–20; 8:45 am]

BILLING CODE 8011–01–P

[25] 15 U.S.C. 78s(b)(3)(A)(ii).

[26] 17 CFR 240.19b–4(f)(2).

[27] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89031; File No. SR–CboeBYX–2020–016]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Allow Members and Clearing Members To Establish or Adjust the Risk Settings Set Forth in Interpretation and Policy .03 of Exchange Rule 11.13 on a Risk Group Identifier Basis

June 9, 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 28, 2020, Cboe BYX Exchange, Inc. (the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder.[4] 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 the Substance of the Proposed Rule Change

Cboe BYX Exchange, Inc. (''BYX'' or the ''Exchange'') is filing with the Securities and Exchange Commission (the ''Commission'') a proposed rule change to allow Members and Clearing Members to establish or adjust the risk settings set forth in Interpretation and Policy .03 of Exchange Rule 11.13 on a risk group identifier basis. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/byx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

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 purpose of the proposed rule change is to offer Members [5] and Clearing Members [6] a more granular option to manage their credit risk in equity securities. Specifically, the Exchange proposes to allow Members and Clearing Members to establish a risk profile(s) on a risk group identifier basis that would apply the risk settings offered in Interpretation and Policy .03 of Exchange Rule 11.13 to a subset of orders.

Recently, the Exchange adopted Interpretation and Policy .03 to Exchange Rule 11.13 which provides Members certain optional risk settings.[7] As set forth in paragraph (a), the Exchange currently offers the Gross Credit Risk Limit [8] and Net Credit Risk Limit [9] that are applicable to a Member's activities on the Exchange and are available to either the Member or its Clearing Member. Specifically, pursuant to paragraph (c), a Member that does not self-clear may allocate the responsibility of establishing and adjusting the applicable risk settings to its Clearing Member. Further, paragraph (b)(1) provides that the risk limits may only be set at the market participant identifier (''MPID'') level. Now, the Exchange is proposing to amend paragraph (b)(1) to provide that the Gross Credit Risk Limit and Net Credit Risk Limit may be set at the MPID level or at a more granular risk profile level. The Exchange believes the proposed functionality will provide an effective tool for Members and Clearing Members to manage their credit risk associated with equities trading.

As provided in the Original Filing, a Member can allocate responsibility for establishing and adjusting the applicable risk settings to its Clearing Member on an MPID basis via the Exchange's web portal. The proposal would allow a Member or its Clearing Member, if allocated such responsibility, to utilize ''Purge Ports'' to apply Gross Credit Risk Limits and/or Net Credit Risk Limits to more granular subsets of orders associated with the relevant MPID.[10] The Exchange believes the proposal will allow for proactive and reactive risk management and may be useful to firms operating multiple strategies at a given time, those operating multiple groups under a single MPID with disparate risk profiles, or Sponsoring Members [11] managing risk on behalf of a Sponsored Participant.[12] Specifically, Members or Clearing Members may assign a risk group identifier to a specific strategy, group, or Sponsored Participant and then set up a risk profile applicable to that risk group identifier. Without such functionality, the Member or its Clearing Member would only be able to manage risk at the MPID level.

A ''Purge Port'' is a dedicated port that permits a User to simultaneously cancel all or a subset of its orders in one or more symbols across multiple logical ports [13] by requesting the Exchange to effect such cancellation.[14] Currently, in order to effect a purge request on a specific subset of orders, a Member must identify which orders should be purged by applying a risk group identifier to such orders. As proposed, the risk group identifiers available for purge requests through Purge Ports would also be utilized to define risk profiles which constitute risk limits at the more granular order subset level. Specifically, through the Exchange's proposed functionality, a Member or its Clearing Member would be able to set risk profiles for up to 10 risk group identifiers per Purge Port that specify different Gross Credit Risk Limits and/or Net Credit Risk Limits to orders bearing the applicable risk group identifier. The Gross Credit Risk Limit and Net Credit Risk Limit would only be applied to the specified subset of orders with the applicable risk group identifier.[15] As such, only open orders or new orders bearing the applicable risk group identifier would be canceled or automatically blocked, respectively, in the event of a risk limit breach as set forth in paragraph (e) of Interpretation and Policy .03.

As noted above, Purge Ports enable Users to simultaneously cancel all open orders, or a subset thereof, across multiple logical ports through a single cancel message. Therefore, Purge Ports allow Members to manage risk for some subset of their business, such as by trading strategy. The proposal would expand the existing Purge Port functionality to allow Members and Clearing Members to use the Exchange's automated risk management functionality in a similar manner. As a result, Members and Clearing Members would be able to set automated gross and net notional risk limits for particular risk group identifiers, while retaining the ability to mass cancel and/or block orders entered with that risk group identifier using current purge functionality, *e.g.,* in response to alerts that the Member is approaching designated limits.

[5] *See* Exchange Rule 1.5(n).

[6] A ''Clearing Member'' refers to a Member that is also a member of a Qualified Clearing Agency and clears transactions on behalf of another Member. *See* Exchange Rule 11.15(a).

[7] *See* Securities Exchange Act No. 88820 (May 6, 2020) 85 FR 28106 (May 12, 2020) (the ''Original Filing'').

[8] The ''Gross Credit Risk Limit'' refers to a pre-established maximum daily dollar amount for purchases and sales across all symbols, where both purchases and sales are counted as positive values. For purposes of calculating the Gross Credit Risk Limit, only executed orders are included. *See* Interpretation and Policy .03(a)(1) of Exchange Rule 11.13.

[9] The ''Net Credit Risk Limit'' refers to a pre-established maximum daily dollar amount for purchases and sales across all symbols, where purchases are counted as positive values and sales are counted as negative values. For purposes of calculating the Net Credit Risk Limit, only executed orders are included. *See* Interpretation and Policy .03(a)(2) of Exchange Rule 11.13.

[10] The risk group identifier is a subset level of an MPID. Members can use MPID and risk group identifier risk settings in conjunction.

[11] *See* Exchange Rule 1.5(y).

[12] *See* Exchange Rule 1.5(x). As noted in the Original Filing, the Exchange does not guarantee that the proposed risk settings described in proposed Interpretation and Policy .03, are sufficiently comprehensive to meet all of a Member's risk management needs. Pursuant to Rule 15c3–5 under the Act, a broker-dealer with market access must perform appropriate due diligence to assure that controls are reasonably designed to be effective, and otherwise consistent with the rule. Use of the Exchange's risk settings included in proposed Interpretation and Policy .03 will not automatically constitute compliance with Exchange or federal rules and responsibility for compliance with all Exchange and SEC rules remains with the Member. *See* supra note 7.

[13] A logical port represents a port established by the Exchange within the Exchange's system for trading and billing purposes. Each logical port established is specific to a Member or non-Member and grants that Member or non-Member the ability to accomplish a specific function, such as order entry, order cancellation, or data receipt. In addition, logical ports enable Users to access information such as execution reports, execution report messages, auction notifications, and administrative data through a single feed.

[14] A User initiating such a request may also request that the Exchange block all or a subset of its new inbound orders in one or more symbols across multiple logical ports. The block will remain in effect until the User requests the Exchange remove the block. *See* Interpretation and Policy .02(b) of Exchange Rule 11.13. Purge Ports are available to Users while risk settings are only available to Members and its Clearing Member.

[15] As proposed, a new optional port level attribute will be available to validate that each new order submitted through that specific logical port contains a risk group identifier. Once this logical port level setting is selected, any orders submitted through that session that are not tagged with a risk group identifier will be rejected in an effort to ensure intended risk thresholds are maintained.

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.[16] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [17] 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.

The Exchange believes that the proposed rule change would promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market because the proposal would enhance Members' and Clearing Members' ability to manage their credit risk associated with equities trading, which would, in turn, improve their risk controls to the benefit of all market participants. Specifically, as discussed above, the proposal would allow a Member or its Clearing Member, if allocated such responsibility, to utilize the existing Purge Port risk group identifier functionality to set risk profiles for up to 10 risk group identifiers per Purge Port. Each risk profile would specify the applicable Gross Credit Risk Limits and/or Net Credit Risk Limits that would be applied to the subset of orders bearing the risk group identifier. Further, the proposal would allow the automatic mass cancellation of all open orders and block new orders bearing the risk group identifier in the event of a risk limit breach. As such, the Exchange believes that the proposal will allow for proactive and reactive risk management and may be useful to firms operating multiple strategies at a given time, those operating multiple groups under a single MPID with disparate risk profiles, or Sponsoring Members managing risk on behalf of a Sponsored Participant.[18]

In addition, the Exchange believes that the proposed rule change is designed to protect investors and the public interest because the proposed functionality is a form of risk mitigation that will aid Members, and Clearing Members for firms who do not self-clear, in minimizing their risk associated with operating or clearing multiple business lines with disparate risk profiles. In turn, the introduction of such risk management functionality could enhance the integrity of trading on the securities markets and help to assure the stability of the financial system.

The Exchange also believes that building on the Purge Port functionality to provide the proposed changes would foster cooperation and coordination with persons engaged in facilitating transactions in securities because it offers enhanced use of existing functionality. This may enable more efficient use of Members' and Clearing Members' resources.

Finally, the Exchange believes that the proposed rule change does not unfairly discriminate among the Exchange's Members and Clearing Members because use of the risk settings is optional and are not a prerequisite for participation on the Exchange, and will be available to all Members and Clearing Members as an enhancement to existing Purge Port functionality. The proposed risk settings are completely voluntary and, as they relate solely to optional risk management functionality, no Member or Clearing Member is required or under any regulatory obligation to utilize 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 may have a positive effect on competition because it would allow the Exchange to offer enhanced risk management functionality. Further, by providing Members and their Clearing Members more granular means to monitor and control risk, the proposed rule may increase confidence in the proper functioning of the markets and contribute to additional competition among trading venues and broker-dealers. Rather than impede competition, the proposal is designed as an innovative way to facilitate more robust risk management by Members and Clearing Members, which, in turn, could enhance the integrity of trading on the securities markets and help to assure the stability of the financial system. Furthermore, other exchanges are free to propose similar functionality as they see fit.[19]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [20] and Rule 19b–4(f)(6) thereunder.[21]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [22] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [23] 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 Exchange may implement the proposed rule change on the anticipated launch date of May 29, 2020. The Exchange states that waiver of the operative delay would allow Members and Clearing Members to immediately utilize the proposed functionality to manage their risk. For this reason, 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 proposal as operative upon filing.[24]

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

[18] *Supra* note 12.

[19] The NYSE has adopted similar provisions that allow for risk settings at a ''sub-ID'' level. *See* Securities Exchange Act No. 88776 (April 29, 2020) 85 FR 26768 (May 5, 2020) (SR–NYSE–2020–17).

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 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.

[22] 17 CFR 240.19b–4(f)(6).

[23] 17 CFR 240.19b–4(f)(6)(iii).

[24] 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).

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–CboeBYX–2020–016 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeBYX–2020–016. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBYX–2020–016, and should be submitted on or before July 6, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–12789 Filed 6–12–20; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice 11139]

60-Day Notice of Proposed Information Collection: J–1 Visa Waiver Recommendation Application

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (''OMB'') approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to *August 14, 2020.*

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

- *Web:* Persons with access to the internet may comment on this notice by going to *www.Regulations.gov*. You can search for the document by entering ''Docket Number: DOS–2020–0025'' in the Search field. Then click the ''Comment Now'' button and complete the comment form.
- *Email: PRA_BurdenComments@state.gov.*

You must include the DS form number (if applicable), information collection title, and the OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice to Taylor Beaumont, who may be reached over telephone at (202) 485–8910 or email at *PRA_BurdenComments@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* J–1 Visa Waiver Recommendation Application.
- *OMB Control Number:* 1405–0135.
- *Type of Request:* Extension of a Currently Approved Collection.
- *Originating Office:* Bureau of Consular Affairs, Visa Office (CA/VO/L/R).
- *Form Number:* DS–3035.
- *Respondents:* J–1 visa holders applying for a waiver of the two-year foreign residence requirement.
- *Estimated Number of Respondents:* 8,139.
- *Estimated Number of Responses:* 8,139.
- *Average Time per Response:* 1 hour.
- *Total Estimated Burden Time:* 8,139 hours.
- *Frequency:* On occasion.
- *Obligation to Respond:* Required to Obtain or Retain a Benefit.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of proposed collection:

The Department of State uses Form DS–3035 to assess the eligibility of a J–1 visa holder for a waiver of the two-year foreign residence requirement, and to issue a recommendation of whether the Department of Homeland Security should grant a waiver of that requirement.

Methodology:

Applicants will complete the DS–3035 online. An applicant's information will be downloaded into a barcode, and then a waiver case number and further instructions will be immediately issued. Next, applicants must print their online form with the barcode. Please note that the barcode must be printed in black and white only. After the DS–3035 is completed and printed out, applicants

[25] 17 CFR 200.30–3(a)(12).

must mail their waiver application and fee payment to: Department of State J–1 Waiver, P.O. Box 979037, St. Louis, MO 63197–9000.

Edward J. Ramotowski,

Deputy Assistant Secretary, Bureau of Consular Affairs, Department of State.

[FR Doc. 2020–12825 Filed 6–12–20; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2019–0781]

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Automatic Dependent Surveillance Broadcast (ADS–B) Out Performance Requirements To Support Air Traffic Control (ATC) Service

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew a previously approved information collection. On May 28, 2010, the FAA published the final rule, entitled *Automatic Dependent Surveillance Broadcast (ADS–B) Equipage Mandate To Support Air Traffic Control Service.* 75 FR 30160. As of January 2, 2020, when operating in the airspace designated in 14 CFR 91.225(a), (b) and (d), operators must be equipped with ADS–B Out avionics that meet the performance requirements of 14 CFR 91.227. ADS–B supports the aircraft surveillance needs of the FAA by requiring avionics equipment that meet the performance requirements of 14 CFR 91.227 and continuously transmit aircraft information to be received by the FAA, via automation, for use in providing air traffic surveillance services. ADS–B is transforming all segments of aviation (*e.g.,* real-time precision shared situational awareness, and advanced applications for pilots and controllers alike).

DATES: Written comments should be submitted by July 15, 2020.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA and sent via email to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For further questions concerning this action, contact Ms. Ammyanna Williams, Group Manager (A), Surveillance and Broadcast Services, AJM–42, Air Traffic Organization, Federal Aviation Administration, by email at: *ammyanna.williams@faa.gov* or (202) 267–4128.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for the FAA to enhance the quality, utility, and clarity of the information collection; and, (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–0728.

Title: Automatic Dependent Surveillance-Broadcast (ADS–B) Out Performance Requirements to Support Air Traffic Control (ATC) Service.

Form Numbers: None.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on October 16, 2019. 84 FR 55370. The FAA received two non-substantive comments from the same individual that simply restated the docket and OMB Control Number. Neither of these comments required any action.

Title 14 CFR part 91 includes requirements for certain avionics equipment on aircraft operating in specified classes of airspace within the United States National Airspace System (NAS). As of January 2, 2020, unless otherwise authorized by ATC, all aircraft operating in the airspace identified in § 91.225 must comply with the ADS–B Out equipage and performance requirements in §§ 91.225 and 91.227.

Title 14 CFR 91.225(f) requires that each person operating an aircraft equipped with ADS–B Out must always operate such equipment in the transmit mode unless certain conditions are met. As such, ADS–B equipment will continuously transmit aircraft information in ''real time'' to a dedicated network of FAA ground receivers. There are currently two types of ADS–B equipment approved for use within the United States: 1090-megahertz (MHz) Mode S extended squitter (ES) and 978 MHz Universal Access Transceiver (UAT).[1]

ADS–B Out transmitters broadcast an equipped aircraft's position, altitude, heading, ground speed, vertical speed, call sign (flight identification), and International Civil Aviation Organization (ICAO) 24-bit aircraft address to dedicated ADS–B ground stations. As ADS–B data is automatically broadcasted by each equipped aircraft,[2] [3] to ADS–B ground stations, within range, the collected data is integrated with traditional radar targets and used by air traffic controllers to support separation assurance and traffic flow management.

This network of dedicated ground stations receives and send ADS–B collected data to FAA automation systems to process and then relay information to ATC displays. ADS–B collected data is also used for enhanced safety alerting functions such as a minimum safe altitude warnings and traffic conflict alerts. Operationally, ADS–B collected information is continually integrated with radar returns to create a safer and more efficient NAS. ADS–B collected data is integrated into automation platforms at 24 FAA en route ATC facilities, which encompasses 20 continental U.S. En Route Automation Modernization (ERAM) [4] sites, and 4 overseas Microprocessor-En Route Automated Radar Tracking System (MEARTS).[5]

[1] Aircraft that only fly below 18,000 feet and only in the U.S. can opt instead of Mode S ES (1090ES) for a dedicated 978 MHz UAT. The 978 MHz UAT frequency will allow aircraft owners/operators to keep an existing Mode C or Mode S transponder.

[2] These ADS–B data broadcasts can also be received by other aircraft, appropriate equipped for ADS–B In, to allow pilots knowledge of nearby air traffic.

[3] General aviation operators who equip with 978 MHz or UAT receivers can also benefit from having access to a variety of no-cost flight information services, including near-real time composite weather radar images, winds, lightning, and terminal weather forecasts.

[4] En Route Automation Modernization (ERAM) is used at FAA high altitude en-route centers. ERAM processes flight and surveillance data, provides communications and generates display data to air traffic controllers.

[5] Microprocessor-En Route Automated Radar Tracking System (MEARTS) is an automated radar and radar beacon tracking system capable of employing both short-range (airport surveillance

ADS–B collected data is also fused into flight tracker automation at 155 Terminal Radar Approach Control Facilities (TRACONs).[6]

ADS–B collected data provides (ATC) with a more accurate and timelier surveillance picture allowing ATC to make more-informed decisions, quickly and effectively. The use of ADS–B collected data has enabled more efficient aircraft separation and increased aircraft capacity in the NAS. In many areas of the NAS, ADS–B collected data provides better surveillance at lower altitudes and in areas that previously had limited-to-no radar coverage.

This collection of ADS–B broadcasted data supports the aircraft surveillance needs of the FAA. ADS–B Out moves ATC from a radar-based system to a satellite-derived aircraft location system with capabilities for reducing lateral and longitudinal separation standards. Aircraft equipped with ADS–B Out enhance the air traffic controller's awareness of aircraft in the airspace. Radars used today can take anywhere from 5 to 12 seconds to update an aircraft's position. ADS–B equipment provides ATC with updated aircraft information almost every second. This ''real time'' information collection enables controllers to quickly and effectively identify and resolve potentially hazardous situations. Moreover, ADS–B coverage exists at lower altitudes than some current ATC radars.

ATC is currently using ADS–B collected data to control air traffic across the nation. The collection of ADS–B Out broadcasted information from an aircraft via an automated receiver on the ground is solely done through electronic means. The ADS–B ground stations are small and easily maintained and can be placed in areas where radar use is not possible. New, state-of-the-art computer systems have been deployed to ATC facilities across the country. These systems, the Standard Terminal Automation Replacement System (STARS) and the En Route Automation Modernization (ERAM), are enabling ADS–B capabilities for FAA air traffic controllers.

As part of the renewal process, OMB requests an estimate of the hour burden imposed to the public for the collection of information. ADS–B equipment is *automatic* because it periodically transmits position information with no pilot or operator involvement required. ADS–B data is collected electronically, without input by a human operator. Subsequently, a 1-second burden is submitted as a placeholder to allow entry in OMB's burden inventory.

Respondents: As of May 1, 2020, FAA network has detected 122,051[7] aircraft as having successfully installed ADS–B Out equipment. The FAA anticipates approximately another 57,000 General Aviation (GA) aircraft [19,000 as a placeholder] over the next three years, will eventually be equipping with ADS–B Out equipment and automatically broadcasting data to be collected and used by ATC to support separation assurance and traffic flow management.

Frequency: ADS–B information is collected automatically by a dedicated network of FAA ground receivers each time an aircraft, continuously and in almost real-time, transmits its identity and GPS-derived navigational information. Title 14 CFR 91.225(f) requires that each person operating an aircraft equipped with ADS–B Out must always operate such equipment in the transmit mode unless certain conditions are met.

Estimated Average Burden per Response: 1 second (placeholder).

Estimated Total Annual Burden on Respondents: 39 hour (placeholder).

Issued in Washington, DC, on June 10, 2020.

James C. Tertocha,

Service Performance and Sustainment Program Manager (AJM–422), Surveillance and Broadcast Services (SBS), Program Management Organization, Air Traffic Organization, Federal Aviation Administration.

[FR Doc. 2020–12849 Filed 6–12–20; 8:45 am]

BILLING CODE 4910–13–P

radar) and long range (air route surveillance radar) radars. Install at 4 overseas MEARTS facilities to include Anchorage, Honolulu, San Jan and Guam.

[6] Terminal Radar Approach Control Facilities (TRACONs) are facilities where air traffic controllers use integrated radar, ADS–B and Wide-Area Multilateration (WAM) data to guide aircraft approaching and departing airports generally within a 30- to 50-mile radius up to 10,000 feet, as well as aircraft that may be flying over that airspace.

[7] 6,527 air carrier, 103,140 general aviation (GA), 3,037 International Air Carrier, 6,431 International GA and 2,916 U.S. Military and U.S. Special Use.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in California

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice of limitation on claims for judicial review of actions by the California Department of Transportation (Caltrans).

SUMMARY: The FHWA, on behalf of Caltrans, is issuing this notice to announce actions taken by Caltrans that are final. The actions relate to a proposed highway project, the State Route 41 Ranchos Rehabilitation Project from post mile 6.3/9.2 in Madera County, California. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA, on behalf of Caltrans, is advising the public of final agency actions subject to 23 U.S.C. 139(*l*)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before November 12, 2020. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For Caltrans: Som Phongsavanh, Senior Environmental Planner, Caltrans, 855 M Street Suite 200 Fresno, CA 93721, (559) 445–6447, *som.phongsavanh@dot.ca.gov.* For FHWA, contact David Tedrick at (916) 498–5024 or email *david.tedrick@dot.gov.*

SUPPLEMENTARY INFORMATION: Effective July 1, 2007, the FHWA assigned, and Caltrans assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that the Caltrans, has taken final agency actions subject to 23 U.S.C. 139(*l*)(1) by issuing licenses, permits, and approvals for the following highway project in the State of California: Caltrans proposes to reconstruct the SR–41 Ranchos Rehabilitation Project, involving a two-lane conventional highway including widening the bridge over the Madera Canal and mainline to achieve standard shoulder width, replacing and/or adding culverts and raising the profile of the highway as needed to prevent flooding. The actions by the agencies, and the laws under which such actions were taken, are described in the Final Environmental Assessment (EA) for the project, approved on May 13th 2020, in the Finding of No Significant Impact (FONSI) issued on May 13th 2020, and in other documents in the FHWA project records. The EA, FONSI, and other project records are available by contacting Caltrans at the addresses provided above. The Caltrans EA and FONSI can be obtained by contacting Caltrans: Som Phongsavanh, Senior Environmental Planner, Caltrans, 855 M Street, Suite 200, Fresno, CA 93721, (559) 445–6447, *som.phongsavanh@dot.ca.gov,* or viewed at public libraries in the project area.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. Council on Environmental Quality regulations (40 CFR parts 1500 through 1599; 23 CFR part 771);
2. National Environmental Policy Act (NEPA) (42 U.S.C. 4321–4351 *et seq.*);
3. Moving Ahead for Progress in the 21st Century Act (Map-21, Pub. L. 112–141);
4. Noise Control Act of 1979 (42 U.S.C. 4901 *et seq.*);
3. Clean Air Act of 1963, as amended (42 U.S.C. 7401 *et seq.*);
4. Farmland Protection Policy Act (7 U.S.C. 4201–4209);
5. Department of Transportation Act of 1966, Section 4(f) (49 U.S.C. 303);
6. Migratory Bird Treaty Act (16 U.S.C. 703–712);
7. National Historic Preservation Act of 1966, as amended (54 U.S.C. 306108 *et seq.*);
8. Federal Highway Act of 1970 (23 U.S.C. 109);
9. FHWA Noise Standards, Policies, and Procedures (23 CFR part 772);
10. Endangered Species Act of 1973 (16 U.S.C. 1531–1543);

(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. 139(*l*)(1).

Issued on: June 9, 2020.

Rodney Whitfield,

Director, Financial Services, Federal Highway Administration, California Division.

[FR Doc. 2020–12862 Filed 6–12–20; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in California

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice of limitation on claims for judicial review of actions by the California Department of Transportation (Caltrans).

SUMMARY: The FHWA, on behalf of Caltrans, is issuing this notice to announce actions taken by Caltrans that are final. The actions relate to a proposed highway project, improving the curved alignment of State Route 20 in the County of Nevada, State of California. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA, on behalf of Caltrans, is advising the public of final agency actions subject to 23 U.S.C. 139(*l*)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before November 12, 2020. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For Caltrans: Kelly McNally, Branch Chief, Caltrans Office of Environmental Management, M–2 California Department of Transportation—District 3, 703 B Street, Marysville, California 95901. Office hours: 8:00 a.m.–5:00 p.m., Pacific Standard Time, telephone: 916–947–1097 or email *Kelly.mcnally@dot.ca.gov.* For FHWA, contact David Tedrick at 916–498–5024 or email *david.tedrick@dot.gov.*

SUPPLEMENTARY INFORMATION: Effective July 1, 2007, the FHWA assigned, and Caltrans assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that Caltrans has taken final agency actions subject to 23 U.S.C. 139(*l*)(1) by issuing licenses, permits, and approvals for the following highway project in the State of California:

Caltrans proposes to improve two non-contiguous segments of the alignment of State Route (SR) 20 in Nevada County between post miles (PM) 29.7–30.9 and 36.8–39.8 by modifying the existing horizontal and vertical curves of the roadway and adding turnouts. This project will update the roadway to current standards by increasing the curve radii, widening shoulders to 8 feet, adding turnouts for both directions, and improving the vertical profile grade. Additionally, this project will improve the clear recovery zone (CRZ) by removing obstacles and flattening slopes close to the traveled way.

The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Assessment (FEA)/Finding of No Significant Impact (FONSI) for the project, issued on April 28, 2020, and in other documents in Caltrans' project records. The FEA, FONSI, and other project records are available by contacting Caltrans at the addresses provided above.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. Council on Environmental Quality Regulations
2. National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 *et seq.*
3. Federal-Aid Highway Act of 1970, 23 U.S.C. 109
4. MAP–21, the Moving Ahead for Progress in the 21st Century Act (Pub. L. 112–141)
5. Clean Air Act Amendments of 1990 (CAAA)
6. Clean Water Act of 1977 and 1987
7. Federal Water Pollution Control Act of 1972 (see Clean Water Act of 1977 & 1987)
8. Federal Land Policy and Management Act of 1976 (Paleontological Resources)
9. Noise Control Act of 1972
10. Safe Drinking Water Act of 1944, as amended
11. Endangered Species Act of 1973
12. Executive Order 11990, Protection of Wetlands
13. Executive Order 13112, Invasive Species
14. Executive Order 13186, Migratory Birds
15. Fish and Wildlife Coordination Act of 1934, as amended
16. Migratory Bird Treaty Act
17. Water Bank Act Wetlands Mitigation Banks, ISTEA 1991, Sections 1006–1007
18. Wildflowers, Surface Transportation and Uniform Relocation Act of 1987 Section 130
19. Coastal Zone Management Act of 1972
20. Coastal Zone Management Act Reauthorization Amendments Of 1990
21. Executive Order 11988, Floodplain Management
22. Department of Transportation (DOT) Executive Order 5650.2—Floodplain Management and Protection (April 23, 1979)
23. Rivers and Harbors Appropriation Act of 1899, Sections 9 and 10
24. Title VI of the Civil Rights Act of 1964, as amended
25. Executive Order 12898, Federal Actions to Address Environmental Justice and Low-Income Populations

(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. 139(*l*)(1).

Issued on: June 9, 2020.

Rodney Whitfield,

Director, Financial Services, Federal Highway Administration, California Division.

[FR Doc. 2020–12863 Filed 6–12–20; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2020–0039]

Environmental Impact Statement for the Western Rail Yard Infrastructure Project in New York County, New York

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS).

SUMMARY: Through this NOI, FRA announces its intent to prepare an EIS for the Western Rail Yard Infrastructure Project (Project) under the National Environmental Policy Act (NEPA). WRY Tenant LLC (an affiliate of The Related Companies, LP) and the National Railroad Passenger Corporation (Amtrak) are partnering in a joint venture to seek Federal financial assistance through the Railroad Rehabilitation and Improvement Financing (RRIF) Program, which is administered by the Build America Bureau (Bureau). FRA is conducting the environmental analysis to ensure compliance with the National Environmental Policy Act (NEPA) of 1969 and other applicable environmental laws. FRA invites the public and all interested parties to provide comments on the scope of the EIS, including the proposed purpose and need, the Proposed Action and alternatives, methodologies to be used to assess potential environmental impacts, and the approach for public and agency involvement. Due to the ongoing coronavirus disease 2019 (COVID–19) public health emergency, and consistent with the Centers for Disease Control and Prevention's guidance regarding large events and mass gatherings, FRA will conduct a virtual public scoping for the Project. FRA will also hold other Project meetings virtually, including Section 106 Consulting Party meetings, and encourages submission of scoping comments for the project and other documents electronically.

DATES: Persons interested in providing written comments on the scope of the EIS must do so by July 31, 2020. All comments will also be placed on the file at *Regulations.gov*. The Docket No. for this project is FRA–2020–0039. Please submit comments via email, mail, or by filling out a comment form on the Project website, using the contact information provided below in the ''ADDRESSES'' section. The public can review information about the Proposed Action and formally submit comments to the FRA. Project materials will also be available in Spanish. If you need special accommodations, please contact Andrea Poole prior to the close of the scoping period.

ADDRESSES: The public and other interested parties are encouraged to comment by filling out a comment form accessible via the Project's website at: *www.westernrailyardinfrastructure.com* and using the comment link provided, or at *Regulations.gov*, Docket Number: FRA–2020–0039. You can also send written comments by mail to the following address: Western Rail Yard Infrastructure Project, c/o Fitzgerald & Halliday, Inc., 416 Asylum Street, Hartford, CT 06103. All comments will also be placed on file at *Regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Andrea Poole, Environmental Protection Specialist, Office of Railroad Policy and Development, U.S. DOT Federal Railroad Administration, via email at *info@westernrailyardinfrasturcture.com*.

SUPPLEMENTARY INFORMATION: WRY Tenant, LLC and Amtrak (Project Sponsors) are seeking financial assistance to fund the construction of a Platform and Tunnel Encasement (the Proposed Action) at the 13-acre Western Rail Yard site (Block 676, Lot 3) between West 30th and 33rd Streets and Eleventh and Twelfth Avenues in Manhattan, New York County, New York. The 9.8-acre structural steel and concrete Platform will serve as the roof above the Metropolitan Transportation Authority's (MTA) Western Rail Yard, which is used and operated by the Long Island Rail Road (LIRR) as a commuter railroad storage yard and maintenance facility. The Platform would also house other infrastructure, including critical life safety and mechanical, electrical and plumbing support services for the yard, including new lighting, sprinklers, and an extensive platform ventilation system. The Tunnel Encasement would be constructed of concrete below street level in Western Rail Yard. The Tunnel Encasement would be between 50 and 65 feet wide and between 27 and 38 feet high beneath Western Rail Yard. The Tunnel Encasement in Western Rail Yard would start at the western edge of Eleventh Avenue, and extend below the project site to the northern edge of 30th Street. Together, the Tunnel Encasement below both rail yards (Eastern and Western Rail Yards) would preserve a total ROW approximately 1,400 feet long. No permanent operational components, such as tracks, lighting, ventilation, or electrical system, would be constructed within the Tunnel Encasement as part of the Proposed Action. The Platform would also support the privately-funded Mixed-Use Development (Overbuild) approved by the New York City Planning Commission (CPC), and adopted by the New York City Council as zoning text and map amendments to the New York City Zoning Resolution, for redevelopment of the Western Rail Yard site. This construction also supports MTA's overall business plan to generate revenue to support their operations.

FRA will prepare the EIS in compliance with NEPA, 23 U.S.C. 139, the Council on Environmental Quality (CEQ) regulations implementing NEPA (40 CFR parts 1500-1508), and 23 CFR part 771. After release and circulation of a Draft EIS for public comment, FRA intends to issue a single document that consists of the Final EIS and Record of Decision, unless it determines statutory criteria or practicability considerations preclude issuing a combined document.

The EIS will also document FRA's compliance with other applicable environmental laws and regulations, including Section 106 of the National Historic Preservation Act of 1966 (NHPA) (54 U.S.C. 306108); the Clean Air Act (42 U.S.C. 7401 *et seq.*); the Endangered Species Act (16 U.S.C. 1531); Section 4(f) of the Department of Transportation Act of 1966 (Section 4(f) 49 U.S.C. 303) and FRA's implementing regulations at 23 CFR part 774; U.S. DOT Order 5650.2 on Floodplain Management; the Coastal Zone Management Act; and Executive Order 12898 on Environmental Justice. The EIS will provide FRA, participating agencies, and the public with information about alternatives that meet the Proposed Action's purpose and need, including their environmental impacts and appropriate measures to avoid, minimize, and mitigate those impacts.

The Proposed Action may affect historic properties and will be subject to the requirements of Section 106 of the NHPA. Consistent with regulations issued by the Advisory Council on Historic Preservation (36 CFR part 800), FRA intends to coordinate compliance with Section 106 of the NHPA with the preparation of the EIS. In response to this NOI, the public and interested parties may also provide input relevant to FRA's Section 106 review process, including providing information that

FRA may use in identifying and assessing effects of the Proposed Action on historic properties, including archaeological resources. In addition, interested parties may also request to participate in the Section 106 process as a consulting party under 36 CFR part 800.2(c).

Project Background

The MTA Hudson Yards (aka ''John D. Caemmerer Hudson Yards'') is an electrified yard that stores 35 LIRR commuter trains daily, with a capacity of 386 train cars on 30 tracks. The train yard is divided into two sections, the Eastern Rail Yard located on Block 702 and the Western Rail Yard located on Block 676.

In 2007, MTA reached agreement with The Related Companies, LP [1] (parent company to WRY Tenant LLC) for the development of plans for the Western Rail Yard. MTA and the New York City Planning Commission (CPC) served as co-lead agencies for an environmental review pursuant to the requirements of the New York State Environmental Quality Review Act (SEQRA) and City Environmental Quality Review (CEQR). The 2009 SEQRA/CEQR FEIS was published in October 9, 2009. Based on the findings of the 2009 SEQRA/CEQR Final EIS, zoning text and map amendments for the Western Rail Yard development were adopted into the New York City Zoning Resolution. The Platform and Overbuild are now as-of-right development and would be built in accordance with the City Zoning Resolution's existing zoning controls.

The FRA conducted an environmental assessment for the construction of a concrete casing beneath Hudson Yards, and issued Findings of No Significant Impact (FONSI) in 2013 [2] and 2014 [3]. The purpose of the concrete casing project was to preserve underground right-of-way in Hudson Yards to maintain opportunities to expand rail services, meet future demand, and improve intercity and commuter rail system safety and reliability. The preservation of the right-of-way is necessary to ensure the Platform and Overbuild construction would not eliminate the possibility of future rail development and expansion through Hudson Yards and into New York Penn Station. For more information about FRA's past environmental reviews of the concrete casing through Hudson Yards, please see *https://www.fra.dot.gov/Page/P0666.* Since FRA's issuance of the 2013 and 2014 FONSIs, two of the three sections of encasement have been built. The third section is the Tunnel Encasement that would be constructed as part of this project, and extends on a diagonal alignment from Eleventh Avenue to 30th Street in the Western Rail Yard.

Purpose and Need

The purpose of the Proposed Action is to (1) cover and protect the active railroad tracks and LIRR support facilities in the Western Rail Yard so that the joint venture can provide additional new capacity for real estate development and house critical life safety and mechanical, electrical and plumbing support services for the Yard, including new lighting, sprinklers, and an extensive Platform ventilation system; and (2) preserve a right-of-way through the Western Rail Yard to support the future construction of a trans-Hudson passenger rail crossing into New York Penn Station. The Platform is needed to support the provision of developable land area that would generate revenue for the MTA and its subsidiary agencies and modernize state-of-the-art life safety systems for the entire Western Rail Yard.[4] MTA has sought to maximize the revenue generation potential of its real estate assets; and, when Hudson Yards was redeveloped in 1986, the tracks and other facilities were specifically laid out to accommodate support columns that would be required for future development.

Currently, there is no capacity for development over the Western Rail Yard without construction of the Platform. The 2005 Hudson Yards rezoning included the extension of the No. 7 IRT Flushing Line subway to 34th Street and Eleventh Avenue, providing new and closer access to the subway system in this area which made private development considerably more attractive and viable in this part of Manhattan. The 2005 Hudson Yards rezoning also provided for the development of a mix of uses and densities, including a provision for open space. The Tunnel Encasement is needed to preserve right of way for new rail infrastructure to support passenger rail service in and out of New York Penn Station.[5] New rail infrastructure is part of the effort to maintain a functional, resilient, and improved trans-Hudson passenger rail crossing into New York Penn Station, maintain existing Amtrak intercity and NJ TRANSIT commuter rail service on the Northeast Corridor, and to support future increases in the capacity of the regional rail system should they be pursued.

Consistent with the purpose and need for the Proposed Action, the objectives of the Western Rail Yard Infrastructure Project include:

- Maintain safe, continuous, and uninterrupted LIRR operations in the Western Rail Yard through the addition of critical life safety and ventilation systems and the modernization of operational facilities within Western Rail Yard;
- Support the ability to meet the revenue-generation goals of the MTA, the owner of the Western Rail Yard;
- Provide the support for the economic, social, and recreational life of the Hudson Yards area and the City; and,
- Preserve opportunities to enable future growth of passenger rail service and to maintain a functional, resilient, and improved trans-Hudson passenger rail crossing into New York Penn Station.

Proposed Action and Alternatives

The Proposed Action consists of:

- A new approximately 9.8-acre Platform spanning the Western Rail Yard, including deep footings and a concrete slab to cover the active rail yard below, and reinforced building foundations for Overbuild development. Platform construction would also include the modernization of LIRR support services including: emergency electrical equipment and new critical life safety and mechanical, electrical and plumbing support services, and an extensive ventilation system for the yard. In addition to the modernization

[1] The Related Companies, LP (Related) was the successful bidder of a competitive bid issued by MTA for the long-term ground leases with option to purchase severed fee parcels (for the development air rights over the Hudson Yards from MTA). Related is a privately-owned, American real estate firm headquartered in New York City, with offices and major developments in Boston, Chicago, Los Angeles, Las Vegas, Miami, San Francisco, Abu Dhabi, London, São Paulo and Shanghai. Related has more than 3,000 employees and is the largest landlord in New York City with over 8,000 residential rental units under ownership.

[2] Amtrak and FRA. May 2013. Finding of No Significant Impact, *Environmental Assessment for Construction of a Concrete Casing in the Hudson Yards, New York, New York.*

[3] Amtrak and FRA. November 2014. Finding of No Significant Impact, *Supplemental Environmental Assessment for Construction of a Concrete Casing Extension in the Hudson Yards, New York, New York.*

[4] MTA's subsidiary agencies include LIRR, Metro-North Railroad, New York City Transit (NYCT), Capital Construction Company, Staten Island Railway, Regional Bus Operations, and Bridges and Tunnels.

[5] *Hudson Tunnel Project, Draft Environmental Impact Statement and Draft Section 4(f) Evaluation,* June 2017, includes a Preferred Alternative consisting of the construction of a new rail tunnel under the Hudson River, including railroad infrastructure in New Jersey and New York connecting the new rail tunnel to the Northeast Corridor and into New York Penn Station.

efforts, construction of the Platform would necessitate the construction of approximately 20,000 square feet of new railroad staff facilities and rail car cleaning services.

• A Tunnel Encasement in the southern portion of the site running from Eleventh Avenue to West 30th Street to preserve right-of-way for a new trans-Hudson connection into New York Penn Station.

In addition to the Proposed Action, FRA will describe and evaluate the following types of construction activities in the Draft EIS:

• Construction staging areas at the Western Rail Yard site for the construction of all of the aforementioned project components and construction activities,

• Traffic and transportation interruptions including potential localized sidewalk and traffic lane closures.

FRA will refine the purpose of and need for the Proposed Action and identify alternatives that meet the purpose and need considering information obtained through the scoping process. The EIS will evaluate a No Action Alternative and reasonable and feasible Build Alternatives for the Proposed Action. FRA anticipates presenting the Preferred Alternative in the Draft EIS.

Possible Effects

The EIS will consider the potential effects of the project alternatives on the social, economic, and environmental resources in the study area. The analysis will include identification of study areas; documentation of the affected environment; evaluation of direct and indirect effects of the alternatives (including permanent [operational] and temporary [construction period] effects); and identification of measures to avoid and/or mitigate adverse impacts. FRA will evaluate the following resource areas:

• Land use, Land planning, and Property (acquisitions and displacements);

• Transportation (traffic, parking, transit, and pedestrian conditions);

• Air quality, Greenhouse gas emissions and Resilience

• Noise and vibration;

• Cultural Resources (including historic and archaeological resources);

• Parks and recreation areas;

• Aesthetic and visual quality;

• Contaminated materials;

• Utilities and Energy;

• Natural ecological systems (including threatened and endangered species)

• Soils and geology;

• Water resources and water quality (including floodplains);

• Coastal zone consistency;

• Socioeconomics;

• Public health;

• Environmental justice;

• Public safety and security; and

• Indirect and Cumulative effects.

Agencies within the U.S. DOT, including FRA, are subject to Section 4(f), which prohibits approval of any program or project that ''uses'' publicly-owned parks, recreation areas, wildlife and waterfowl refuges, and historic sites, unless there is no feasible and prudent alternative to the use of such land and such program or project includes all possible planning to minimize harm to the property. FRA will include in the Draft EIS a draft Section 4(f) evaluation in accordance with 23 CFR 774, if it is determined that the Proposed Action has the potential to result in the use of a Section 4(f) resource.

Scoping, Public Involvement, and Agency Coordination

This NOI initiates the scoping process under NEPA, which helps guide the development of the Draft EIS. FRA invites all interested individuals, organizations, and federal, state, and local agencies to comment on the scope of the EIS. Comments are encouraged on the Proposed Action's purpose and need and alternatives to be considered in the EIS; the analyses to include in the EIS, including identification of appropriate study areas and the effects-assessment methodologies to be used; the approach for public and agency involvement; and any concerns about the anticipated impacts of the Proposed Action.

Public agencies with jurisdiction are requested to advise FRA of the applicable permit and environmental review requirements of each agency, and the scope and content of the environmental information germane to the agency's statutory responsibilities in connection with the Proposed Action. Public agencies are requested to advise FRA if they anticipate taking a major action in connection with the Proposed Action and if they wish to cooperate in the preparation of the EIS under 40 CFR 1501.16.

FRA will coordinate with participating agencies during development of the Draft EIS consistent with 23 U.S.C. 139. FRA will also consult with Federally recognized Native American tribes and Consulting Parties identified under Section 106 of the NHPA.

The FRA will invite all Federal and non-Federal agencies and Native American tribes that may have an interest in the Proposed Action to become participating agencies for the EIS and Consulting Parties in the Section 106 process. If an agency or tribe is not invited and would like to participate, it should contact Ms. Andrea Poole at the contact information listed above (**FOR FURTHER INFORMATION**). The FRA will develop an Agency and Public Coordination Plan summarizing how it will engage the public, agencies, and tribes in the process. The Coordination Plan will be posted to the project website at *www.westernrailyardinfrastructure.com* and *Regulations.gov*, Docket No. FRA–2020–0039. FRA will lead the outreach activities during the public scoping process, beginning with a scoping presentation made available on the project website and a scoping comment period identified under **DATES** above. FRA encourages submission of scoping comments for the project and other documents electronically. Other public involvement initiatives will be held throughout the course of the EIS. Public outreach activities will be announced on the project website at *www.westernrailyardinfrastructure.com* and through mailings, public notices, and advertisements.

Issued in Washington, DC.

Jamie P. Rennert,

Director, Program Delivery.

[FR Doc. 2020–12851 Filed 6–12–20; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Proposed Collection; Comment Request; Provisions Pertaining to Certain Investments in the United States by Foreign Persons and Provisions Pertaining to Certain Transactions by Foreign Persons Involving Real Estate in the United States

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to comment on the proposed information collections listed below, in accordance with the Paperwork Reduction Act of 1995.

DATES: Written comments must be received on or before August 14, 2020.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including

suggestions for reducing the burden, to Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW, Suite 8100, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Meena Sharma or Andrew Fair by emailing *CFIUS@treasury.gov,* calling (202) 622–1860, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Title: Provisions Pertaining to Certain Investments in the United States by Foreign Persons and Provisions Pertaining to Certain Transactions by Foreign Persons Involving Real Estate in the United States.

OMB Control Number: 1505–0121.

Type of Review: Extension without change of a currently approved collection.

Description: Section 721 of the Defense Production Act of 1950, as amended (section 721), provides the President, acting through the Committee on Foreign Investment in the United States (CFIUS or the Committee), authority to review certain foreign investments in the United States in order to determine the effects of those transactions on the national security of the United States. In August 2018, section 721 was amended by the Foreign Investment Risk Review Modernization Act of 2018 (FIRRMA), Subtitle A of Title XVII, Public Law 115–232, 132 Stat. 2173 (Aug. 13, 2018). FIRRMA maintains CFIUS's jurisdiction over any merger, acquisition, or takeover that could result in foreign control of any U.S. business, and broadens the authorities of the President and CFIUS under section 721 to review and take action to address any national security concerns arising from certain non-controlling investments and certain real estate transactions involving foreign persons.

Executive Order 13456, 73 FR 4677 (Jan. 23, 2008), directs the Secretary of the Treasury to issue regulations implementing section 721. Most recently, on January 17, 2020, the Department of the Treasury issued final regulations (85 FR 3112 and 85 FR 3158) implementing FIRRMA, including information collections related to notices and declarations filed with or submitted to the Committee regarding transactions that could result in foreign control of a U.S. business, certain non-controlling investments and certain real estate transactions involving foreign persons.

In May 2020, the Department of the Treasury launched a new CFIUS Case Management System, featuring an online public portal for external parties to submit declarations and file notices with CFIUS in a standard form. As of June 1, 2020 use of this online system is now mandatory for all CFIUS submissions and filings. The only substantive change related to the information required in order for CFIUS to review a declaration or notice is the requirement that parties use the new online public portal to submit declarations and file notices, instead of by email.

Form: None.

Affected Public: Individuals and entities.

Estimated Number of Respondents: 1,100.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 1,100.

Estimated Time per Response: Varies from 15–20 hours per declaration and 116–130 hours per notice.

Estimated Total Annual Burden Hours: 57,400.

Request for Comments: Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services required to provide information.

Authority: 44 U.S.C. 3501 et seq.

Dated: June 10, 2020.

Andrew Fair,

Deputy Director, Investment Reviews and Investigations.

[FR Doc. 2020–12861 Filed 6–12–20; 8:45 am]

BILLING CODE 4810–25–P

FEDERAL REGISTER

Vol. 85 Monday,

No. 115 June 15, 2020

Part II

Department of Homeland Security

Department of Justice

Executive Office for Immigration Review

8 CFR Parts 208, 235, 1003, et al.

Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review; Proposed Rule

DEPARTMENT OF HOMELAND SECURITY

8 CFR Parts 208 and 235

RIN 1615–AC42

DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

8 CFR Parts 1003, 1208, and 1235

[EOIR Docket No. 18–0002; A.G. Order No. 4714–2020]

RIN 1125–AA94

Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review

AGENCY: Executive Office for Immigration Review, Department of Justice; U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: Joint notice of proposed rulemaking.

SUMMARY: The Department of Justice and the Department of Homeland Security (collectively, ''the Departments'') propose to amend the regulations governing credible fear determinations so that individuals found to have such a fear will have their claims for asylum, withholding of removal under section 241(b)(3) of the Immigration and Nationality Act (''INA'' or ''the Act'') (''statutory withholding of removal''), or protection under the regulations issued pursuant to the legislation implementing the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (''CAT''), adjudicated by an immigration judge within the Executive Office for Immigration Review (''EOIR'') in streamlined proceedings (rather than in proceedings under section 240 of the Act), and to specify what standard of review applies in such streamlined proceedings. The Departments further propose changes to the regulations regarding asylum, statutory withholding of removal, and withholding and deferral of removal under the CAT regulations. The Departments also propose amendments related to the standards for adjudication of applications for asylum and statutory withholding.

DATES: Written or electronic comments on the notice of proposed rulemaking must be submitted on or before July 15, 2020. Written comments postmarked on or before that date will be considered timely. The electronic Federal Docket Management System will accept comments prior to midnight eastern time at the end of that day. Comments specific to the proposed collection of information will be accepted until August 14, 2020. All such submissions received must include the OMB Control Number 1615–0067 in the body of the submission. *Note:* Comments received on the information collection that are intended as comments on the proposed rulemaking rather than those specific to the collection of information will be rejected.

ADDRESSES: If you wish to provide comments regarding this rulemaking, you must submit comments, identified by the agency name and reference RIN 1125–AA94 or EOIR Docket No. 18–0002, by one of the two methods below.

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the website instructions for submitting comments.
- *Mail:* Paper comments that duplicate an electronic submission are unnecessary. If you wish to submit a paper comment in lieu of electronic submission, please direct the mail/shipment to: Lauren Alder Reid, Assistant Director, Office of Policy, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 1800, Falls Church, VA 22041. To ensure proper handling, please reference the agency name and RIN 1125–AA94 or EOIR Docket No. 18–0002 on your correspondence. Mailed items must be postmarked or otherwise indicate a shipping date on or before the submission deadline.

Collection of information. You must submit comments on the collection of information discussed in this notice of proposed rulemaking to both the rulemaking docket and the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs (OIRA). All such submissions received must include the OMB Control Number 1615–0067 in the body of the submission. OIRA submissions can be sent using any of the following methods.

- *Email (preferred): DHSDeskOfficer@omb.eop.gov* (include the docket number and ''Attention: Desk Officer for U.S. Citizenship and Immigration Services, DHS'' in the subject line of the email).
- *Fax:* 202–395–6566.
- *Mail:* Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503; Attention: Desk Officer, U.S. Citizenship and Immigration Services, DHS.

FOR FURTHER INFORMATION CONTACT: Lauren Alder Reid, Assistant Director, Office of Policy, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 1800, Falls Church, VA 22041, telephone (703) 305–0289 (not a toll-free call).

Maureen Dunn, Chief, Division of Humanitarian Affairs, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, 20 Massachusetts Ave. NW, Washington, DC 20529; telephone (202) 272–8377.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of this rule via one of the methods and by the deadline stated above. All comments must be submitted in English, or accompanied by an English translation. The Departments also invite comments that relate to the economic, environmental, or federalism effects that might result from this rule. Comments that will provide the most assistance to the Departments in developing these procedures will reference a specific portion of the rule; explain the reason for any recommended change; and include data, information, or authority that support such recommended change.

Please note that all comments received are considered part of the public record and made available for public inspection at *http://www.regulations.gov.* Such information includes personally identifying information (such as your name, address, etc.) voluntarily submitted by the commenter. If you want to submit personally identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be posted online, you must include the phrase ''PERSONALLY IDENTIFIABLE INFORMATION'' in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment, but do not want it to be posted online, you must include the phrase ''CONFIDENTIAL BUSINESS INFORMATION'' in the first paragraph of your comment. You must prominently identify the confidential business information to be redacted within the comment. If a comment has so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be posted on *http://www.regulations.gov.*

Personally identifying information located as set forth above will be placed in the agency's public docket file, but not posted online. Confidential business information identified and located as set

forth above will not be placed in the public docket file. The Departments may withhold from public viewing information provided in comments that they determine may affect the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov*. To inspect the agency's public docket file in person, you must make an appointment with the agency. Please see the **FOR FURTHER INFORMATION CONTACT** paragraph above for agency contact information.

II. Discussion [1]

Since World War II, the United States has sought a comprehensive solution to the issues surrounding the admission of refugees into the country and the protection of refugees from return to persecution. As an expression of a nation's foreign policy, the laws and policies surrounding asylum are an assertion of a government's right and duty to protect its own resources and citizens, while aiding those in true need of protection from harm. *See, e.g., Kleindienst* v. *Mandel,* 408 U.S. 753, 765 (1972) (''In accord with ancient principles of the international law of nation-states, * * * the power to exclude aliens is inherent in sovereignty, [and] necessary for maintaining normal international relations and defending the country against foreign encroachments and dangers * * * .'' (internal citations and quotation marks omitted)).

In the Refugee Act of 1980 (''Refugee Act''), Public Law 96–212, 94 Stat. 102, Congress furthered implementation of the United Nations Protocol Relating to the Status of Refugees (''Refugee Protocol''), Jan. 31, 1967, 19 U.S.T. 6223, 606 U.N.T.S. 268, providing for a permanent procedure for the admission and protection of refugees, generally defined in domestic law as:

> any person who is outside of any country of such person's nationality * * * and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.

Refugee Act, sec. 201(a), 94 Stat. at 102 (codified at section 101(a)(42) of the INA, 8 U.S.C. 1101(a)(42)). Those five grounds are the sole grounds for asylum and refugee status.

A. Expedited Removal and Screenings in the Credible Fear Process

1. Asylum-and-Withholding-Only Proceedings [2] for Aliens With Credible Fear

In the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Public Law 104–208, div. C, 110 Stat. 3009, 3009–546 (''IIRIRA''), Congress established the expedited removal process, thus establishing two primary types of proceedings for determining the removability of an alien from the United States: (1) Expedited removal proceedings under section 235(b)(1) of the INA, 8 U.S.C. 1225(b)(1), and (2) removal proceedings under section 240 of the INA, 8 U.S.C. 1229a (''section 240 proceedings'').

First, section 235 of the INA, 8 U.S.C. 1225, contains the procedures for expedited removal. Under expedited removal, aliens arriving in the United States—and, in the discretion of the Secretary of Homeland Security (''Secretary''),[3] certain other designated classes of aliens [4]—who are found to be inadmissible under either section 212(a)(6)(C) of the INA, 8 U.S.C. 1182(a)(6)(C), regarding material misrepresentations, or section 212(a)(7) of the INA, 8 U.S.C. 1182(a)(7), regarding documentation requirements for admission, may be ''removed from the United States without further hearing or review unless the alien indicates either an intention to apply for asylum under section [208 of the INA, 8 U.S.C. 1158,] or a fear of persecution.'' INA 235(b)(1)(A)(i), 8 U.S.C. 1225(b)(1)(A)(i).[5] Among other things, expedited removal is an administrative process that allows for the fair and efficient removal of aliens who have made no claims regarding asylum or a fear of return or, if they have, have not established a fear of persecution or torture, without requiring lengthy and resource-intensive removal proceedings in immigration court.

Pursuant to statute and regulations, DHS implements a screening process,

---

[1] As a prefatory matter, the Departments note that portions of this rule, in accordance with well-established administrative law principles, would supersede certain interpretations of the immigration laws by federal courts of appeals: The Supreme Court has ''also made clear that administrative agencies are not bound by prior judicial interpretations of ambiguous statutory interpretations, because there is 'a presumption that Congress, when it left ambiguity in a statute meant for implementation by an agency, understood that the ambiguity would be resolved, first and foremost, by the agency, and desired the agency (rather than the courts) to possess whatever degree of discretion the ambiguity allows.' '' *Matter of R–A–,* 24 I&N Dec. 629, 631 (A.G. 2008) (quoting *Nat'l Cable & Telecomms. Ass'n* v. *Brand X Internet Servs.,* 545 U.S. 967, 982 (2005) (internal quotation and citations omitted)). ''A court's prior judicial construction of a statute trumps an agency construction otherwise entitled to *Chevron* deference only if the prior court decision holds that its construction follows from the unambiguous terms of the statute and thus leaves no room for agency discretion.'' *Brand X,* 545 U.S. at 982. *Matter of A–B–,* 27 I&N Dec. 316, 327 (A.G. 2018).

[2] These proceedings have also been referred to as ''asylum-only'' proceedings in other contexts. *See, e.g., Matter of D–M–C–P–,* 26 I&N Dec. 644, 645 (BIA 2015) (''The applicant expressed a fear of returning to Argentina, and on June 23, 2011, his case was referred to the Immigration Court for asylum-only proceedings * * * .''). This NPRM uses the phrase ''asylum-and-withholding-only proceedings'' to ensure that the forms of relief and protection available are more accurately described.

[3] The Homeland Security Act of 2002 (''HSA''), Public Law 107–296, 116 Stat. 2135, as amended, charged the Secretary ''with the administration and enforcement of this chapter [titled, 'Immigration and Nationality'] and all other laws relating to the immigration and naturalization of aliens'' and granted the Secretary the power to take all actions ''necessary for carrying out'' the provisions of the immigration and nationality laws. *See* HSA, sec. 1102, 116 Stat. at 2273–74; Consolidated Appropriations Resolution of 2003, Public Law 108–7, div. L, sec. 105, 117 Stat. 11, 531 (codified at INA 103(a)(1) and (3), 8 U.S.C. 1103(a)(1) and (3)). The HSA states that the Attorney General ''shall have such authorities and functions under this chapter and all other laws relating to the immigration and naturalization of aliens as were [previously] exercised by [EOIR], or by the Attorney General with respect to [EOIR] * * * .'' HSA, sec. 1102, 116 Stat. at 2274 (codified at INA 103(g)(1), 8 U.S.C. 1103(g)(1)); *see* 6 U.S.C. 521. Furthermore, the Attorney General is authorized to ''establish such regulations, prescribe such forms of bonds, reports, entries, and other papers, issue such instructions, review such administrative determinations in immigration proceedings, delegate such authority, and perform such other acts as the Attorney General determines to be necessary for carrying out this section.'' HSA, sec. 1102, 116 Stat. at 2274 (codified at INA 103(g)(2), 8 U.S.C. 1103(g)(2)).

[4] DHS has designated the following additional categories of aliens, if inadmissible under sections 212(a)(6)(C) or 212(a)(7) of the Act, 8 U.S.C. 1182(a)(6)(C) or 1182(a)(7), as subject to expedited removal: (1) Aliens who are apprehended in the United States within 100 air miles of the border, who have not been admitted or paroled, and who cannot affirmatively show that they have been continuously physically present in the United States for the 14-day period prior to apprehension, *see* Designating Aliens For Expedited Removal, 69 FR 48877 (Aug. 11, 2004); and (2) aliens who arrived in the United States between ports of entry by sea, who have not been admitted or paroled, and who cannot affirmatively show that they have been continuously physically present in the United States for the two-year period prior to the determination of inadmissibility, *see* Notice Designating Aliens Subject to Expedited Removal Under Section 235(b)(1)(A)(iii) of the Immigration and Nationality Act, 67 FR 68924 (Nov. 13, 2002). On July 23, 2019, DHS announced it would expand the application of expedited removal to aliens (not included in the additional categories established in 2002 and 2004) who are inadmissible under sections 212(a)(6)(C) or 212(a)(7) of the Act, 8 U.S.C. 1182(a)(6)(C) or 1182(a)(7), who are apprehended anywhere in the United States, who have not been admitted or paroled, and who cannot affirmatively show that they have been continuously physically present for the two-year period prior to the determination of inadmissibility. *See* Designating Aliens for Expedited Removal, 84 FR 35409 (July 23, 2019). The U.S. District Court for the District of Columbia issued an injunction against the July 2019 designation. *Make the Road New York* v. *McAleenan,* 405 F. Supp. 3d 1 (D.D.C. 2019).

[5] Unaccompanied alien children, as defined in 6 U.S.C. 279(g)(2), are exempt from expedited removal. *See* 8 U.S.C. 1232(a)(5)(D)(i).

known as ''credible fear'' screening, to identify potentially valid claims for asylum, statutory withholding of removal, and protection under the regulations issued pursuant to the legislation implementing CAT, Dec. 10, 1984, S. Treaty Doc. No. 100–20, 1465 U.N.T.S. 113,[6] to prevent aliens placed in expedited removal from being removed to a country in which they would face persecution or torture.[7] Currently, any alien who expresses a fear of persecution or torture, a fear of return, or an intention to apply for asylum during the course of the expedited removal process is referred to a DHS asylum officer for an interview to determine if the alien has a credible fear of persecution or torture in the country of return. INA 235(b)(1)(A)(ii), (B), 8 U.S.C. 1225(b)(1)(A)(ii), (B); *see also* 8 CFR 235.3(b)(4), 1235.3(b)(4)(i). If the asylum officer determines that the alien does not have a credible fear of persecution or torture (or, in certain instances, a reasonable possibility of persecution or torture), the alien may request that an immigration judge review that determination. *See* INA 235(b)(1)(B)(iii)(III), 8 U.S.C. 1225(b)(1)(B)(iii)(III); 8 CFR 208.30(g), 1208.30(g).

Under the current regulatory framework, if the asylum officer determines that an alien subject to expedited removal proceedings has a credible fear of persecution or torture (or, in certain instances, a reasonable possibility of persecution or torture), DHS places the alien before an immigration court for adjudication of the alien's claims by initiating section 240 proceedings. *See* 8 CFR 208.30(f), 235.6(a)(1)(ii), 1235.6(a)(1)(i). Section 240 proceedings are often more detailed and provide additional procedural protections, including greater administrative and judicial review, than expedited removal proceedings under section 235 of the Act. *Compare* INA 235(b)(1), 8 U.S.C. 1225(b)(1), *with* INA 240, 8 U.S.C. 1229a. Similarly, if an immigration judge, upon review of the asylum officer's negative determination, finds that the alien possesses a credible fear of persecution or torture (or, in certain instances, a reasonable possibility of persecution or torture), the immigration judge will vacate the expedited removal order, and DHS will initiate section 240 proceedings for the alien. 8 CFR 1208.30(g)(2)(iv)(B).

The INA, however, instructs only that an alien who is found to have a credible fear ''shall be detained for further consideration of the application for asylum,'' and neither mandates that an alien who demonstrates a credible fear be placed in removal proceedings in general nor in section 240 proceedings specifically. INA 235(b)(1)(B)(ii), 8 U.S.C. 1225(b)(1)(B)(ii).

The relevant regulations regarding the credible fear process, and the interplay between expedited removal and section 240 proceedings, were first implemented in 1997. Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 FR 10312 (Mar. 6, 1997).[8] At the time, the former Immigration and Naturalization Service (''INS'') explained that it was choosing to initiate section 240 proceedings in this context because the remaining provisions of section 235(b) of the Act, beyond those governing credible fear review, were specific to aliens who do not have a credible fear and because the statute was silent as to procedures for those who demonstrated such a fear. *Id.* at 10320. The INS's analysis at the time was very limited.

For several reasons, the Departments believe that section 235(b)(1), 8 U.S.C. 1225(b)(1), when compared with section 235(b)(2), 8 U.S.C. 1225(b)(2), may also be read as permitting a procedure for ''further consideration of [an] application for asylum'' that is separate from section 240 proceedings. First, while section 235(b)(1), 8 U.S.C. 1225(b)(1), mandates that an alien with a positive credible fear determination receive ''further consideration of [his or her] application for asylum,'' section 235(b)(2), 8 U.S.C. 1225(b)(2), mandates that other classes of aliens receive ''a proceeding under section 1229a of this title''—*i.e.,* section 240 of the INA, 8 U.S.C. 1229a. *Compare* INA 235(b)(1)(B)(ii), 8 U.S.C. 1225(b)(1)(B)(ii), *with* INA 235(b)(2)(A), 8 U.S.C. 1225(b)(2)(A). The difference in language suggests that section 235(b)(1), 8 U.S.C. 1225(b)(1), does not require use of section 240 proceedings, in contrast to section 235(b)(2), 8 U.S.C. 1225(b)(2), which does so require. *See Henson* v. *Santander Consumer USA, Inc.,* 137 S. Ct. 1718, 1723 (2017) (''differences in language [generally] convey differences in meaning''). That negative inference is reinforced by the fact that aliens in expedited removal are expressly excluded from the class of aliens entitled to section 240 proceedings under section 235(b)(2)(A), 8 U.S.C. 1225(b)(2)(A). *See* INA 235(b)(2)(B)(ii), 8 U.S.C. 1225(b)(2)(B)(ii).

Second, an alien with a positive credible fear determination is entitled only to a further proceeding related to his or her ''application for asylum.'' INA 235(b)(1)(B)(ii), 8 U.S.C. 1225(b)(1)(B)(ii). An asylum application's purpose is to determine whether the alien is entitled to relief or protection from removal, not whether the alien should be admitted or is otherwise entitled to immigration benefits. *See Matter of V–X–,* 26 I&N Dec. 147, 150 (BIA 2013) (holding that, ''although [an alien's] grant of asylum confer[s] a lawful status upon him, it [does] not entail an 'admission'''). By contrast, in section 240 proceedings, aliens generally may raise their admissibility and their entitlement to various forms of relief or protection. *Compare* INA 235(b)(1)(B)(ii), 8 U.S.C. 1225(b)(1)(B)(ii), *with* INA 240(c)(2)–(4), 8 U.S.C. 1229a(c)(2)–(4).

Moreover, the Departments believe, for the reasons described in this rule, that it is better policy to place aliens with a positive credible fear determination in asylum-and-withholding-only proceedings rather than section 240 proceedings.

DHS has prosecutorial discretion at the outset to place an alien amenable to expedited removal instead in section 240 proceedings. *See Matter of J–A–B– & I–J–V–A–,* 27 I&N Dec. 168, 170 (BIA 2017) (''The DHS's decision to commence removal proceedings involves the exercise of prosecutorial discretion, and neither the Immigration Judges nor the Board may review a decision by the DHS to forgo expedited removal proceedings or initiate removal proceedings in a particular case.''); *Matter of E–R–M– & L–R–M–,* 25 I&N Dec. 520, 523 (BIA 2011). If DHS has exercised its discretion by initially commencing expedited removal proceedings against an alien, placing that alien in section 240 proceedings following the establishment of a credible fear effectively negates DHS's original discretionary decision. By deciding that the alien was amenable to expedited removal, DHS already determined removability, leaving only a determination as to whether the

[6] Because CAT is a non-self-executing treaty, *see, e.g., Hui Zheng* v. *Holder,* 562 F.3d 647, 655–56 (4th Cir. 2009), adjudicators do not apply CAT itself, but rather the regulations issued pursuant to the implementing legislation, principally 8 CFR 1208.16(c)–1208.18. *See* Foreign Affairs Reform and Restructuring Act of 1998 (''FARRA''), Public Law 105–277, sec. 2242(b), 112 Stat. 2681, 2681–822 (codified at 8 U.S.C. 1231 note).

[7] Screening for fear of torture in the designated country of removal is conducted not under section 235(b)(1) of the INA, 8 U.S.C. 1225(b)(1), but instead under the CAT regulations.

[8] The 1997 rule amended, inter alia, part 208 of title 8 of the CFR. Following the creation of DHS in 2003 after the passage of the HSA, EOIR's regulations were moved from Chapter I of Title 8 to Chapter V. Aliens and Nationality; Homeland Security; Reorganization of Regulations, 68 FR 9824 (Feb. 28, 2003). Part 208 was subsequently duplicated for EOIR at part 1208. *Id.*

individual is eligible for relief or entitled to protection from removal in the form of asylum, statutory withholding of removal, or protection under the CAT regulations. Further, it is evident that Congress intended the expedited removal process to be streamlined, efficient, and truly ''expedited'' based on the statutory limits it placed on administrative review of expedited removal orders, INA 235(b)(1)(C), 8 U.S.C. 1225(b)(1)(C); the temporal limits it placed on review of negative credible fear determinations by immigration judges, INA 235(b)(1)(B)(iii)(III), 8 U.S.C. 1225(b)(1)(B)(iii)(III); and the limitations placed on judicial review of determinations made during the expedited removal process, INA 242(e), 8 U.S.C. 1252(e). The current policy of referring aliens who have established a credible fear for section 240 proceedings runs counter to those legislative aims.[9]

Accordingly, DOJ proposes to amend 8 CFR 1003.1, 8 CFR 1003.42(f), 8 CFR 1208.2, 8 CFR 1208.30, and 8 CFR 1235.6—and DHS proposes to amend 8 CFR 208.2(c), 8 CFR 208.30(e)(5) and (f), and 8 CFR 235.6(a)(1)—so that aliens who establish a credible fear of persecution, a reasonable possibility of persecution, or a reasonable possibility of torture and accordingly receive a positive fear determination will appear before an immigration judge for ''asylum-and-withholding-only'' proceedings under 8 CFR 208.2(c)(1) and 8 CFR 1208.2(c)(1).[10] Such proceedings will be adjudicated in the same manner that currently applies to certain alien crewmembers, stowaways, and applicants for admission under the Visa Waiver Program, among other categories of aliens who are not entitled by statute to section 240 proceedings. *See* 8 CFR 208.2(c)(1)(i)–(viii), 1208.2(c)(1)(i)–(viii). Additionally, to ensure that these claims receive the most expeditious consideration reasonably possible, the Departments propose to amend 8 CFR 208.5 and 8 CFR 1208.5 to require DHS to make available appropriate applications and relevant warnings to aliens in its custody who have expressed a fear in the expedited removal process and received a positive determination.

These ''asylum-and-withholding-only'' proceedings generally follow the same rules of procedure that apply in section 240 proceedings, but the immigration judge's consideration is limited solely to a determination on the alien's eligibility for asylum, statutory withholding of removal, and withholding or deferral of removal under the CAT regulations (and, if the alien is eligible for asylum, whether he or she should receive it as a matter of discretion). 8 CFR 208.2(c)(3)(i), 1208.2(c)(3)(i). If the immigration judge does not grant the alien asylum, statutory withholding of removal, or protection under the CAT regulations, the alien will be removed, although the alien may submit an appeal of a denied application for asylum, statutory withholding of removal, or protection under the CAT regulations to the Board of Immigration Appeals (''BIA'').[11]

2. Consideration of Precedent When Making Credible Fear Determinations in the ''Credible Fear'' Process

DOJ proposes to add language to 8 CFR 1003.42(f) to specify that an immigration judge will consider applicable legal precedent when reviewing a negative fear determination. This instruction is in addition to those currently in 8 CFR 1003.42 to consider the credibility of the alien's statements and other facts of which the immigration judge is aware. These changes codify in the regulations the current practice and provide a clear requirement to immigration judges that they must consider and apply all applicable law, including administrative precedent from the BIA, decisions of the Attorney General, decisions of the federal courts of appeals binding in the jurisdiction where the immigration judge conducting the review sits, and decisions of the Supreme Court.

3. Remove and Reserve DHS-Specific Procedures From DOJ Regulations

The Department of Justice proposes to remove and reserve 8 CFR 1235.1, 8 CFR 1235.2, 8 CFR 1235.3, and 8 CFR 1235.5. When the Department first incorporated part 235 into 1235, it stated that ''nearly all of the provisions * * * affect bond hearings before immigration judges.'' Aliens and Nationality; Homeland Security; Reorganization of Regulations, 68 FR 9824, 9826 (Feb. 28, 2003). Upon further review, the Department has determined that these sections regard procedures that are specific to DHS's examinations of applicants for admission as set forth in 8 CFR 235.1, 8 CFR 235.2, 8 CFR 235.3, and 8 CFR 235.5, and do not need to be duplicated

[9] In *Matter of X–K–,* 23 I&N Dec. 731 (BIA 2005)—which the Attorney General recently overruled in *Matter of M–S–,* 27 I&N Dec. 509 (A.G. 2019)—the Board of Immigration Appeals noted in dicta that although the INA ''does not require that such aliens be placed in full section 240 removal proceedings * * *, there is legislative history suggesting that this comports with the intent of Congress.'' 23 I&N Dec. at 734 (citing H.R. Rep. No. 104–828, at 209 (1996) (Conf. Rep.) (''If the officer finds that the alien has a credible fear of persecution, the alien shall be detained for further consideration of the application for asylum under normal non-expedited removal proceedings.''). Although the notation in the House Conference Report may be read as supporting an interpretation of section 235(b) that allows for the current policy, the statute certainly does not compel the current policy. Indeed, we presume that Congress speaks most directly through its adopted statutory language, and, as explained above, that language actually clearly permits the use of asylum-and-withholding-only proceedings, rather than section 240 proceedings.

[10] Under existing regulations, in proceedings under 8 CFR 208.2(c)(1) and 8 CFR 1208.2(c)(1), aliens may pursue not only claims for asylum, but also claims for ''withholding or deferral of removal''—which encompasses both statutory withholding of removal, and withholding and deferral of removal under the CAT regulations. 8 CFR 208.2(c)(3)(i), 1208.2(c)(3)(i). This rule makes no change to that aspect of the existing regulations.

[11] DOJ proposes a technical correction to 8 CFR 1003.1(b), which establishes the jurisdiction of the BIA, to correct the reference to 8 CFR 1208.2 in paragraph (b)(9) and ensure that the regulations accurately authorize BIA review in ''asylum-and-withholding-only'' proceedings. EOIR and the INS amended 8 CFR part 208 in 1997 following the enactment of IIRIRA. Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 FR 444 (Jan. 3, 1997). Two of the many changes made at the time were (1) amending 8 CFR 208.2(b) to set out immigration judges' jurisdiction over asylum applications filed by aliens not entitled to proceedings under section 240 of the INA, 8 U.S.C. 1229a, and aliens who have been served, among other charging documents, a Notice to Appear; and (2) amending 8 CFR 3.1(b)(9) to specifically state that the BIA has jurisdiction over asylum applications described at 8 CFR 208.2(b). Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 FR at 455, 462. In 2000, EOIR and the INS redesignated then-existing 8 CFR 208.2(b) into separate paragraphs 8 CFR 208.2(b) (regarding immigration judges' jurisdiction over aliens served, among other charging documents, a Notice to Appear) and 8 CFR 208.2(c) (regarding immigration judges' jurisdiction over asylum applications filed by aliens not entitled to removal proceedings under section 240 of the INA). Asylum Procedures, 65 FR 76121, 76122 (Dec. 6, 2000). EOIR and the INS, however, failed to make a corresponding update to 8 CFR 3.1(b)(9) to account for the change to the cross-referenced paragraph 8 CFR 208.2(b). There is no indication that the Departments intended to remove appeals from ''asylum-and-withholding-only'' proceedings from the BIA's jurisdiction. In 2003, following the creation of DHS, EOIR's regulations were transferred from chapter I to chapter V of 8 CFR and redesignated. Aliens and Nationality; Homeland Security; Reorganization of Regulations, 68 FR 9824, 9830, 9834 (Feb. 28, 2003). Since EOIR and the INS amended 8 CFR 208.2(b) in 2000, the BIA has continued to exercise jurisdiction over appeals from asylum-and-withholding-only proceedings. *See, e.g., Kanacevic* v. *I.N.S.,* 448 F.3d 129, 133 (2d Cir. 2006) (noting that the BIA summarily affirmed an immigration judge's decision in a proceeding under 8 CFR 208.2(c)(iii)); *Matter of D–M–C–P–,* 26 I&N Dec. at 647 (holding that neither an immigration judge nor the BIA has jurisdiction to consider whether asylum-and-withholding-only proceedings were improvidently instituted). Accordingly, the Departments are now correcting the reference at 8 CFR 1003.1(b)(9) to prevent ambiguity regarding the BIA's jurisdiction over appeals from immigration judges' decisions in proceedings under 8 CFR 1208.2(c), including decisions in ''asylum-and-withholding-only'' proceedings involving aliens found to have a credible fear of persecution or reasonable possibility of persecution or torture under the proposed rule.

in the regulations for EOIR in Chapter V, except for the provisions in 8 CFR 1235.4 relating to the withdrawal of an application for admission and 8 CFR 1235.6 relating to the referral of cases to an immigration judge.

4. Reasonable Possibility as the Standard of Proof for Statutory Withholding of Removal and Torture-Related Fear Determinations for Aliens in Expedited Removal Proceedings and Stowaways

This rule also proposes clarifying and raising the statutory withholding of removal screening standard and the torture-related screening standard under the CAT regulations for stowaways and aliens in expedited removal.[12] Currently, fear screenings for aliens in expedited removal proceedings and stowaways generally involve considering whether there is a significant possibility that the alien can establish, in a hearing on the merits, eligibility for asylum, statutory withholding of removal, or withholding or deferral of removal under the CAT regulations. *See* 8 CFR 208.30(e)(2)–(3). Screening for protection under statutory withholding of removal generally involves considering whether there is a significant possibility that the alien could establish in a hearing that it is more likely than not that he or she would be persecuted on account of race, religion, nationality, membership in a particular social group, or political opinion, if removed to the proposed country of removal. *See* 8 CFR 208.16(b), 208.30(e)(2), 1208.16(b). Currently, screening for protection under the CAT regulations generally involves considering whether the alien can establish that there is a significant possibility that he or she could establish that it is more likely than not that he or she would be tortured if removed to the proposed country of removal. *See* 8 CFR 208.16(c), 208.30(e)(3), 1208.16(c). The ''significant possibility'' standard has been interpreted by DHS as requiring that the alien ''demonstrate a substantial and realistic possibility of succeeding'' in immigration court. *See* Memorandum from John Lafferty, Chief, Asylum Div., U.S. Citizenship and Immigration Servs., *Release of Updated Asylum Division Officer Training Course (ADOTC) Lesson Plan, Credible Fear of Persecution and Torture Determinations* 2 (Feb. 28, 2014); *see also Holmes* v. *Amerex Rent-A-Car,* 180 F.3d 294, 297 (D.C. Cir. 1999) (stating in a non-immigration context that establishing a significant possibility involves demonstrating ''a substantial and realistic possibility of succeeding'' (quoting *Holmes* v. *Amerex Rent-a-Car,* 710 A.2d 846, 852 (D.C. 1998))). The Departments propose amending 8 CFR 208.30 and 8 CFR 1208.30 to raise the standard of proof in ''credible fear'' screenings for aliens in expedited removal proceedings and for stowaways from a significant possibility that the alien can establish eligibility for statutory withholding of removal to a reasonable possibility that the alien would be persecuted because of his or her race, religion, nationality, membership in a particular social group, or political opinion. *See* 8 CFR 208.16, 208.30(e)(2), 1208.16. Similarly, for aliens expressing a fear of torture, the Departments propose amending 8 CFR 208.30 and 8 CFR 1208.30 to raise the standard of proof from a significant possibility that the alien is eligible for withholding or deferral of removal under the CAT regulations to a reasonable possibility that the alien would be tortured in the country of removal. *See* 8 CFR 208.18(a), 208.30(e)(3), 1208.18(a).

Congress has not required that consideration of eligibility for asylum, statutory withholding of removal, and protection under the CAT regulations in the ''credible fear'' screening process be considered in the same manner. In fact, the ''credible fear'' screening process as set forth in the INA makes no mention whatsoever of statutory withholding of removal or protection under the CAT regulations. *See* INA 235(b)(1)(B), 8 U.S.C. 1225(b)(1)(B); *see also* FARRA, 112 Stat. at 2681–822; INA 103(a)(1), 8 U.S.C. 1103(a)(1) (''The Secretary of Homeland Security shall be charged with the administration and enforcement of [the INA] and all other laws relating to the immigration and naturalization of aliens * * * .''); INA 208(b)(1)(A), 8 U.S.C. 1158(b)(1)(A) (''The Secretary of Homeland Security or the Attorney General may grant asylum to an alien who has applied for asylum in accordance with the requirements and procedures established by the Secretary of Homeland Security or the Attorney General under this section * * * .''); INA 241(b)(3)(A), 8 U.S.C. 1231(b)(3)(A); Regulations Concerning the Convention Against Torture, 64 FR 8478, 8478 (Feb. 19, 1999), as corrected by Regulations Concerning the Convention Against Torture, 64 FR 13881 (Mar. 23, 1999) (''Under Article 3 [of CAT], the United States had agreed not to 'expel, return ('refouler') or extradite' a person to another state where he or she would be tortured * * * . The United States currently implements Article 33 of the Refugee Convention through the withholding of removal provision in section 241(b)(3) * * * of the [INA] * * * .''). FARRA provides that ''the heads of the appropriate agencies shall prescribe regulations to implement the obligations of the United States under Article 3'' of CAT, ''subject to any reservations, understandings, declarations, and provisos contained in the United States Senate resolution of ratification of [CAT].'' FARRA, sec. 2242(b), 112 Stat. at 2681–822.

Recently, DHS began to apply the ''reasonable possibility'' standard of proof to determinations regarding potential eligibility for statutory withholding of removal and protection under the CAT regulations in ''credible fear'' screenings for aliens in expedited removal proceedings where an alien is found barred from asylum pursuant to 8 CFR 208.13(c)(3)–(4). On November 9, 2018, the Departments issued an Interim Final Rule (''IFR'') to provide that certain aliens described in 8 CFR 208.13(c)(3) or 8 CFR 1208.13(c)(3) who entered the United States in contravention of a covered Presidential proclamation or order are barred from eligibility for asylum (hereinafter referred to as the ''Presidential Proclamation Asylum Bar IFR''). Under that rule, claims for statutory withholding and protection under the CAT regulations are analyzed under this ''reasonable possibility'' standard. *See* Aliens Subject to a Bar on Entry Under Certain Presidential Proclamations; Procedures for Protection Claims, 83 FR 55934 (Nov. 9, 2018).[13] In addition, on

[12] A stowaway is defined in section 101(a)(49) of the INA, 8 U.S.C. 1101(a)(49), as ''any alien who obtains transportation without the consent of the owner, charterer, master or person in command of any vessel or aircraft through concealment aboard such vessel or aircraft.'' Further, ''[a] passenger who boards with a valid ticket is not to be considered a stowaway.'' *Id.* The rules that apply to stowaways relating to referrals for credible fear determinations and review by an immigration judge are found in section 235(a)(2) of the INA, 8 U.S.C. 1225(a)(2), which provides that:

An arriving alien who is a stowaway is not eligible to apply for admission or to be admitted and shall be ordered removed upon inspection by an immigration officer. Upon such inspection if the alien indicates an intention to apply for asylum under section 1158 of this title or a fear of persecution, the officer shall refer the alien for an interview under subsection (b)(1)(B). A stowaway may apply for asylum only if the stowaway is found to have a credible fear of persecution under subsection (b)(1)(B). In no case may a stowaway be considered an applicant for admission or eligible for a hearing under section 1229a of this title.

[13] On December 19, 2018, the U.S. District Court for the Northern District of California enjoined the Departments ''from taking any action continuing to implement the Rule'' and ordered the Departments ''to return to the pre-Rule practices for processing asylum applications.'' *E. Bay Sanctuary Covenant* v. *Trump,* 354 F. Supp. 3d 1094, 1121 (N.D. Cal. 2018). On February 28, 2020, the U.S. Court of Appeals for the Ninth Circuit affirmed the

July 16, 2019, the Departments issued an IFR providing that certain aliens described in 8 CFR 208.13(c)(4) or 8 CFR 1208.13(c)(4) who enter, attempt to enter, or arrive in the United States across the southern land border on or after such date, after transiting through at least one country outside the alien's country of citizenship, nationality, or last lawful habitual residence en route to the United States, will be found ineligible for asylum unless they qualify for certain exceptions (hereinafter referred to as the ''Third Country Transit Asylum Bar IFR''). *See* Asylum Eligibility and Procedural Modifications, 84 FR 33829 (July 16, 2019). That IFR provides that if an alien is found ineligible for asylum pursuant to the bar, asylum officers will similarly apply the ''reasonable possibility'' standard to any statutory withholding of removal or CAT regulation claims in the ''credible fear'' screening context. *See id.* at 33837.[14]

This proposed rule would expand the Departments' application of the ''reasonable possibility'' standard of proof. Specifically, the standard of proof in the ''credible fear'' screening process for statutory withholding of removal and protection under the CAT regulations would be raised from a significant possibility that the alien can establish eligibility for such relief or protection to a reasonable possibility that the alien would be persecuted or tortured. *See* 8 CFR 208.16, 208.30(e)(2), 1208.16; *see also* 8 CFR 208.30(e)(3) (currently employing a ''significant possibility'' standard), 8 CFR 208.18(a) and 1208.18(a) (defining torture). For aliens expressing a fear of persecution, the standard of proof in the screening remains unchanged regarding asylum eligibility, *i.e.,* a significant possibility that the alien could establish eligibility for asylum. *See* INA 235(b)(1)(B)(v), 8 U.S.C. 1225(b)(1)(B)(v).

Under this rule, during ''credible fear'' screening interviews,[15] asylum officers would consider whether aliens could establish a credible fear of persecution, a reasonable possibility of persecution, or a reasonable possibility of torture. Assessing a ''credible fear of persecution'' for purposes of asylum claims would continue to involve considering whether there is a significant possibility that the alien could establish eligibility for asylum under section 208 of the INA, 8 U.S.C. 1158, as is currently provided in the regulations. *See* 8 CFR 208.30(e)(2). However, under the proposed regulations, assessing a ''reasonable possibility of persecution'' would involve considering whether there is a reasonable possibility that the alien would be persecuted such that the alien should be referred to a hearing in immigration court to adjudicate eligibility for statutory withholding of removal. *See* 8 CFR 208.16(b), 1208.16(b).

Meanwhile, under this proposed rule, assessing a reasonable possibility of torture would involve considering whether there is a reasonable possibility that the alien would be tortured such that the alien should be referred for a hearing in immigration court to adjudicate potential eligibility for protection under the CAT regulations. *See* 8 CFR 208.16(c), 1208.16(c). Consistent with existing regulations, if the alien is referred to immigration court after receiving a positive fear determination, the immigration judge applies a ''more likely than not'' standard to the claims for statutory withholding of removal and protection under the CAT regulations. *See* 8 CFR 1208.16–1208.17.

To be eligible for asylum under section 208 of the INA, 8 U.S.C. 1158, an alien must ultimately prove a ''reasonable possibility'' of persecution upon return to his or her country. *See, e.g., Y.C.* v. *Holder,* 741 F.3d 324, 332 (2d Cir. 2013); *see also* 8 CFR 208.13(b)(2)(i)(B), 1208.13(b)(2)(i)(B). On the other hand, to be eligible for either statutory withholding of removal or protection under the CAT regulations, an alien must ultimately prove a ''clear probability'' of the relevant type of harm—*i.e.,* that the harm is more likely than not to occur—upon return to his or her country. *See Y.C.,* 741 F.3d at 333; 8 CFR 208.16(b)(2) and (c)(2), 1208.16(b)(2) and (c)(2); *see also E. Bay Sanctuary,* 950 F.3d at 1277 (''A 'clear probability' of persecution or torture means that it is 'more likely than not' that applicants will be persecuted upon their removal.''). Because an alien's merits burden with respect to claims for CAT protection and statutory withholding of removal is higher than that for a claim to asylum, it is reasonable for an alien's associated screening burden to be correspondingly higher than for an asylum claim. However, under the current regulations, an asylum officer conducting an interview under 8 CFR 208.30 determines whether there is a ''significant possibility'' that the alien would be eligible for statutory withholding of removal or protection under the CAT regulations. 8 CFR 208.30(e)(2)–(3). In other words, the asylum officer applies the same screening standard for fear of persecution under asylum and statutory withholding of removal and fear of torture under the CAT regulations, despite the fact that ultimate success on the merits requires differing standards of proof.

The decision to adopt such a regulatory scheme was made on the assumption that it would not ''disrupt[] the streamlined process established by Congress to circumvent meritless claims.'' Regulations Concerning the Convention Against Torture, 64 FR at 8485.

But while the INA and the CAT regulations authorize the Attorney General and Secretary to provide for consideration of statutory withholding of removal claims and claims for CAT protection together with asylum claims or other matters that may be considered in removal proceedings, the INA does not mandate that approach, *see, e.g.,* 8 U.S.C. 1103(a)(1) and 1225(b)(1); *cf. Foti* v. *INS,* 375 U.S. 217, 229–30 & n.16 (1963) (emphasizing that administrative regulations and procedure may broaden or narrow the subject matter within a court's scope of review, including review of orders denying voluntary departure or withholding or removal), or that they be considered in the same manner. This rule would end the current approach and require asylum

injunction. *E. Bay Sanctuary Covenant* v. *Trump,* 950 F.3d 1242, 1284 (9th Cir. 2020). The Departments in this rule do not propose to make any amendments that would implement the rule at issue in *East Bay Sanctuary.*

[14] On July 24, 2019, the U.S. District Court for the Northern District of California enjoined the Departments ''from taking any action continuing to implement the Rule'' and ordered the Departments ''to return to the pre-Rule practices for processing asylum applications.'' *E. Bay Sanctuary Covenant* v. *Barr,* 385 F. Supp. 3d 922, 960 (N.D. Cal. 2019). On August 16, 2019, the U.S. Court of Appeals for the Ninth Circuit issued a partial stay of the preliminary injunction so that the injunction remained in force only in the Ninth Circuit. *E. Bay Sanctuary Covenant* v. *Barr,* 934 F.3d 1026, 1028 (9th Cir. 2019). On September 9, 2019, the district court then reinstated the nationwide scope of the injunction. 391 F.Supp.3d 974. Two days later, the Supreme Court stayed the district court's injunction. *Barr* v. *East Bay Sanctuary Covenant,* 140 S. Ct. 3 (2019). The Departments do not propose to make any amendments in this rule that would modify the substance of the rule at issue in that litigation.

[15] The Departments recognize that, as a linguistic matter, it may seem strange to refer to a proceeding in which a reasonable possibility standard is applied as a ''credible fear'' screening. But the Departments have elected to retain the ''credible fear'' nomenclature because the relevant statutory provision is titled ''removal without further review if no credible fear of persecution,'' INA 235(b)(1)(B)(iii), 8 U.S.C. 1225(b)(1)(B)(iii), and for continuity and for ease of distinguishing proceedings conducted under 8 CFR 208.30 from those conducted under 8 CFR 208.31. Moreover, this change is consistent with the Departments' IFR in 2018 that employed a reasonable possibility standard in the context of a credible fear screening for aliens subject to certain Presidential proclamations. *See* Presidential Proclamation Asylum Bar IFR, 83 FR at 55943.

officers conducting interviews under 8 CFR 208.30 to assess whether the interviewed aliens can establish a credible fear of persecution in asylum claims, a reasonable possibility of persecution in statutory withholding of removal claims, and a reasonable possibility of torture in claims under the CAT regulations.

The Departments' proposal to raise the standards of proof for assessing potential eligibility for statutory withholding of removal and withholding or deferral of removal under the CAT regulations in the ''credible fear'' screening context falls within the scope of the authority that Congress has granted to the Secretary and the Attorney General to carry out immigration and nationality laws. *See* HSA; FARRA; INA 241(b)(3)(A), 8 U.S.C. 1231(b)(3)(A) (allowing the Attorney General to ''decide[ ]'' whether an ''alien's life or freedom would be threatened'' before directing removal of the alien); Regulations Concerning the Convention Against Torture, 64 FR at 8478, as corrected by Regulations Concerning the Convention Against Torture, 64 FR 13881 (Mar. 23, 1999). Moreover, raising the standards of proof to a ''reasonable possibility'' during screening for statutory withholding of removal and withholding and deferral of removal under the CAT regulations better aligns the initial screening standards of proof with the higher standards used to determine whether aliens are in fact eligible for these forms of protection before immigration judges. Unlike in the context of asylum determinations, in which the ''well-founded fear'' standard is used, both in the statutory withholding and CAT withholding or deferral of removal contexts, immigration judges apply the higher ''more likely than not'' standard. *See* 8 CFR 1208.16–1208.17.

The ''reasonable possibility'' standard has long been used for fear determinations made under 8 CFR 208.31 and 8 CFR 1208.31, which cover certain classes of aliens who are ineligible for asylum but who are eligible for statutory withholding of removal and protection under the CAT regulations. *See* 8 CFR 208.31(a) and (c), 1208.31(a) and (c); *see also* INA 238(b)(5), 8 U.S.C. 1228(b)(5); INA 241(a)(5), 8 U.S.C. 1231(a)(5). ''This * * * screening process is modeled on the credible-fear screening process, but requires the alien to meet a higher screening standard.'' Regulations Concerning the Convention Against Torture, 64 FR at 8485; *see also Garcia* v. *Johnson,* No. 14–CV–01775, 2014 WL 6657591, at *2 (N.D. Cal. Nov. 21, 2014) (describing the aim of the regulations as providing ''fair and efficient procedures'' in reasonable fear screening that would comport with U.S. international obligations).

Significantly, when establishing the ''reasonable fear'' screening process, DOJ explained that the two affected categories of aliens should be screened based on the higher reasonable fear standard because, ''[u]nlike the broad class of arriving aliens who are subject to expedited removal, these two classes of aliens are ineligible for asylum,'' and may be entitled only to statutory withholding of removal or protection under the CAT regulations. Regulations Concerning the Convention Against Torture, 64 FR at 8485. ''Because the standard for establishing the likelihood of harm related to these forms of protection (a clear probability of persecution or torture) is significantly higher than the standard for asylum (a well-founded fear of persecution), the screening standard adopted for initial consideration of withholding and deferral requests in these contexts is also higher.'' *Id.*

The standard's long use evidences that it is consistent with the United States' non-refoulement obligations and would not prevent aliens entitled to protection under the CAT regulations from receiving it. Drawing on the established framework for considering whether to grant statutory withholding of removal or CAT protection in the reasonable fear context, this rule would establish a bifurcated screening process in which aliens subject to expedited removal will be screened for asylum under the ''significant possibility'' standard, and screened for statutory withholding of removal or CAT protection under the ''reasonable possibility'' standard.

The Departments also propose to amend 8 CFR 208.30, 8 CFR 1208.30, and 8 CFR 1003.42 to refer to the screenings of aliens in expedited removal proceedings and of stowaways for statutory withholding of removal as ''reasonable possibility of persecution'' determinations and the screening for withholding and deferral of removal under the CAT regulations as ''reasonable possibility of torture'' determinations, in order to avoid confusion between the different standards of proof. By proposing these amendments, the Departments seek to maintain operational efficiency by differentiating between screenings for forms of relief, including asylum under 8 CFR 208.30, and screenings for only statutory withholding of removal and withholding and deferral of removal under the CAT regulations under 8 CFR 208.31, because, as noted above, the two screenings apply to different populations of aliens. Currently, DHS asylum officers conduct screenings under a ''credible fear'' standard for, inter alia, stowaways and aliens in expedited removal proceedings who express a fear of persecution or torture, a fear of return, or an intention to apply for asylum. *See* 8 CFR 208.30(a), 1208.30(a). DHS asylum officers conduct screenings under a ''reasonable fear'' standard for aliens who express a fear of persecution or torture and who have been issued an administrative removal order under section 238 of the INA, 8 U.S.C. 1228, due to an aggravated felony conviction or who are subject to a reinstated removal order under section 241(a)(5) of the INA, 8 U.S.C. 1231(a)(5). *See* 8 CFR 208.31(a), 1208.31(a). Accordingly, the Departments seek to make technical edits by using the term ''reasonable possibility'' as the legal standard and using ''reasonable fear'' only to refer to proceedings under 8 CFR 208.31 and 8 CFR 1208.31. Use of the term ''reasonable possibility'' rather than the term ''reasonable fear'' when discussing statutory withholding of removal and CAT protection screening determinations under 8 CFR 208.30, 8 CFR 1208.30, and 8 CFR 1003.42 will prevent confusion over which type of analysis is at issue.

In conjunction with the edits proposed to DHS's regulation in 8 CFR 208.30, DOJ proposes edits to 8 CFR 1208.30 related to the legal standard of review. Currently, after an asylum officer determines that an alien lacks a credible fear of persecution or torture, the regulation provides that an immigration judge in EOIR then reviews that determination under the credible fear standard. 8 CFR 208.30(g), 1208.30(g). DHS's proposed ''reasonable possibility'' screening standard for statutory withholding of removal and CAT protection claims is a mismatch for EOIR's current regulation, which does not provide for a reasonable possibility review process in the expedited removal context. Therefore, DOJ proposes to modify 8 CFR 1208.30(g) to clarify that credible fear of persecution determinations will continue to be reviewed under a ''credible fear'' standard, but screening determinations for eligibility for statutory withholding of removal and protection under the CAT regulations will be reviewed under a ''reasonable possibility'' standard.

Additionally, to clarify terminology in 8 CFR 208.30(d)(2), mention of the Form M–444, Information about Credible Fear Interview in Expedited Removal Cases, would be replaced with mention of relevant information regarding the ''credible fear'' screening process. This

change would clarify that DHS may relay information regarding screening for a reasonable possibility of persecution and a reasonable possibility of torture, in addition to a credible fear of persecution.

Under the proposed rule, the burden is on the alien to show that there is a reasonable possibility that he or she would be persecuted because of his or her race, religion, nationality, membership in a particular social group, or political opinion if removed to the country of removal. Similarly, the burden is on the alien to show there is a reasonable possibility that he or she would be tortured in the country of removal. As a result, the alien must demonstrate a reasonable possibility that he or she will suffer severe pain or suffering, whether physical or mental, in the country of removal and a reasonable possibility that the feared harm would fall within the definition of torture set forth in 8 CFR 208.18(a)(1)–(8) and 8 CFR 1208.18(a)(1)–(8).

A ''reasonable possibility'' standard is equivalent to the ''well-founded fear'' standard in section 101(a)(42) of the Act, 8 U.S.C. 1101(a)(42), which is used to determine ultimate eligibility for asylum. *See I.N.S.* v. *Stevic,* 467 U.S. 407, 424–25 (1984); 8 CFR 208.13(b)(2)(i)(B), 1208.13(b)(2)(i)(B). The ''well-founded fear'' standard is lower than the ''more likely than not'' standard ultimately required to establish the likelihood of future harm for statutory withholding of removal and protection under the CAT regulations. Indeed: ''[o]ne can certainly have a well-founded fear of an event happening when there is less than a 50% chance of the occurrence taking place.'' *INS* v. *Cardoza-Fonseca,* 480 U.S. 421, 431 (1987).

While lower than the ''clear probability'' standard governing the merits determination for statutory withholding of removal and withholding and deferral of removal under the CAT regulations, the ''reasonable possibility'' standard is a well-established standard of proof that is an appropriate screening standard to identify those who have meaningful claims to such protection. *See Matter of Mogharrabi,* 19 I&N Dec. 439, 440–46 (BIA 1987) (distinguishing the ''reasonable possibility'' and ''more likely than not'' standards). Determining a reasonable possibility of persecution does not rest on the statistical possibility of persecution, but rather on whether the applicant's fear is based on facts that would lead a reasonable person in similar circumstances to fear persecution. *See id.* at 445.

For a number of reasons, the Departments do not believe that this change would implicate reliance interests. First, the ultimate eligibility standards remain the same. Second, it is exceedingly unlikely that aliens seek statutory withholding of removal or protection under the CAT regulations based on the applicable standard of proof. Third, the proposed change would provide numerous benefits. Raising the standards of proof to a ''reasonable possibility'' for the screening of aliens seeking statutory withholding of removal and CAT protection would allow the Departments to better screen out non-meritorious claims and focus limited resources on claims much more likely to be determined to be meritorious by an immigration judge. Adopting a higher standard for statutory withholding and CAT screenings would not hinder the streamlined process envisioned for expedited removal. Asylum officers already receive extensive training and guidance on applying the ''reasonable possibility'' standard in other contexts because they are determining whether a reasonable possibility of persecution or torture exists in reasonable fear determinations pursuant to 8 CFR 208.31. In some cases, asylum officers would need to spend additional time eliciting more detailed testimony from aliens to account for the higher standard of proof; however, the overall impact on the time asylum officers spend making screening determinations would be minimal. The procedural aspects of making screening determinations regarding fear of persecution and of torture would remain largely the same. Moreover, using a higher standard of proof in the screening context for those seeking statutory withholding of removal or protection under the CAT regulations in the immigration courts allows the Departments to more efficiently and promptly distinguish between aliens whose claims are more likely or less likely to ultimately be meritorious.

DHS also proposes in 8 CFR 208.30(e)(1) to interpret the ''significant possibility'' standard that Congress established in section 235(b)(1)(B)(v) of the INA, 8 U.S.C. 1225(b)(1)(B)(v). DHS's proposal would serve to promote greater clarity and transparency in credible fear of persecution determinations.

As stated in proposed in 8 CFR 208.30(e)(1), ''significant possibility'' means a substantial and realistic possibility of succeeding. As discussed above, this proposed definition of ''significant possibility'' is consistent with both case law and existing policy and practice, and allows relevant parties, including aliens, consultants, and legal representatives, to better understand the standard of proof that applies to credible fear of persecution claims. This definition is also consistent with congressional intent. The 104th Congress chose a screening standard ''intended to be a low screening standard for admission into the usual full asylum process.'' 142 Cong. Rec. S11491 (daily ed. Sept. 27, 1996) (statement of Senate Judiciary Committee Chairman Orrin Hatch). Originally, the Senate bill had proposed a ''determination of whether the asylum claim was 'manifestly unfounded,' while the House bill applied a 'significant possibility' standard coupled with an inquiry into whether there was a substantial likelihood that the alien's statements were true.'' *Id.* In IIRIRA, Congress then ''struck a compromise by rejecting the higher standard of credibility included in the House bill.'' *Id.* The House's ''significant possibility'' standard is lower than the ''more probable than not'' language in the original House version. 142 Cong. Rec. H11081 (daily ed. Sept. 25, 1996) (statement of House Judiciary Committee Chairman Henry Hyde). The proposed regulation is thus consistent with congressional intent because it defines ''significant possibility'' in a way that ensures that the standard does not reach the level of more likely than not. Overall, DHS's effort will contribute to ensuring consistency in making credible fear of persecution determinations.

5. Proposed Amendments to the Credible Fear Screening Process

The Departments further propose to amend 8 CFR 208.30, 8 CFR 1208.30, and 8 CFR 1003.42 to make several additional technical and substantive amendments regarding fear interviews, determinations, and reviews of determinations. The Departments propose to amend 8 CFR 208.30(a) and 8 CFR 1208.30(a) to clearly state that the respective sections describe the exclusive procedures applicable to applicants for admission who are found inadmissible pursuant to section 212(a)(6)(C) or 212(a)(7) of the Act, 8 U.S.C. 1182(a)(6)(C) or 1182(a)(7), and receive ''credible fear'' interviews, determinations, and reviews under section 235(b)(1)(B) of the Act, 8 U.S.C. 1225(b)(1)(B).

DHS proposes to clarify the existing ''credible fear'' screening process in proposed 8 CFR 208.30(b), which states that if an alien subject to expedited removal indicates an intention to apply for asylum or expresses a fear of

persecution or torture, or a fear of return, an inspecting officer shall not proceed further with removal until the alien has been referred for an interview with an asylum officer, as provided in section 235(b)(1)(A)(ii) of the Act, 8 U.S.C. 1225(b)(1)(A)(ii). The proposed rule also states that the asylum officer would screen the alien for a credible fear of persecution and, as appropriate, a reasonable possibility of persecution or a reasonable possibility of torture, and conduct an evaluation and determination in accordance with 8 CFR 208.9(c), which is consistent with current policy and practice. These proposals aim to provide greater transparency and clarity with regard to fear screenings.

DHS also proposes to include consideration of internal relocation in the context of proposed 8 CFR 208.30(e)(1)–(3), which outline the procedures for determining whether aliens have a credible fear of persecution, a reasonable possibility of persecution, and a reasonable possibility of torture. Considering internal relocation in the ''credible fear'' screening context is consistent with existing policy and practice, and the regulations addressing internal relocation at 8 CFR 208.16(c)(3)(ii) and 8 CFR 1208.16(c)(3)(ii) (protection under the CAT regulations); 8 CFR 208.13(b)(1)(i)(B) and 8 CFR 1208.13(b)(1)(i)(B) (asylum); and 8 CFR 208.16(b)(1)(i)(B) and 8 CFR 1208.16(b)(1)(i)(B) (statutory withholding). The regulatory standard that governs consideration of internal relocation in the context of asylum and statutory withholding of removal adjudications is different from the standard that considers internal relocation in the context of protection under the CAT regulations. *See generally Maldonado* v. *Lynch,* 786 F.3d 1155, 1163 (9th Cir. 2015) (noting the marked difference between the asylum and CAT regulations concerning internal relocation).

In addition, the Departments propose to add asylum and statutory withholding eligibility bar considerations in proposed 8 CFR 208.30(e)(1)(iii) and (e)(2)(iii), and 8 CFR 1003.42(d). Currently, 8 CFR 208.30(e)(5)(i) provides that if an alien, other than a stowaway, is able to establish a credible fear of persecution or torture but also appears to be subject to one or more of the mandatory eligibility bars to asylum or statutory withholding of removal, then the alien will be placed in section 240 proceedings. In proposed 8 CFR 208.30(e)(5), DHS would require asylum officers to determine (1) whether an alien is subject to one or more of the mandatory bars to being able to apply for asylum under section 208(a)(2)(B)–(D) of the Act, 8 U.S.C. 1158(a)(2)(B)–(D), or the bars to asylum eligibility under section 208(b)(2) of the Act, 8 U.S.C. 1158(b)(2), including any eligibility bars established by regulation under section 208(b)(2)(C) of the Act, 8 U.S.C. 1158(b)(2)(C);[16] and (2) if so, whether the bar at issue is also a bar to statutory withholding of removal and withholding of removal under the CAT regulations.[17] An alien who could establish a credible fear of persecution or reasonable possibility of persecution but for the fact that he or she is subject to one of the bars that applies to both asylum and statutory withholding of removal would receive a negative fear determination, unless the alien could establish a reasonable possibility of torture, in which case he or she would be referred to the immigration court for asylum-and-withholding-only proceedings. In those proceedings, the alien would have the opportunity to raise whether he or she was correctly identified as being subject to the bar(s) to asylum and withholding of removal and also pursue protection under the CAT regulations.

Under the current regulations at 8 CFR 208.30(e)(5), aliens who establish a credible fear of persecution or torture but appear to be subject to one or more of the mandatory bars are referred for section 240 proceedings. From an administrative standpoint, it is pointless and inefficient to adjudicate claims for relief in section 240 proceedings when it is determined that an alien is subject to one or more of the mandatory bars to asylum or statutory withholding at the screening stage. Accordingly, applying those mandatory bars to aliens at the ''credible fear'' screening stage would eliminate removal delays inherent in section 240 proceedings that serve no purpose and eliminate the waste of adjudicatory resources currently expended in vain.

If an asylum officer determines, at the ''credible fear'' screening stage, that an alien is subject to one or more mandatory bars, the alien would, under this rule, be permitted to request review of that determination by an immigration judge. *See* 8 CFR 208.30(g) (current), 8 CFR 208.30(g) (proposed); *see also* INA 235(b)(1)(B)(iii)(III), 8 U.S.C. 1225(b)(1)(B)(iii)(III) (''The Attorney General shall provide by regulation and upon the alien's request for prompt review by an immigration judge of a determination * * * that the alien does not have a credible fear of persecution.'').

The bars to asylum eligibility are not identical to the bars to statutory withholding eligibility. *Compare* 8 U.S.C. 1158(b)(2)(A)(i)–(vi) (bars to asylum eligibility), *with* 8 U.S.C. 1231(b)(3)(B)(i)–(iv) (bars to withholding of removal eligibility). Under the proposed regulations, an alien who is barred from asylum eligibility could be found to have a reasonable possibility of persecution in instances in which the alien is barred from asylum, but not likewise barred from statutory withholding. For instance, if an alien is subject to the firm resettlement bar, the alien is barred from asylum eligibility, but not barred from statutory withholding eligibility. In such a case, if the alien demonstrated a reasonable possibility of persecution, the alien would be referred to the immigration judge for asylum-and-withholding-only proceedings. The proposed rule would ensure that if an alien has established a significant possibility of eligibility for asylum or a reasonable possibility of persecution and is not barred from statutory withholding eligibility, the alien can appear before an immigration judge for consideration of the asylum, statutory withholding, and CAT claims. Moreover, this process would retain a mechanism for immigration judge review of the determination that the alien is not eligible for asylum, as required in section 235(b)(1)(B)(iii) of the Act, 8 U.S.C. 1225(b)(1)(B)(iii). Thus, the proposed rule would reasonably balance the various interests at stake. It would promote efficiency by avoiding duplicative administrative efforts while ensuring that those who are subject to a mandatory bar receive an opportunity to have the asylum officer's finding reviewed by an immigration judge.

[16] The following classes of aliens are ineligible for asylum: Aliens who (1) participated in certain types of persecution; (2) have been convicted of a particularly serious crime; (3) have committed (or are reasonably believed to have committed) a serious nonpolitical crime outside the United States; (4) are a danger to the security of the United States; (5) are removable on terrorism-related grounds; or (6) were firmly resettled in another country prior to arrival in the United States. INA 208(b)(2)(A)(i)–(vi), 8 U.S.C. 1158(b)(2)(A)(i)–(vi). The Secretary and the Attorney General may also by regulation establish additional ineligibilities. INA 208(b)(2)(C), 8 U.S.C. 1158(b)(2)(C). Together, the bars in these two subparagraphs are commonly referred to as the mandatory bars to a grant of asylum.

[17] The following classes of aliens are ineligible for statutory withholding of removal: Aliens who (1) participated in certain types of persecution; (2) have been convicted of a particularly serious crime; (3) have committed (or are reasonably believed to have committed) a serious nonpolitical crime outside the United States; or (4) are a danger to the security of the United States. INA 241(b)(3)(B)(i)–(iv), 8 U.S.C. 1231(b)(3)(B)(i)–(iv).

Additionally, under 8 CFR 208.30(e)(5), DHS currently uses (or potentially would use, pending the resolution of litigation), a ''reasonable fear'' standard (identical to the ''reasonable possibility'' standard enunciated in this rule) in procedures related to aliens barred from asylum under the two previously mentioned IFRs, as described in 8 CFR 208.13(c)(3)–(4). The Departments seek to make technical edits in proposed 8 CFR 208.30(e)(5), to change ''reasonable fear'' to ''reasonable possibility'' to align the terminology with the proposed changes in this rule. Similarly, DOJ proposes to make technical edits in 8 CFR 1208.30(g)(1) and 8 CFR 1003.42(d)—both of which refer to the ''reasonable fear'' standard in the current version of 8 CFR 208.30(e)(5)—to change the ''reasonable fear'' language to ''reasonable possibility.'' These edits are purely technical and would not amend, alter, or impact the standard of proof applicable to the fear screening process and determinations, or review of such determinations, associated with the aforementioned bars.

Additionally, in proposed 8 CFR 208.2(c)(1), 8 CFR 1208.2(c)(1), 8 CFR 235.6(a)(2), and 8 CFR 1235.6(a)(2), the Departments are making technical edits to replace the term ''credible fear of persecution or torture'' with ''a credible fear of persecution, reasonable possibility of persecution, or reasonable possibility of torture'' to mirror the terminology used in proposed 8 CFR 208.30 and 8 CFR 1208.30. Moreover, in proposed 8 CFR 1208.30(g)(2)(iv)(C), DOJ is making a technical edit to clarify that stowaways barred from asylum and both statutory and CAT withholding of removal may still be eligible for deferral of removal under the CAT regulations.

The Departments further propose to amend 8 CFR 208.30(g) and 8 CFR 1208.30(g)(2), which address procedures for negative fear determinations for aliens in the expedited removal process. Currently, 8 CFR 208.30(g) provides that when an alien receives notice of a negative determination, the asylum officer inquires whether the alien wishes to have an immigration judge review the decision. If that alien refuses to indicate whether he or she desires such review, DHS treats this as a request for review by an immigration judge. *See also* 8 CFR 1208.30(g)(2). In proposed 8 CFR 208.30(g)(1), the Departments seek to treat an alien's refusal to indicate whether he or she desires review by an immigration judge as declining to request such review. Also, in proposed 8 CFR 208.31, the Departments will treat a refusal as declining to request review within the context of reasonable fear determinations. This proposal aligns with the Departments' interest in the expeditious resolution of fear claims, with a focus on those claims that are most likely to be meritorious. Given that the alien has been informed of his or her right to seek further review and given an opportunity to exercise that right, referring an alien to an immigration judge based on a refusal to indicate his or her desire places unnecessary and undue burdens on the immigration courts.

The Departments welcome comments on all aspects of these proposals, including the use of asylum-and-withholding-only proceedings, the definition of ''significant possibility,'' and the raising of the standard for statutory withholding of removal and torture-related determinations to ''reasonable possibility.''

B. Form I–589, Application for Asylum and for Withholding of Removal, Filing Requirements

1. Frivolous Applications

Frivolous asylum applications are a costly detriment, resulting in wasted resources and increased processing times for an already overloaded immigration system. *See Angov* v. *Lynch,* 788 F.3d 893, 901–02 (9th Cir. 2015) (''[Immigration f]raud, forgery and fabrication are so common—and so difficult to prove—that they are routinely tolerated. * * * [I]f an alien does get caught lying or committing fraud, nothing very bad happens to him. * * * Consequently, immigration fraud is rampant.''). Under section 208(d)(6) of the INA, 8 U.S.C. 1158(d)(6), ''[i]f the Attorney General determines that an alien has knowingly made a frivolous application for asylum and the alien has received [the notice of privilege of counsel and the consequences of knowingly filing a frivolous application], the alien shall be permanently ineligible for any benefits under this chapter, effective as of the date of a final determination on such application.'' By current regulation, such frivolousness determinations may only be made by an immigration judge or the BIA. 8 CFR 208.20, 1208.20.

For the penalty in section 208(d)(6) of the INA, 8 U.S.C. 1158(d)(6), to apply, there must be a finding that an alien ''knowingly made a frivolous application for asylum'' after receiving the notice required by section 208(d)(4)(A), 8 U.S.C 1158(d)(4)(A). In other words, the alien's asylum application must be frivolous, the application must have been knowingly made—*i.e.,* knowing of its frivolous nature—and the alien must have received the notice required by section 208(d)(4)(A), 8 U.S.C. 1158(d)(4)(A), at the time of filing.[18] No penalty under this section will be imposed unless all three requirements are met. The term ''knowingly'' is not defined in either the statute or the current regulations. Consequently, the Departments propose to clarify that ''knowingly'' requires either actual knowledge of the frivolousness or willful blindness toward it. Willful blindness means the alien was aware of a high probability that his or her application was frivolous and deliberately avoided learning otherwise. This standard is higher than mere recklessness or negligence and is consistent with well-established legal principles. *See, e.g., Global-Tech Appliances, Inc.* v. *SEB S.A.,* 563 U.S. 754, 769–70 (2011). The term ''frivolous'' is not defined in the INA.[19] Prior to the enactment of section 208(d)(6) of the INA, 8 U.S.C. 1158(d)(6), a frivolous asylum application was defined for purposes of granting employment authorization as

[18] The asylum application, Form I–589, contains a written notice of the consequences of making a frivolous asylum application pursuant to section 208(d)(4)(A) of the INA, 8 U.S.C. 1158(d)(4)(A), and that notice is sufficient to satisfy the third requirement of section 208(d)(6), 8 U.S.C. 1158(d)(6). *See, e.g., Niang* v. *Holder,* 762 F.3d 251, 254–55 (2d Cir. 2014) (''Because the written warning provided on the asylum application alone is adequate to satisfy the notice requirement under 8 U.S.C. 1158(d)(4)(A) and because Niang signed and filed his asylum application containing that warning, he received adequate notice warning him against filing a frivolous application.''). Thus, every alien who signs and files an asylum application has received the notice required by section 208(d)(4)(A) of the INA, 8 U.S.C. 1158(d)(4)(A).

[19] Depending on context, frivolous may mean, inter alia, ''[l]acking in high purpose; trifling, trivial, and silly'' or ''[l]acking a legal basis or legal merit; manifestly insufficient as a matter of law.'' *Black's Law Dictionary* (11th ed. 2019). Frivolous filings abuse the judicial process. *See Des Vignes* v. *Dep't of Transp., FAA,* 791 F.2d 142, 146 (Fed. Cir. 1986) (holding that frivolous filings abuse the judicial process by wasting the time and limited resources of adjudicators, unnecessarily expend taxpayer resources, and deny the availability of adjudicatory resources to deserving litigants). The Departments accordingly believe that ''frivolous'' is a term that is broad enough to encompass not only applications that are fraudulent, but also those that are plainly without legal merits. Both kinds of applications seriously undermine the adjudicatory process, yet although none of these conceptions of frivolousness is precluded by INA 208(d)(6), 8 U.S.C. 1158(d)(6), not all of them are captured by the current regulatory definition of frivolousness. There is no indication that Congress intended a narrow construction of 8 U.S.C. 1158(d)(6), and a narrow view of a frivolous asylum application is at odds with its intent to discourage improper applications. As discussed, *infra,* the proposed rule broadens the regulatory definition of a frivolous asylum application, provided the application was knowingly filed and the applicant received the appropriate notice, to more fully and accurately capture a broader spectrum of behavior that abuses the judicial process.

one that was ''manifestly unfounded or abusive.'' 8 CFR 208.7 (1995). Additional guidance interpreted ''frivolous'' in this context to mean ''patently without substance.'' *See Grijalva* v. *Illchert,* 815 F. Supp. 328, 331 (N.D. Cal. 1993) (summarizing prior regulatory and policy definitions of frivolousness before the current definition was promulgated in 1997). Subsequent to the enactment of section 208(d)(6) of the INA, 8 U.S.C. 1158(d)(6), DOJ proposed defining a frivolous asylum application for purposes of that provision as one that ''is fabricated or is brought for an improper purpose'' before settling on the current definition of an application in which ''any of its material elements is deliberately fabricated.'' *Compare* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 FR 444, 468 (Jan. 3, 1997) (proposed rule), *with* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 FR 10312, 10344 (Mar. 6, 1997) (final rule). Although the final rule did not explain why DOJ altered its proposed definition of ''frivolous,'' the proposed rulemaking noted that the purpose of a definition of ''frivolous'' was ''to discourage applicants from making patently false claims.'' Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 FR at 447. In light of this regulatory definition, subsequent case law has noted that ''the term 'fraudulent' may be more appropriate than the term 'frivolous' when applied to a questionable asylum application.'' *Matter of Y–L–,* 24 I&N Dec. 151, 155 n.1 (BIA 2007) (citing *Barreto-Claro* v. *U.S. Att'y Gen.,* 275 F.3d 1334, 1339 n.11 (11th Cir. 2001), which observed that ''Fraudulent'' would be a more appropriate modifier than ''Frivolous'' in the statutory heading of section 208(d)(6) of the INA, 8 U.S.C. 1158(d)(6)). In short, the concept of a frivolous asylum application as understood by the Departments has encompassed a number of different, related concerns over the years—*i.e.,* applications that are unfounded, abusive, improperly brought, fabricated, or fraudulent—but not all of those are necessarily represented in the current regulatory definition premised solely on fabricated material elements.

The statutory text does not provide a definition of ''frivolous,'' expressly restrict how it may be defined, or compel a narrow definition limited solely to the deliberate fabrication of material elements, though the penalty in section 208(d)(6) of the INA, 8 U.S.C. 1158(d)(6), only applies if a frivolous application is knowingly made—*i.e.,* with knowledge or willful blindness of its frivolousness—after an alien has received notice of the consequences of filing a frivolous application. The current regulatory definition of ''frivolous'' related to asylum applications, which limits the concept of frivolousness to deliberate fabrication of material elements, was promulgated in 1997 with the intent ''to discourage applicants from making patently false claims,'' but it did not address other types of frivolousness, such as abusive filings, filings for an improper purpose, or patently unfounded filings, or explain why these considerations of frivolousness were either no longer necessary or undesirable. Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 FR at 468 (proposing to define a frivolous application as one that ''is fabricated or is brought for an improper purpose''); Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 FR at 10344 (ultimately defining an asylum application as frivolous if ''any of its material elements is deliberately fabricated,'' but not explaining the basis for the change).

Consequently, the current, narrowly-drawn definition does not appear sufficient to capture the full spectrum of claims that would ordinarily be deemed ''frivolous,'' nor has it been fully successful in its stated intent of discouraging knowingly and patently false claims. This result can be seen in several cases where applications that one may ordinarily understand as ''frivolous'' are nonetheless not captured by the current narrow regulatory definition. *See, e.g., Scheerer* v. *U.S. Att'y Gen.,* 445 F.3d 1311, 1317–18 & n.10 (11th Cir. 2006) (reversing a frivolousness finding regarding a claim based on alleged fear of persecution due to the applicant's belief that the Holocaust did not occur); *L–T–M–* v. *Whitaker,* 760 F. App'x 498, 501 (9th Cir. 2019) (fabricated material evidence, including fraudulent documentation, does not make an asylum application frivolous because the regulatory definition of frivolousness requires the fabrication of an element and evidence is not an element).

L–T–M–, in particular, demonstrates the limitations of the current definition in discouraging false claims. Not only does it run contrary to numerous other federal court decisions upholding frivolousness findings based on fabricated evidence—*see, e.g., Selami* v. *Gonzales,* 423 F.3d 621, 626–27 (6th Cir. 2005) (affirming a frivolousness finding based on the submission of a fraudulent newspaper article); *Ursini* v. *Gonzales,* 205 F. App'x 496, 497–98 (9th Cir. 2006) (affirming a frivolousness finding based on the submission of false documents); *Diallo* v. *Mukasey,* 263 F. App'x 146, 150 (2d Cir. 2008) (affirming a frivolousness finding based on the submission of a fraudulent vaccination card); *Shllaku* v. *Gonzales,* 139 F. App'x 700, 702–03 (6th Cir. 2005) (affirming a frivolousness finding based on the submission of counterfeit documents)—but its potential to lead to absurd results by allowing claims supported by knowingly fabricated material evidence to escape the penalty called for in INA 208(d)(6), 8 U.S.C. 1158(d)(6), undermines the intent of that provision to discourage false claims. The proposed rule would revise the current definition of ''frivolous'' to broaden it and bring it more in line with prior understandings of frivolous applications, including applications that are clearly unfounded, abusive, or involve fraud, and better effectuate the intent of section 208(d)(6) of the INA, 8 U.S.C. 1158(d)(6), to discourage applications that make patently meritless or false claims.

Accordingly, the Departments propose to amend the definition of ''frivolous'' to ensure that manifestly unfounded or otherwise abusive claims are rooted out and to ensure that meritorious claims are adjudicated more efficiently so that deserving applicants receive benefits in a timely fashion. The revised regulation also reflects Congress's concern with applications that are knowingly frivolous at the time of filing, regardless of whether an alien subsequently retracts or withdraws the application. *See* INA 208(d)(4) and (6), 8 U.S.C. 1158(d)(4) and (6); *Matter of X–M–C–,* 25 I&N Dec. 322, 325–27 (BIA 2010) (withdrawal of asylum application does not preclude finding that the application is knowingly frivolous); *see also Kulakchyan* v. *Holder,* 730 F.3d 993, 996 (9th Cir. 2013) (approving of *Matter of X–M–C–*); *Mei Juan Zheng* v. *Holder,* 672 F.3d 178, 184 (2d Cir. 2012) (same).

Existing regulations provide that immigration judges and the BIA may make findings that an alien has knowingly filed a frivolous asylum application. *See* 8 CFR 208.20, 8 CFR 1208.20. The Departments propose to amend these regulations to allow asylum officers adjudicating affirmative

asylum applications to make findings that aliens have knowingly filed frivolous asylum applications and to refer the cases on that basis to immigration judges (for aliens not in lawful status) or to deny the applications (for aliens in lawful status). For an alien not in lawful status, a finding by an asylum officer that an asylum application is frivolous would not render an alien permanently ineligible for immigration benefits unless an immigration judge or the BIA subsequently makes a finding of frivolousness upon de novo review of the application as stated in the current and proposed 8 CFR 208.20 and 8 CFR 1208.20. Asylum officers would apply the same definition used by immigration judges and the BIA as proposed by this rule. *Id.* As this proposed rule would overrule *Matter of Y–L–,* and revise the definition of ''frivolous,'' USCIS would not be required to provide opportunities for applicants to address discrepancies or implausible aspects of their claims in all cases when the asylum officer determines that sufficient opportunity was afforded to the alien. As with any other affirmative asylum case referred to the immigration judge by an asylum officer, the immigration judge would review the asylum application de novo.

By allowing asylum officers to find asylum applications to be frivolous, the Departments seek to enhance the officers' ability to identify and efficiently root out frivolous applications, and to deter the filing of such applications in the first place. The current practice for handling frivolous asylum applications at the affirmative asylum application stage generally involves asylum officers making negative credibility determinations. Asylum officers may refer asylum applications to the immigration courts based on negative credibility findings, but not solely based on frivolousness.

Making a credibility determination, positive or negative, involves conducting an asylum interview. If the asylum officer identifies credibility concerns, such as inconsistencies or lack of detail, the asylum officer confronts the applicant with these concerns during the interview and gives the applicant an opportunity to explain. If the asylum officer decides to make a negative credibility determination, the officer prepares a written assessment that explains the credibility concerns, such as inconsistencies, lack of detail, or both, and discusses the reasonableness of the applicant's explanations and the relevancy of the credibility concerns to the claim. *See* INA 208(b)(1)(B)(iii), 8 U.S.C. 1158(b)(1)(B)(iii); *Matter of B–Y–,* 25 I&N Dec. 236, 242 (BIA 2010) (''In making an adverse credibility determination, the opportunity for explanation requires that an Immigration Judge not rely on inconsistencies that take a respondent by surprise. *See Ming Shi Xue* v. *BIA,* 439 F.3d 111 (2d Cir. 2006) * * *. If an inconsistency is obvious or glaring or has been brought to the attention of the respondent during the course of the hearing, however, there is no requirement that a separate opportunity for explanation be provided prior to making the adverse credibility determination. *See Ye* v. *Dep't of Homeland Sec.,* 446 F.3d 289 (2d Cir. 2006).'').

The proposed amendments to the regulations would give asylum officers a valuable and more targeted mechanism for handling frivolous asylum applications. As noted above, when referring cases to the immigration courts based on negative credibility determinations, asylum officers may flag issues related to frivolousness for immigration judges to consider, but they cannot refer frivolous cases or deny applications solely on that basis. Allowing asylum officers to refer or deny frivolous cases solely on that basis would strengthen USCIS's ability to root out frivolous applications more efficiently, deter frivolous filings, and ultimately reduce the number of frivolous applications in the asylum system. These amendments would help the Departments better allocate limited resources and time and more expeditiously adjudicate meritorious asylum claims.

Moreover, under this proposed rule, if an asylum officer identifies indicators of frivolousness in an asylum application, the asylum officer would focus more during the interview on matters that may be frivolous. And an immigration judge who receives an asylum application with a frivolousness finding by an asylum officer would have a more robust and developed written record focused on frivolous material elements to help inform his or her ultimate decision. Thus, an asylum officer's finding that an application is frivolous would help improve the efficiency and integrity of the overall adjudicatory process.

Asylum officers are well prepared to put the proposed regulatory changes into operation. They receive extensive training on spotting indicators of frivolousness, fraud, and credibility concerns, including on reviewing and assessing written materials that may raise such concerns. In addition, asylum officers receive training on how to appropriately identify, raise, and address credibility and frivolousness concerns during interviews with asylum applicants. Thus, asylum officers are well equipped to adjudicate frivolousness in the affirmative asylum context.

Furthermore, the Departments' proposed regulatory changes are consistent with congressional intent. When the 104th Congress amended the procedures used to consider asylum applications through IIRIRA, it sought ''to reduce the likelihood that fraudulent or frivolous applications will enable deportable or excludable aliens to remain in the U.S. for substantial periods.'' S. Rept. No. 104–249, at 2 (1996). Allowing asylum officers, in addition to immigration judges and the BIA, to find filings frivolous would help deter aliens from filing frivolous asylum applications and reduce the likelihood that aliens with frivolous applications will be released into the United States for substantial periods of time, usually with work authorization.

The Departments also propose changes to 8 CFR 208.20 and 8 CFR 1208.20 to expand and clarify what circumstances would require an immigration judge or the BIA (and now asylum officers) to find an asylum application to be knowingly frivolous.[20] The proposed rule maintains the current definition of ''frivolous'' such that if knowingly made, an asylum application would be properly considered frivolous if the adjudicator determines that it includes a fabricated material element. The proposed rule also would provide, consistent with case law, that if knowingly made, an asylum application premised on false or fabricated evidence, unless it would be granted without the fabricated evidence, may also be found frivolous.[21] *See, e.g., Selami,* 423 F.3d at 626–27; *Ursini,* 205

[20] For purposes of 8 CFR 208.20 and 8 CFR 1208.20, an alien knowingly files a frivolous asylum application if the alien filed the application knowing that it was frivolous intentionally and voluntarily, and not because of ignorance, mistake, accident, or carelessness, or the alien filed the application deliberately ignoring the fact that the application was frivolous. It is the alien's duty to read the asylum application before signing it. If an alien acts through an agent, the alien will be deemed responsible for actions of the agent if the agent acts with apparent authority. If the alien has signed the asylum application, he or she shall be presumed to have knowledge of its contents regardless of his or her failure to read and understand its contents. 8 CFR 208.3(c)(2), 1208.3(c)(2).

[21] The submission of fabricated evidence may still be sufficient to deny the application, *Matter of O–D–,* 21 I&N Dec. 1079, 1083 (BIA 1998), but it will not warrant a frivolousness finding if the application without the evidence is also approvable.

F. App'x at 497–98; *Diallo,* 263 F. App'x at 150; *Shllaku,* 139 F. App'x at 702–03.

Consistent with the concept of frivolousness as encompassing claims that are patently without substance or merit, an application, if knowingly made, would also be considered frivolous if applicable law clearly prohibits the grant of asylum. Of course, simply because an argument or claim is unsuccessful does not mean that it can be considered frivolous. *Matter of Cheung,* 16 I&N Dec. 244, 245 (BIA 1977). Neither could reasonable arguments to extend, modify, or reverse the law as it stands. *Cf.* Fed. R. Civ. P. 11(b)(2) (''By presenting to the court a pleading, written motion, or other paper—whether by signing, filing, submitting, or later advocating it—an attorney or unrepresented party certifies that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances * * * the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law''). Finally, if knowingly made, an application filed without regard to the merits of the claim would be considered frivolous. *See Cooter & Gell* v. *Hartmax, Corp.,* 496 U.S. 384, 398 (1990) (''The filing of complaints, papers, or other motions without taking the necessary care in their preparation is a separate abuse of the judicial system, subject to separate sanction. * * * Baseless filing puts the machinery of justice in motion, burdening courts and individuals alike with needless expense and delay.''). Such a sanction is fully consistent with the abusive nature of such applications, which are often filed for an ulterior purpose, such as being placed in removal proceedings, without regard to the merits of the application itself. *Cf. Matter of Jaso and Ayala,* 27 I&N Dec. 557, 558 (BIA 2019) (affirming the dismissal of immigration proceedings where a respondent filed an asylum application solely for the purpose of being placed in immigration proceedings to seek some other form of relief, recognizing that ''it is an abuse of the asylum process to file a meritless asylum application with the USCIS for the sole purpose of seeking cancellation of removal in the Immigration Court'');[22] Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 FR at 447 (proposing to define an application as ''frivolous'' if, inter alia, it is ''brought for an improper purpose'' in order to discourage applicants from making false asylum claims).[23]

Further, section 208(d)(4)(A) of the INA, 8 U.S.C. 1158(d)(4)(A), requires that aliens receive notice of the consequences of knowingly filing a frivolous application. Under the proposed regulation, an immigration judge would not need to provide an additional opportunity to an alien to account for issues of frivolousness with the claim before determining that the application is frivolous, as long as the required notice was provided. The statute is clear on its face that the only procedural requirement for finding a frivolous asylum application to be knowingly made is the provision of notice under section 208(d)(4)(A) of the INA, 8 U.S.C. 1158(d)(4)(A). *See* INA 208(d)(6), 8 U.S.C. 1158(d)(6) (''If the Attorney General determines that an alien has knowingly made a frivolous application for asylum and the alien has received the notice under paragraph (4)(A), the alien shall be permanently ineligible for any benefits under this chapter * * *.''); *see also Ndibu* v. *Lynch,* 823 F.3d 229, 235 (4th Cir. 2016) (describing the statute as ''clear and unambiguous''). Furthermore, an alien is on notice at the time of filing the application that it may be deemed frivolous. *Niang,* 762 F.3d at 254–55 (''Because the written warning provided on the asylum application alone is adequate to satisfy the notice requirement under 8 U.S.C. 1158(d)(4)(A) and because Niang signed and filed his asylum application containing that warning, he received adequate notice warning him against filing a frivolous application.''). Thus, an alien is already aware of the potential ramifications of filing a frivolous application. Moreover, an alien—who presumably knows whether his or her application is fraudulent or meritless—will naturally have an opportunity to account for any issues during the alien's removal proceeding if the alien so chooses. Consequently, there is no legal or operational reason to require a second warning and a third or fourth opportunity to address problematic aspects of the claim that may warrant a sanction for frivolousness.

The Departments note that the BIA has previously explained that ''it would be a good practice for an Immigration Judge who believes that an applicant may have submitted a frivolous asylum application to bring this concern to the attention of the applicant prior to the conclusion of proceedings.'' *Matter of Y–L–,* 24 I&N Dec. at 159–60. In *Matter of Y–L–,* however, the BIA interpreted the regulatory provision at 8 CFR 1208.20, which provides that an EOIR adjudicator may only make this finding if he ''is satisfied that the applicant, during the course of the proceedings, has had sufficient opportunity to account for any discrepancies or implausible aspects of the claim.'' *Id.* at 159. There is no indication that the BIA's decision was meant to elaborate on any statutory procedural requirements. *Cf. Matter of B–Y–,* 25 I&N Dec. at 242 (''When the required frivolousness warnings have been given to the respondent prior to the start of a merits hearing, the Immigration Judge is not required to afford additional warnings or seek further explanation in regard to inconsistencies that have become obvious to the respondent during the course of the hearing.''). The proposed regulation does not contain the 8 CFR 208.20 or 8 CFR 1208.20 provision because the Departments believe the current regulatory framework has not successfully achieved the Departments' goal of preventing knowingly frivolous applications that delay the adjudication of other asylum applications that may merit relief. Moreover, an alien who files an asylum application already both knows whether the application is fraudulent or meritless and is aware of the potential ramifications of knowingly filing a frivolous application. The alien is therefore already on notice and has an opportunity to account for any issues with the claim without the immigration judge having to bring the issues to the alien's attention. Thus, there is no reason to require multiple opportunities for an alien to disavow or explain a knowingly frivolous application, and the current requirement, in essence, creates a moral hazard that encourages aliens to pursue false asylum applications because no penalty can attach until the alien is caught and

[22] Although the Board's decision affirmed an immigration judge's authority to dismiss such a case upon motion by DHS, such abusive filings for an improper purpose also warrant sanctioning as frivolous if the proceedings go forward.

[23] A leading immigration advocacy group has also noted the risk of a frivolousness finding in situations in which an alien makes a false claim to asylum solely to obtain a Notice to Appear and be placed in removal proceedings in order to seek another form of relief. *See* American Immigration Lawyers Association, *Ethical Considerations Related to Affirmatively Filing an Application for Asylum for the Purpose of Applying for Cancellation of Removal and Adjustment of Status for a Nonpermanent Resident* at 4 (2016), *https://www.aila.org/practice/ethics/ethics-resources/2016-2019/submitting-an-affirmative-asylum-app-ethical-qs* (describing as a ''classic instance'' of asylum frivolousness a situation in which an alien willfully creates false facts for an asylum application in order to be placed in removal proceedings to apply for another type of relief).

given an opportunity to retract the claim. *See Angov,* 788 F.3d at 901–02 (''[Immigration f]raud, forgery and fabrication are so common—and so difficult to prove—that they are routinely tolerated. * * * [I]f an alien does get caught lying or committing fraud, nothing very bad happens to him. * * * Consequently, immigration fraud is rampant.''). Accordingly, the proposed rule would overrule *Matter of Y–L–* to the extent that the two may conflict.[24]

Finally, in order to ameliorate the consequences of knowingly filing a frivolous application in appropriate cases, the Departments propose a mechanism that would allow certain aliens to withdraw, with prejudice, their applications by disclaiming the applications; accepting an order of voluntary departure for a period of no more than 30 days; withdrawing, also with prejudice, all other applications for relief or protection; and waiving any rights to file an appeal, motion to reopen, and motion to reconsider. In such instances the aliens would not be subject to a frivolousness finding and could avoid the penalties associated with such a finding.[25] Finally, the proposed regulation does not change current regulatory language that makes clear that a frivolousness finding does not bar an alien from seeking statutory withholding of removal or protection under the CAT regulations.

2. Pretermission of Legally Insufficient Applications

Additionally, DOJ proposes to add a new paragraph (e) to 8 CFR 1208.13 to clarify that immigration judges may pretermit and deny an application for asylum, statutory withholding of removal, or protection under the CAT regulations if the alien has not established a prima facie claim for relief or protection under the applicable laws and regulations. *See Matter of E–F–H–L–,* 27 I&N Dec. 226, 226 (A.G. 2018); *see also Matter of A–B–,* 27 I&N Dec. 316, 340 (A.G. 2018) (''Of course, if an alien's asylum application is fatally flawed in one respect—for example, for failure to show membership in a proposed social group * * *—an immigration judge or the Board need not examine the remaining elements of the asylum claim.''). Such a decision would be based on the Form I–589 application itself and any supporting evidence.

The BIA previously addressed the issue of adjudicating applications for asylum without testimony in *Matter of Fefe.* 20 I&N Dec. 116 (BIA 1989). In *Matter of Fefe,* the BIA stated ''[a]t a minimum, we find that the regulations require that an applicant for asylum and withholding take the stand, be placed under oath, and be questioned as to whether the information in the written application is complete and correct.'' *Id.* at 118. But the regulations at issue in *Matter of Fefe* are no longer in effect. The only other prior BIA decision to address the matter was subsequently vacated by the Attorney General, and no longer has any precedential effect. *See Matter of E–F–H–L–,* 26 I&N Dec. 319, 322 (BIA 2014), *vacated on other grounds by* 27 I&N Dec. 226 (A.G. 2018).

Current regulations require a hearing on an asylum application only ''to resolve *factual* issues in dispute.'' 8 CFR 1240.11(c)(3) (emphasis added). No existing regulation requires a hearing when an asylum application is legally deficient. To the contrary, current regulations expressly note that no further hearing is necessary once an immigration judge determines that an asylum application is subject to certain grounds for mandatory denial. *Id.*

Moreover, other immigration applications are subject to pretermission without a hearing when they are not legally sufficient, and there is no reason to treat asylum applications differently. *See Zhu* v. *Gonzales,* 218 F. App'x 21, 23 (2d Cir. 2007) (finding that pretermission of an asylum application due to a lack of a legal nexus to a protected ground was not a due process violation when the alien was given an opportunity to address the issue). Further, pretermission due to a failure to establish prima facie legal eligibility for asylum is akin to a decision by an immigration judge or the BIA denying a motion to reopen to apply for asylum on the same basis, and both immigration judges and the BIA have routinely made such determinations for many years. *See INS* v. *Abudu,* 485 U.S. 94, 104 (1988) (holding that the BIA may deny a motion to reopen to file an asylum application if the alien has not made a prima facie case for that relief).

In short, neither the INA nor current regulations require holding a full merits hearing on purely legal issues, such as prima facie legal eligibility for relief.[26] Further, allowing the pretermission of legally deficient asylum applications is consistent with current practice, applicable law, and due process. As explained below, an immigration judge would only be able to pretermit an asylum application after first allowing the alien an opportunity to respond. The alien would be able to address any inconsistencies or legal weaknesses in the asylum application in the response to the judge's notice of possible pretermission.

Under the proposed regulation, an immigration judge may pretermit an asylum application in two circumstances: (1) Following an oral or written motion by DHS, and (2) sua sponte upon the immigration judge's own authority. Provided the alien has had an opportunity to respond, and the immigration judge considers any such response, a hearing would not be required for the immigration judge to make a decision to pretermit and deny the application. In the case of the immigration judge's exercise of his or her own authority, parties would have at least ten days' notice before the immigration judge would enter such an order. A similar timeframe would apply if DHS moves to pretermit, under current practice. *See* EOIR, Immigration Court Practice Manual at D–1 (Aug. 2, 2018), *https://www.justice.gov/eoir/page/file/1084851/download* (last visited May 20, 2020).

C. Standards for Consideration During Review of an Application for Asylum or for Statutory Withholding of Removal

1. Membership in a Particular Social Group

To establish eligibility for asylum under the INA, as amended by the Refugee Act of 1980, or statutory withholding of removal, the applicant must demonstrate, among other things, that she or he was persecuted, or has a well-founded fear of future persecution, on account of a protected ground: ''race, religion, nationality, membership in a particular social group, or political opinion.'' *See* INA 101(a)(42), 8 U.S.C. 1101(a)(42); *see also* INA 208(b)(1)(A) and 241(b)(3)(A), 8 U.S.C. 1158(b)(1)(A) and 1231(b)(3)(A). Congress, however, has not defined the phrase

[24] The proposed rule would also overrule any other cases that rely on the same reasoning as *Matter of Y–L–,* to the extent that there is a conflict between the proposed rule and case law regarding frivolousness findings. *See, e.g., Matter of B–Y–,* 25 I&N Dec. at 241 (requiring explicit deliberateness/materiality findings).

[25] This safety-valve provision would modify *Matter of X–M–C–* by providing a limited exception to the general rule that an asylum application may still be deemed frivolous even if it is withdrawn.

[26] The Departments are not aware of anything in IIRIRA or related legislative history that would conflict with an immigration judge's ability to pretermit an asylum application that does not demonstrate prima facie eligibility for relief. For example, the Departments do not believe that requiring a sufficient level of detail to determine whether or not an alien has a prima facie case for asylum, statutory withholding of removal, or protection under the CAT regulations would necessarily require a voluminous application. *See* H.R. Rep. No. 104–469, part 1, at 175–76 (1996). The point instead is enough information to determine the basis of the alien's claim for relief and if such a claim could be sufficient to demonstrate eligibility.

''membership in a particular social group.'' Nor is the term defined in the United Nations Convention Relating to the Status of Refugees (''Refugee Convention''), July 28, 1951, 19 U.S.T. 6259, 189 U.N.T.S. 150, or the related Refugee Protocol. Further, the term lacks the benefit of clear legislative intent. *See Fatin* v. *INS,* 12 F.3d 1233, 1239 (3d Cir. 1993) (Alito, J.) (''Thus, neither the legislative history of the relevant United States statutes nor the negotiating history of the pertinent international agreements sheds much light on the meaning of the phrase 'particular social group.' ''); *cf. Matter of Acosta,* 19 I&N Dec. 211, 232 (BIA 1985) (''Congress did not indicate what it understood this ground of persecution to mean, nor is its meaning clear in the Protocol''), *overruled on other grounds by Matter of Mogharrabi,* 19 I&N Dec. 439 (BIA 1987).

When Congress passed the Refugee Act of 1980, further implementing U.S. obligations under the Refugee Protocol, it included ''membership in a particular social group'' in its definition of ''refugee'' at section 101(a)(42) of the INA, 8 U.S.C. 1101(a)(42). Just a few years later, the BIA established that a particular social group is ''a group of persons all of whom share a common, immutable characteristic,'' and that the characteristic ''either is beyond the power of an individual to change or that it is so fundamental to his identity or conscience that it ought not be required to be changed.'' *Matter of Acosta,* 19 I&N Dec. at 233–34.

Although the Board did not significantly refine the formulation further until years later, *see, e.g., Matter of C–A–,* 23 I&N Dec. 951, 956, 959–60 (BIA 2006), it routinely issued decisions delineating which groups did and did not qualify as particular social groups in the context of the relevant societies for purposes of asylum protection, *see, e.g., Matter of H–,* 21 I&N Dec. 337, 342–43 (BIA 1996) (membership in a Somali subclan may constitute membership in a particular social group); *Matter of Toboso-Alfonso,* 20 I&N Dec. 819, 822–23 (BIA 1990) (designated for publication by the Attorney General in 1994) (homosexuals in Cuba may constitute a particular social group).[27]

Starting in the late 2000s, the BIA began to build on the *Acosta* definition in a series of cases, and subsequently settled on a three-part test for a particular social group, holding that the group must be ''(1) composed of members who share a common immutable characteristic, (2) defined with particularity, and (3) socially distinct within the society in question.'' *Matter of M–E–V–G–,* 26 I&N Dec. at 237; *see also Matter of W–G–R–,* 26 I&N Dec. at 212–18.

Immutability entails a common characteristic: A trait ''that the members of the group either cannot change, or should not be required to change because it is fundamental to their individual identities or consciences.'' *Matter of Acosta* 19 I&N Dec. at 233. Particularity requires that the group ''must be defined by characteristics that provide a clear benchmark for determining who falls within the group'' and that ''the terms used to describe the group have commonly accepted definitions in the society of which the group is a part.'' *Matter of M–E–V–G–,* 26 I&N Dec. at 239. Further, the group must not be ''amorphous, overbroad, diffuse, or subjective.'' *Id.* To be considered ''socially distinct,'' the group must be a meaningfully discrete group as the relevant society perceives it. The term is not dependent on literal or ''ocular'' visibility. *Id.* at 238, 240–41.

The definition of ''particular social group'' has been the subject of considerable litigation and is a product of evolving case law, making it difficult for EOIR's immigration judges and Board members, as well as DHS asylum officers, to uniformly apply the framework. *See Matter of A–B–,* 27 I&N Dec. at 331 (''Although the Board has articulated a consistent understanding of the term 'particular social group,' not all of its opinions have properly applied that framework.''); *see also, e.g., Cordoba* v. *Holder,* 726 F.3d 1106, 1114 (9th Cir. 2013) (''We have recognized that the phrase 'particular social group' is ambiguous.'' (citing *Henriquez-Rivas* v. *Holder,* 707 F.3d 1081, 1083 (9th Cir. 2013) (en banc))); *Fatin,* 12 F.3d at 1238 (''Both courts and commentators have struggled to define 'particular social group.' Read in its broadest literal sense, the phrase is almost completely open-ended.''); *see also Velasquez* v. *Sessions,* 866 F.3d 188, 198 (4th Cir. 2017) (Wilkinson, J. concurring) (noting that the legal ''analysis of 'particular social group' in the asylum statute is at risk of lacking rigor,'' that Congress did not intend '''membership in a particular social group' to be some omnibus catch-all,'' and that ''judicial interpretations of th[e] statute may outstrip anything Congress intended''). Accordingly, this regulation would provide clear parameters for evaluating cognizable ''particular social groups.''

The proposed rule would codify the longstanding requirements, as discussed above, that a particular social group must be (1) composed of members who share a common immutable characteristic, (2) defined with particularity, and (3) socially distinct in the society in question. In addition, the particular social group must have existed independently of the alleged persecutory acts and cannot be defined exclusively by the alleged harm.[28] *See Matter of A–B–,* 27 I&N Dec. at 334 (''To be cognizable, a particular social group must 'exist independently' of the harm asserted in an application for asylum or statutory withholding of removal.''); *see generally Matter of M–E–V–G–,* 26 I&N Dec. at 243 (''The act of persecution by the government may be the catalyst that causes the society to distinguish [a collection of individuals] in a meaningful way and consider them a distinct group, but the immutable characteristic of their shared past experience exists independent of the persecution.'').

The proposed rule would further build on the BIA's standards and provide clearer guidance to adjudicators regarding whether an alleged group exists and, if so, whether it is cognizable as a particular social group in order to ensure the consistent consideration of asylum and statutory withholding claims. For example, the proposed rule

[27] Federal courts have raised questions about whether the Board or the Attorney General can recognize or reject particular social groups in this manner, *Pirir-Boc* v. *Holder,* 750 F.3d 1077, 1084 (9th Cir. 2014), and a recent federal district court decision has more clearly called into question the validity of this approach of announcing general rules of particular social group definitions. *Grace* v. *Whitaker,* 344 F. Supp. 3d 96, 126 (D.D.C. 2018) (finding that general rules of particular social group definitions, at least as applied to credible fear claims, run ''contrary to the individualized analysis required by the INA''), *appeal docketed,* No. 19–5013 (D.C. Cir. filed Jan. 30, 2019).

[28] The Departments recognize the existence of confusion over this standard because the independent existence of a particular social group is not precisely the same concept as noting the group cannot be defined *exclusively* by the alleged harm. Thus, the proposed rule clarifies that a valid particular social group must have existed independently of the alleged persecutory acts and cannot be defined exclusively by the alleged harm. Otherwise, ''[i]f a group is defined by the persecution of its members, the definition of the group moots the need to establish actual persecution'' *Matter of A–B–,* 27 I&N Dec. at 335. The ''independent existence'' formulation has been accepted by many courts. *See, e.g., Perez-Rabanales* v. *Sessions,* 881 F.3d 61, 67 (1st Cir. 2018) (''A sufficiently distinct social group must exist independent of the persecution claimed to have been suffered by the alien and must have existed before the alleged persecution began.''); *Lukwago* v. *Ashcroft,* 329 F.3d 157, 172 (3d Cir. 2003) (''We agree that under the statute a 'particular social group' must exist independently of the persecution suffered by the applicant for asylum.''). For courts that have rejected this ''independent existence'' requirement, *see, e.g., Cece* v. *Holder,* 733 F.3d 662, 671–72 (7th Cir. 2013) (en banc), both subsequent decisions recognizing the requirement, *see, e.g., Matter of A–B–* and *Matter of M–E–V–G–, supra,* and the Departments' proposed rule codifying it would warrant re-evaluation under well-established principles. *See Brand X,* 545 U.S. at 982.

would outline several nonexhaustive bases that would generally be insufficient to establish a particular social group. Without more, the Secretary of Homeland Security and the Attorney General, in general, would not favorably adjudicate claims of aliens who claim membership in a purported particular social group consisting of or defined, in substance, by the following circumstances:

(1) Past or present criminal activity or associations, *Matter of W–G–R–,* 26 I&N Dec. at 222–23; *Cantarero* v. *Holder,* 734 F.3d 82, 86 (1st Cir. 2013); *Gonzalez* v. *U.S. Att'y Gen.,* 820 F.3d 399, 405 (11th Cir. 2016);

(2) past or present terrorist activity or association;[29]

(3) past or present persecutory activity or association;

(4) presence in a country with generalized violence or a high crime rate, *Matter of A–B–,* 27 I&N Dec. at 320;

(5) the attempted recruitment of the applicant by criminal, terrorist, or persecutory groups, *Matter of S–E–G–,* 24 I&N Dec. 579, 585–86 (BIA 2008); *Matter of E–A–G–,* 24 I&N Dec. 591, 594–95 (BIA 2008);

(6) the targeting of the applicant for criminal activity for financial gain based on perceptions of wealth or affluence, *Matter of A–M–E– & J–G–U–,* 24 I&N Dec. 69, 75 (BIA 2007);

(7) interpersonal disputes of which governmental authorities were unaware or uninvolved, *Matter of Pierre,* 15 I&N Dec. 461, 462–63 (BIA 1975); *see also Gonzalez-Posadas* v. *Att'y Gen. of U.S.,* 781 F.3d 677, 685 (3d Cir. 2015);

(8) private criminal acts of which governmental authorities were unaware or uninvolved, *Matter of A–B–,* 27 I&N Dec. at 343–44; *see also Gonzales-Veliz* v. *Barr,* 938 F.3d 219, 230–31 (5th Cir. 2019);

(9) status as an alien returning from the United States, *Delgado-Ortiz* v. *Holder,* 600 F.3d 1148, 1151–52 (9th Cir. 2010) (''We conclude that Petitioners' proposed social group, 'returning Mexicans from the United States,' * * * * is too broad to qualify as a cognizable social group.''); *Sam* v. *Holder,* 752 F.3d 97, 100 (1st Cir. 2014) (Guatemalans returning after a lengthy residence in the United States is not a cognizable particular social group).

This list is nonexhaustive, and the substance of the alleged particular social group, rather than the specific form of its delineation, will be considered by adjudicators in determining whether the group falls within one of the categories on the list. Without additional evidence, these circumstances are generally insufficient to demonstrate a particular social group that is cognizable because it is immutable, socially distinct, and particular, that is cognizable because the group does not exist independently of the harm asserted, or that is cognizable because the group is defined exclusively by the alleged harm. At the same time, the regulation does not foreclose that, in rare circumstances, such facts could be the basis for finding a particular social group, given the fact- and society-specific nature of this determination. In addition to resulting in more uniform application, providing clarity to this issue will reduce the amount of time the adjudicators must spend evaluating such claims.

The proposed regulation also specifies procedural requirements specific to asylum and statutory withholding claims premised on a particular social group. While in proceedings before an immigration judge, the alien must first define the proposed particular social group as part of the asylum application or otherwise in the record. If the alien fails to do so while before an immigration judge, the alien will waive any claim based on a particular social group formulation that was not advanced. *See Matter of W–Y–C– & H–O–B–,* 27 I&N Dec. 189, 190–91 (BIA 2018). Further, to encourage the efficient litigation of all claims in front of the immigration court at the same time—and to avoid gamesmanship and piecemeal analyses of claims in separate proceedings when all claims could have been brought at once—the alien will also waive the ability to file any motion to reopen or reconsider an asylum application related to the alien's membership in a particular social group that could have been brought at the prior hearing, including based on allegations related to the strategic choices made by an alien's counsel in defining the alleged particular social group. This limitation is consistent with current requirements for motions to reopen that preclude the raising of claims that could have been brought in a prior proceeding. *See* 8 CFR 1003.23(b)(3) (''A motion to reopen for the purpose of providing the alien an opportunity to apply for any form of discretionary relief will not be granted if it appears that the alien's right to apply for such relief was fully explained to him or her by the Immigration Judge and an opportunity to apply therefore was afforded at the hearing, unless the relief is sought on the basis of circumstances that have arisen subsequent to the hearing.''). These regulations will enable the immigration judge to adjudicate the alien's particular claim for relief or protection timely and efficiently, including deciding whether or not pretermission of the alien's application may be appropriate.

2. Political Opinion

The definition of ''political opinion'' has also been the subject of considerable litigation and is a product of evolving case law, making it difficult for EOIR's immigration judges and Board members, as well as DHS asylum officers, to uniformly apply the framework. *Compare, e.g., Hernandez-Chacon* v. *Barr,* 948 F.3d 94, 102–03 (2d Cir. 2020) (refusal to submit to the violent advances of gang members may be akin to a political opinion taking a stance against a culture of male-domination), *with Saldarriaga* v. *Gonzales,* 402 F.3d 461, 467 (4th Cir. 2005) (disapproval of a drug cartel is not a political opinion—''Indeed, to credit such disapproval as grounds for asylum would enlarge the category of political opinions to include almost any quarrel with the activities of almost any organization. Not only would the proliferation of asylum grants under this expansive reading interfere with the other branches' primacy in foreign relations, it would also strain the language of § 1101(a)(42)(A). The statute requires persecution to be on a discrete basis and to fall within one of the enumerated categories.'' (citations omitted)).

BIA case law makes clear that a political opinion involves a cause against a state or a political entity, rather than against a culture. *Matter of S–P–,* 21 I&N Dec. 486, 494 (BIA 1996) (''Here we must examine the record for direct or circumstantial evidence from which it is reasonable to believe that those who harmed the applicant were in part motivated by an assumption that his political views were antithetical to those of the *government.*'' (emphasis added)). For purposes of interpreting the Refugee Convention and subsequent Protocol, the United Nations High Commissioner for Refugees (''UNHCR'') also analyzes ''political opinion'' in terms of holding an opinion different from the Government or not tolerated by the relevant governmental authorities. *UNHCR Handbook on Procedures and Criteria for Determining Refugee Status and Guidelines on International Protection,* ch. II(B)(3)(f), ¶¶ 80–82 (Feb. 2019) (discussing political opinion refugee claims in terms of opinions not

[29] Just as past criminal associations cannot establish a particular social group, neither past association with terrorists or past association with persecutors warrants recognition as a particular social group. To do so would reward membership in organizations that cause harm to society and create a perverse incentive to engage in reprehensible or illicit behavior as a means of avoiding removal. *Cf. Cantarero,* 734 F.3d at 86.

tolerated by governmental the authorities or ruling powers).

Nevertheless, to avoid further strain on the INA's definition of refugee, INA 1101(a)(42)(A), 8 U.S.C. 1101(a)(42)(A), *see Saldarriaga,* 402 F.3d at 467, to provide additional clarity for adjudicators, and in recognition of both statutory requirements and the general understanding that a political opinion is intended to advance or further a discrete cause related to political control of a state, *id.* at 466–67, the Departments propose to define political opinion as one expressed by or imputed to an applicant in which the applicant possesses an ideal or conviction in support of the furtherance of a discrete cause related to political control of a state or a unit thereof. Moreover, in recognition of that definition, the Secretary or Attorney General, in general, will not favorably adjudicate claims of persecution on account of a political opinion defined solely by generalized disapproval of, disagreement with, or opposition to criminal, terrorist, gang, guerilla, or other non-state organizations absent expressive behavior [30] in furtherance of a cause against such organizations related to efforts by the state to control such organizations or behavior that is antithetical to or otherwise opposes the ruling legal entity of the state or a legal sub-unit of the state. Finally, consistent with INA 101(a)(42), 8 U.S.C. 1101(a)(42), a person who has been forced to abort a pregnancy or to undergo involuntary sterilization, or who has been persecuted for failure or refusal to undergo such a procedure or for other resistance to a coercive population control program, shall be deemed to have been persecuted on account of political opinion, and a person who has a well-founded fear that he or she will be forced to undergo such a procedure or subject to persecution for such failure, refusal, or resistance shall be deemed to have a well-founded fear of persecution on account of political opinion.

3. Persecution

For purposes of eligibility for asylum and withholding of removal, persecution is defined as ''a threat to the life or freedom of, or the infliction of suffering or harm upon, those who differ in a way regarded as offensive.'' *Matter of Acosta,* 19 I&N Dec. at 222; *see also Fatin,* 12 F.3d at 1240 (''Thus, we interpret *Acosta* as recognizing that the concept of persecution does not encompass all treatment that our society regards as unfair, unjust, or even unlawful or unconstitutional.''). It encompasses two aspects: ''harm or suffering had to be inflicted upon an individual in order to punish him for possessing a belief or characteristic a persecutor sought to overcome * * * [and] harm or suffering had to be inflicted either by the government of a country or by persons or an organization that the government was unable or unwilling to control.'' *Matter of Acosta,* 19 I&N Dec. at 222. Put differently, persecution requires an intent to target a belief, characteristic or group, a severe level of harm, and the infliction of a severe level of harm by the government of a country or by persons or an organization that the government is unable or unwilling to control. *Matter of A–B–,* 27 I&N Dec. at 337. For purposes of evaluating the severity of the level of harm, persecution connotes an extreme level of harm and does not encompass all possible forms of mistreatment. *See Shi* v. *U.S. Att'y Gen.,* 707 F.3d 1231, 1235 (11th Cir. 2013) (explaining that persecution is ''an extreme concept that does not include every sort of treatment [that] our society regards as offensive'' (quotation marks and citations omitted)); *Gormley* v. *Ashcroft,* 364 F.3d 1172, 1176 (9th Cir. 2004) (same).

It is thus well-established that not all treatment that the United States regards as unfair, offensive, unjust, or even unlawful or unconstitutional constitutes persecution under the INA.[31] Further, intermittent harassment, including brief detentions, repeated threats with no effort to carry out the threats, or non-severe economic harm or property damage, do not typically constitute persecution. *See, e.g., de Zea* v. *Holder,* 761 F.3d 75, 80 (1st Cir. 2014) (persecution requires more than ''unpleasantness, harassment, and even basic suffering''); *Ruano* v. *Ashcroft,* 301 F.3d 1155, 1160 (9th Cir. 2002) (noting that ''unfulfilled threats alone generally do not constitute past persecution''); *Djonda* v. *U.S. Att'y Gen.,* 514 F.3d 1168, 1174 (11th Cir. 2008) (threats and a minor beating do not constitute past persecution); *Kazemzadeh* v. *U.S. Att'y Gen.,* 577 F.3d 1341, 1353 (11th Cir. 2009) (''Minor physical abuse and brief detentions do not amount to persecution.''); *Matter of T–Z–,* 24 I&N Dec. 163, 170 (BIA 2007) (explaining that economic harm must be ''severe'' to qualify as persecution).

Absent credible evidence that Government laws or policies have been or would be applied to an applicant personally, infrequent application of those laws and policies cannot constitute a well-founded fear of persecution. In other words, the mere existence of potentially persecutory laws or policies is not enough to establish a well-founded fear of persecution. Rather, there must be evidence these laws or policies were widespread and systemic, or evidence that persecutory laws or policies were, or would be, applied to an applicant personally. *Cf. Wakkary* v. *Holder,* 558 F.3d 1049, 1061 (9th Cir. 2009) (an applicant is not required to establish that his or her government would personally persecute the alien upon return if he or she can establish a pattern or practice of persecution against a protected group to which they belong. However, the governmental conduct must be ''systematic'' and ''sufficiently widespread'' and not merely infrequent).

Given the wide range of cases interpreting ''persecution'' for the purposes of the asylum laws, the Departments propose adding a new paragraph to 8 CFR 208.1 and 1208.1 to define persecution and to better clarify what does and does not constitute persecution. It would provide that persecution is an extreme concept of a severe level of harm. Under the proposed amendment, persecution would not include, for example: (1) Every instance of harm that arises generally out of civil, criminal, or military strife in a country, *see, e.g., Matter of Sanchez and Escobar,* 19 I&N Dec. 276, 284–85 (BIA 1985); (2) any and all treatment that the United States regards as unfair, offensive, unjust, or even unlawful or unconstitutional, *see Fatin,* 12 F.3d at 1240; *Matter of V–T–S–,* 21 I&N Dec. 792, 798 (BIA 1997); (3)

[30] Expressive behavior includes public behavior commonly associated with political activism, such as attending rallies, organizing collective actions such as strikes or demonstrations, speaking at public meetings, printing or distributing political materials, putting up political signs, or similar activities in which an individual's political views are a salient feature of the behavior and communicated to others at the time the behavior occurs. Expressive behavior is not generally thought to encompass acts of personal civic responsibility such as voting, reporting a crime, or assisting law enforcement in an investigation, and those activities, by themselves, would not support a claim based on an alleged fear of harm due to a political opinion.

[31] ''Persecution * * * does not include discrimination.'' *Fisher* v. *INS,* 79 F.3d 955, 961 (9th Cir. 1996) (*en banc*) (internal quotation marks and authority omitted); *see also Ahmed* v. *Ashcroft,* 341 F.3d 214, 217 (3d Cir. 2003) (discrimination against stateless Palestinians in Saudi Arabia did not amount to persecution). Nor does harassment constitute persecution. *See, e.g., Halim* v. *Holder,* 590 F.3d 971, 976 (9th Cir. 2009) (alleged incidents constituted harassment, not persecution); *Ambati* v. *Reno,* 233 F.3d 1054, 1060 (7th Cir. 2000) (distinguishing persecution from harassment or annoyance); *Matter of V–F–D–,* 23 I&N Dec. 859, 863863 (BIA 2006) (determining harassment and discrimination based on religion did not constitute persecution).

intermittent harassment, including brief detentions; (4) repeated threats with no actions taken to carry out the threats;[32] (5) non-severe economic harm or property damage; or (6) government laws or policies that are infrequently enforced, unless there is credible evidence that those laws or policies have been or would be applied to an applicant personally. The Departments believe that these changes better align the relevant regulations with the high standard Congress intended for the term ''persecution.'' *See Fatin,* 12 F.3d at 1240 n.10.

4. Nexus

To establish eligibility for asylum under the INA, as amended by the Refugee Act of 1980 and the REAL ID Act of 2005, Public Law 109–13, sec. 101 (found at INA 208(b)(1)(B)(i), 8 U.S.C. 1158(b)(1)(B)(i)), the applicant must demonstrate, among other things, that at least one central reason for his or her persecution or well-founded fear of persecution was on account of a protected ground: Race, religion, nationality, membership in a particular social group, or political opinion. *See* INA 101(a)(42), 8 U.S.C. 1101(a)(42); INA 208(b)(1)(A), 8 U.S.C. 1158(b)(1)(A). The requirement that the fear be on account of one of the five grounds is commonly called the ''nexus requirement.''

The REAL ID Act of 2005 refined the nexus requirement by requiring that one of the five protected grounds ''was or will be at least one central reason for persecuting the applicant.'' ''Reasons incidental, tangential, or subordinate to the persecutor's motivation will not suffice.'' *Matter of A–B–,* 27 I&N Dec. at 338. As with the definitions of particular social group and persecution, the contours of the nexus requirement have further been shaped through case law rather than rulemaking, making it difficult for EOIR's immigration judges and Board members, as well as DHS asylum officers, to uniformly apply it.

Accordingly, the proposed rule would provide clearer guidance on situations in which alleged acts of persecution would not be on account of one of the five protected grounds. This proposal would further the expeditious consideration of asylum and statutory withholding claims. For example, the proposed rule would outline the following eight nonexhaustive situations, each of which is rooted in case law, in which the Secretary of Homeland Security and the Attorney General, in general, will not favorably adjudicate asylum or statutory withholding of removal claims based on persecution:

(1) Personal animus or retribution, *Zoarab* v. *Mukasey,* 524 F.3d 777, 781 (6th Cir. 2008) (''Asylum is not available to an alien who fears retribution solely over personal matters.'');

(2) interpersonal animus in which the alleged persecutor has not targeted, or manifested an animus against, other members of an alleged particular social group in addition to the member who has raised the claim at issue, *Matter of A–B–,* 27 I&N Dec. at 339 (' 'the record does not reflect that [the applicant's] husband bore any particular animosity toward women who were intimate with abusive partners, women who had previously suffered abuse, or women who happened to have been born in, or were actually living in, Guatemala' '' and ' '[w]hen the alleged persecutor is not even aware of the group's existence, it becomes harder to understand how the persecutor may have been motivated by the victim's 'membership' in the group to inflict the harm on the victim.' '' (quoting *Matter of R–A–,* 22 I&N Dec. 906, 919–21 (BIA 1999) (en banc)));

(3) generalized disapproval of, disagreement with, or opposition to criminal, terrorist, gang, guerilla, or other non-state organizations absent expressive behavior in furtherance of a discrete cause against such organizations related to control of a state or expressive behavior that is antithetical to the state or a legal unit of the state, *Saldarriaga,* 402 F.3d at 468 (''For the inscrutability of the political opinion he claims implies that any persecution he faces is due to the fact of his cooperation with the government, rather than the content of any opinion motivating that cooperation * * *. But when, as here, the applicant has not taken sides in such manner—much less under duress—and the conflict, though ubiquitous, is not aimed at controlling the organs of state, an applicant cannot merely describe his involvement with one side or the other to establish a political opinion * * *.'');

(4) resistance to recruitment or coercion by guerilla, criminal, gang, terrorist, or other non-state organizations, *INS* v. *Elias-Zacarias,* 502 U.S. 478, 482 (1992) (''[T]he mere existence of a generalized 'political' motive underlying the guerrillas' forced recruitment is inadequate to establish (and, indeed, goes far to refute) the proposition that [the respondent] fears persecution *on account of* political opinion, as § 101(a)(42) requires.'' (emphasis in original));

(5) the targeting of the applicant for criminal activity for financial gain based on wealth or affluence or perceptions of wealth or affluence, *Aldana-Ramos* v. *Holder,* 757 F.3d 9, 18 (1st Cir. 2014) (''criminal targeting based on wealth does not qualify as persecution 'on account of' membership in a particular group''); or

(6) criminal activity, *Zetino* v. *Holder,* 622 F.3d 1007, 1016 (9th Cir. 2010) (''An alien's desire to be free from harassment by criminals motivated by theft or random violence by gang members bears no nexus to a protected ground * * *.'');

(7) perceived, past or present, gang affiliation, *Matter of E–A–G–,* 24 I. & N. Dec. 591, 596 (BIA 2008) (''[In *Arteaga* v. *Mukasey,* 511 F.3d 940, 945–46 (9th Cir. 2007)] the Ninth Circuit held that membership in a gang would not constitute membership in a particular social group. We agree.'' Furthermore, ''because we agree that membership in a criminal gang cannot constitute a particular social group, the respondent cannot establish particular social group status based on the incorrect perception by others that he is such a gang member.''); or

(8) gender, *Niang* v. *Gonzales,* 422 F.3d 1187, 1199–1200 (10th Cir. 2005) (''There may be understandable concern in using gender as a group-defining characteristic. One may be reluctant to permit, for example, half a nation's residents to obtain asylum on the ground that women are persecuted there * * *.'')

Without additional evidence, these circumstances will generally be insufficient to demonstrate persecution

[32] The Departments note that courts have been inconsistent in their treatment of threats as persecution. *See Lim* v. *INS,* 224 F.3d at 929, 936–37 (9th Cir. 2000) (explaining that threats are generally not past ''persecution,'' but are ''within that category of conduct indicative of a danger of future persecution.''); *Li* v. *Attorney Gen. of U.S.,* 400 F.3d 157, 164–65 (3d Cir. 2005) (same). *See also Guan Shan Liao* v. *United States Dep't of Justice,* 293 F.3d 61, 70 (2d Cir. 2002); *Boykov* v. *INS,* 109 F.3d 413, 416–17 (7th Cir. 1997); *Ang* v. *Gonzales,* 430 F.3d 50, 56 (1st Cir. 2005) (''[H]ollow threats, * * * without more, certainly do not compel a finding of past persecution.''); *but see Li* v. *Gonzales,* 405 F.3d 171, 177 (4th Cir. 2005) (''Persecution involves the infliction or threat of death, torture, or injury to one's person or freedom on account of one of the enumerated grounds in the refugee definition.''); *Tairou* v. *Whitaker,* 909 F.3d 702, 707–08 (4th Cir. 2018) (''Contrary to the BIA's reasoning, the threat of death alone constitutes persecution, and [an applicant] [is] not required to [show] * * * physical or mental harm to establish past persecution.''); *id.* (holding Board erred in reasoning that several death threats did not constitute past persecution where applicant ''suffered no major physical injuries and * * * did not claim to have suffered any long-term mental harm or problems''); *Hernandez-Avalos* v. *Lynch,* 784 F.3d 944, 949 (4th Cir. 2015) (''[W]e have expressly held that the threat of death qualifies as persecution.'' (internal quotation marks and citation omitted)). The Departments' proposed rule would warrant re-evaluation in appropriate cases under well-established principles. *See Brand X,* 545 U.S. at 982.

on account of a protected ground. At the same time, the regulation does not foreclose that, at least in rare circumstances, such facts could be the basis for finding nexus, given the fact-specific nature of this determination. In addition to resulting in more uniform application of the law, providing clarity to this issue will reduce the amount of time the adjudicators must spend evaluating such claims.

Finally, the Departments propose to make clear that pernicious cultural stereotypes have no place in the adjudication of applications for asylum and statutory withholding of removal, regardless of the basis of the claim. *See Matter of A–B–,* 27 I&N Dec. at 336 n. 9 (''On this point, I note that conclusory assertions of countrywide negative cultural stereotypes, such as *A–R–C–G–'s* broad charge that Guatemala has a 'culture of machismo and family violence' based on an unsourced partial quotation from a news article eight years earlier, neither contribute to an analysis of the particularity requirement nor constitute appropriate evidence to support such asylum determinations.''). Accordingly, the proposed rule would bar consideration of evidence promoting cultural stereotypes of countries or individuals, including stereotypes related to race, religion, nationality, and gender, to the extent those stereotypes were offered in support of an alien's claim to show that a persecutor conformed to a cultural stereotype.

5. Internal Relocation

Under current regulations, an applicant for asylum or statutory withholding of removal who could avoid persecution by internally relocating to another part of his or her country of nationality or, if stateless, another part of the applicant's country of last habitual residence, and who can reasonably be expected to do so, may not be granted these forms of protection.[33] 8 CFR 208.13(b)(1)(i)(B), (2)(ii), 1208.13(b)(1)(i)(B), (2)(ii) (asylum); 8 CFR 208.16(b)(1)(i)(B), (2), 1208.16(b)(1)(i)(B), (2) (statutory withholding). The regulations further prescribe a nonexhaustive list of factors for adjudicators to consider in making internal relocation determinations and delineate burdens of proof in various related situations. 8 CFR 208.13(b)(1)(ii), (3), 1208.13(b)(1)(ii), (3); 8 CFR 208.16(b)(1)(ii), (3), 1208.16(b)(i)(ii), (3).

The Departments have determined that the current regulations regarding internal relocation inadequately assess the relevant considerations in determining whether internal relocation is possible, and if possible, whether it is reasonable to expect the asylum applicant to relocate. For instance, the utility of the catch-all list of factors in 8 CFR 208.13(b)(3) and 1208.13(b)(3) is undermined by its unhelpful concluding caveats that the factors ''may, or may not'' be relevant to an internal relocation determination and that the factors ''are not necessarily determinative of whether it would be reasonable for the applicant to relocate.'' Such caveats provide little practical guidance for adjudicators considering issues of internal relocation raised by asylum claims. Moreover, some factors—*e.g.,* administrative, economic, or judicial infrastructure—do not have a clear relevance in assessing the reasonableness of internal relocation in many cases, while others insufficiently appreciate as a general matter that asylum applicants have often already relocated hundreds or thousands of miles to the United States regardless of such factors. Accordingly, the Departments propose a more streamlined presentation in the regulations of the most relevant factors for adjudicators to consider in determining whether internal relocation is a reasonable option.

The current regulations also outline different scenarios for assessing who bears the burden of proof in establishing or refuting the reasonableness of internal relocation. In situations in which the persecutor is the government or a government-sponsored actor, it is presumed that relocation would not be reasonable (as the persecution is presumed to be nationwide). In situations in which a private actor is the persecutor, however, there is no apparent reason why the same presumption should apply, as a private individual or organization would not ordinarily be expected to have influence everywhere in a country. Moreover, as an asylum applicant generally bears the burden of proving eligibility for asylum, it is even more anomalous to shift that burden in situations in which there is no rational presumption that the threat of persecution would occur nationwide. Consequently, the Departments have determined that the regulatory burdens of proof regarding internal relocation should be assigned more in line with these baseline assessments of whether types of persecution generally occur nationwide, while recognizing that exceptions, such as persecution by local governments or nationwide organizations, might overcome these presumptions. Thus, the Departments propose to amend the regulations to presume that for applications in which the persecutor is not a government or government-sponsored actor, internal relocation would be reasonable unless the applicant demonstrates by a preponderance of the evidence that it would not be. This presumption would apply regardless of whether an applicant has established past persecution. For ease of administering these provisions, the Departments would also provide examples of the types of individuals or entities who are private actors.

6. Factors for Consideration in Discretionary Determinations

Asylum is a discretionary relief, and an alien who demonstrates that he or she qualifies as a refugee must also demonstrate that he or she deserves asylum as a matter of discretion. *See* INA 208(b)(1)(A), 8 U.S.C. 1158(b)(1)(A) (''The Secretary of Homeland Security or the Attorney General *may* grant asylum to an alien who has applied for asylum in accordance with the requirements and procedures [they establish] * * * if the Secretary of Homeland Security or the Attorney General determines that such alien is a refugee * * *.'' (emphasis added)); *Stevic,* 467 U.S. at 423 n.18 (''Meeting the definition of 'refugee,' however, does not entitle the alien to asylum—the decision to grant a particular application rests in the discretion of the Attorney General under § 208(a).''). Eligibility for asylum is not an automatic entitlement. Rather, after demonstrating statutory and regulatory eligibility, aliens must further meet their burden of showing that the Attorney General or the Secretary of Homeland Security should exercise his discretion to grant asylum. *See Matter of A–B–,* 27 I&N Dec. at 345 n.12; *Matter of Pula,* 19 I&N Dec. 467, 474 (BIA 1987).

The BIA in *Matter of Pula* examined the sorts of factors immigration judges should consider when determining whether asylum applicants merit the relief of asylum as a matter of discretion. The BIA ultimately directed that that discretionary determination should be based on the totality of the

[33] In limited instances, asylum can be granted without the need to establish a well-founded fear of persecution. An alien who has suffered past persecution but does not warrant being granted asylum due either to a fundamental change in circumstances such that the alien no longer has a well-founded fear of persecution or the alien's reasonable ability to internally relocate to avoid future persecution may nevertheless be granted asylum in the discretion of the decisionmaker if the alien is not barred from asylum pursuant to 8 CFR 208.13(c) and 1208.13(c) and if the applicant has demonstrated compelling reasons for being unwilling or unable to return arising out of the severity of the past persecution or the applicant has established a reasonable possibility of other serious harm upon removal. 8 CFR 208.13(b)(1)(iii), 1208.13(b)(1)(iii). This regulatory exception is frequently labeled ''humanitarian asylum.''

circumstances and provided a lengthy list of possibly relevant factors for consideration, such as, whether the alien passed through any other countries en route to the United States, the living conditions and level of safety in the countries through which the alien passed, and general humanitarian considerations. *Matter of Pula,* 19 I&N Dec. at 473–75.

To date, the Secretary and Attorney General have not provided general guidance in agency regulations for factors to be considered when determining whether an alien merits asylum as a matter of discretion. Nevertheless, the Departments have issued regulations on discretionary considerations for other forms of relief, *e.g.,* 8 CFR 212.7(d), 1212.7(d) (discretionary decisions to consent to visa applications, admission to the United States, or adjustment of status, for certain criminal aliens), and the Departments believe it is similarly appropriate to establish criteria for considering discretionary asylum claims. This proposed regulation would build on the BIA's guidance regarding discretionary asylum determinations and codify specific factors in the regulations for the first time.

Accordingly, the Departments propose three specific but nonexhaustive factors that adjudicators must consider when determining whether an applicant merits the relief of asylum as a matter of discretion:

(1) An alien's unlawful entry or unlawful attempted entry into the United States unless such entry or attempted entry was made in immediate flight from persecution or torture in a contiguous country;

(2) subject to certain exceptions, the failure of an alien to seek asylum or refugee protection in at least one country through which the alien transited before entering the United States; and

(3) an alien's use of fraudulent documents to enter the United States, unless the alien arrived in the United States by air, sea, or land directly from the applicant's home country without transiting through any other country.

The adjudicator must consider all three factors, if relevant, during every asylum adjudication. If one or more of these factors applies to the applicant's case, the adjudicator would consider such factors to be significantly adverse for purposes of the discretionary determination, though the adjudicator should also consider any other relevant facts and circumstances to determine whether the applicant merits asylum as a matter of discretion. The Departments believe that the inclusion of the proposed factors in the rule will better ensure that immigration judges and asylum officers properly consider, in all cases, whether applicants for asylum merit the relief as a matter of discretion, even if the applicant has otherwise demonstrated eligibility for asylum.

First, an alien's unlawful entry, or attempted unlawful entry, has been a longstanding factor that adjudicators may consider as a matter of discretion. *Matter of Pula,* 19 I&N Dec. at 473 (''[A]n alien's manner of entry or attempted entry is a proper and relevant discretionary factor to consider'' as ''one of a number of factors * * * balanced in exercising discretion''). In addition to rendering an alien inadmissible in general, it is a federal criminal offense to enter or attempt to enter the United States other than at a time and place designated by immigration officers. *See* INA 212(a)(6)(A), 8 U.S.C. 1182(a)(6)(A); INA 275(a)(1), 8 U.S.C. 1325(a)(1). The Departments remain concerned by the significant strain on their resources required to apprehend, process, and adjudicate the cases of the growing number of aliens who illegally enter the United States putatively in order to seek asylum. *See, e.g.,* Aliens Subject to a Bar on Entry Under Certain Presidential Proclamations; Procedures for Protection Claims, 83 FR 55934; *see also United States ex rel. Hintopoulos* v. *Shaughnessy,* 353 U.S. 72, 78 (1957) (observing that where the statute ''does not state what standards are to guide the Attorney General in the exercise of his discretion'' in adjudicating a discretionary benefit request, ''[s]urely it is not unreasonable for him to take cognizance of present-day conditions'' and relevant congressional enactments).[34]

Second, as previously explained, the Departments believe that the failure to seek asylum or refugee protection in at least one country through which an alien transited while en route to the United States may reflect an increased likelihood that the alien is misusing the asylum system as a mechanism to enter and remain in the United States rather than legitimately seeking urgent protection. *See* Asylum Eligibility and Procedural Modifications, 84 FR at 33831. As a result, the Departments would consider the failure to seek protection in such a third country to be a significant adverse factor. The applicant may, however, present evidence regarding the basis for the failure to seek such relief for the adjudicator's consideration as outlined in 8 CFR 208.13(c)(4), 1208.13(c)(4).

Third, an alien who uses fraudulent documents to effect entry to the United States is inadmissible, INA 212(a)(6)(C), 8 U.S.C. 1182(a)(6)(C), and the Departments are concerned that the use of fraudulent documents makes the proper enforcement of the immigration laws difficult and requires an immense amount of resources. The Departments accordingly propose to consider such use of fraudulent documents a significant adverse discretionary factor for the purposes of asylum unless an applicant arrived in the U.S. directly from the applicant's home country.[35]

Furthermore, the Departments propose nine adverse factors, the applicability of any of which would ordinarily result in the denial of asylum as a matter of discretion, similar to how discretion is considered for other applications. *See, e.g.,* 8 CFR 212.7(d), 1212.7(d) (waiver of certain grounds of inadmissibility). If the adjudicator determines that any of these nine circumstances apply during the course of the discretionary review, the adjudicator may nevertheless favorably exercise discretion in extraordinary circumstances, such as those involving national security or foreign policy considerations, or if the alien demonstrates, by clear and convincing evidence, that the denial of asylum

[34] The Departments note that this adverse factor does not conflict with section 208(a)(1) of the INA, 8 U.S.C. 1158(a)(1), which provides that ''[a]ny alien who is physically present in the United States or who arrives in the United States (whether or not at a designated port of arrival * * *), irrespective of such alien's status, may apply for asylum.'' The consideration of the alien's unlawful manner of entry as a discretionary negative factor does not limit the alien's right or ability to apply for asylum. Instead, an alien who has unlawfully entered the United States is at risk of the same discretionary denial of asylum as any other applicant. The related issue of whether a regulatory bar to asylum eligibility based on manner of entry is ''consistent'' with section 208(a)(1)'s ''irrespective'' clause is currently being litigated. *See supra* note 14.

[35] For aliens from countries contiguous to the United States or who arrive directly (such as by air) from their home country—*i.e.,* countries in which the use of fraudulent documents to escape persecution may be coterminous with the use of such documents to enter the United States— this factor does not impact case law that the use of fraudulent documents to escape the country of persecution should not itself be a significant adverse factor. *See Lin* v. *Gonzales,* 445 F.3d 127, 133 (2d Cir. 2006) (noting a distinction ''between the presentation of a fraudulent document in immigration court in support of an asylum application and the use of a fraudulent document to escape immediate danger or imminent persecution''); *Matter of Pula,* 19 I&N Dec. at 474 (noting a difference between ''[t]he use of fraudulent documents to escape the country of persecution'' and ''entry under the assumed identity of a United States citizen, with a United States passport, which was fraudulently obtained''). For all other aliens, however, the use of fraudulent documents would be a significant adverse factor. To the extent that this provision may conflict with any prior holdings by the Board of Immigration Appeals, this rule would supersede such decisions if it is finalized as drafted.

would result in an exceptional and extremely unusual hardship to the alien. *Cf. id.* These factors build on prior precedent from the Attorney General. *See Matter of Jean,* 23 I&N Dec. 373, 385 (A.G. 2002) (providing that aliens who have committed violent or dangerous offenses will not be granted asylum as a matter of discretion absent extraordinary circumstances or a showing of exceptional and extremely unusual hardship); *see also Matter of Castillo-Perez,* 27 I&N Dec. 664, 670–71 (A.G. 2019) (noting that aliens with multiple driving-under-the-influence convictions would likely be denied cancellation of removal as a matter of discretion due to the seriousness and repeated nature of the offenses).

Each of the nine factors addresses issues that the adjudicators might otherwise spend significant time evaluating and adjudicating. First, this rule would require a decision-maker to consider whether an alien has spent more than 14 days in any one country that permitted application for refugee, asylee, or similar protections prior to entering or arriving in the United States. Second, this rule would make transit through more than one country prior to arrival in the United States a significant adverse factor. Both of these factors are supported by existing law surrounding firm resettlement and aliens who can be removed to a safe third country. *See* INA 208(a)(2)(A), (b)(2)(A)(vi), 8 U.S.C. 1158(a)(2)(A), (b)(2)(A)(vi); *see also Yang* v. *INS,* 79 F.3d 932, 935–39 (9th Cir. 1996) (upholding a discretionary firm resettlement bar, and rejecting the premise that such evaluation is arbitrary and capricious or that it prevents adjudicators from exercising discretion). Recognizing that individual circumstances of an alien's presence in a third country or transit to the United States may not necessarily warrant adverse discretionary consideration in all instances, the proposed rule does acknowledge exceptions to these two considerations where an alien's application for protection in the relevant third country has been denied, where the alien is a victim of a severe form of human trafficking as defined in 8 CFR 214.11, or where the alien was present in or transited through only countries that were, at the relevant time, not parties to the Refugee Convention, Refugee Protocol, or CAT.

Third, adjudicators should consider criminal convictions that remain valid for immigration purposes as significant adverse factors. A conviction remains valid for immigration purposes despite a reversal, vacatur, expungement, or modification of conviction or sentence if the alteration is not related to a procedural or substantive defect in the underlying criminal proceedings. *See Matter of Thomas & Thompson,* 27 I&N Dec. 674, 674–75 (A.G. 2019) (holding that state court orders unrelated to the merits of an underlying criminal proceeding have no effect on the validity of the conviction for immigration purposes); *see also Matter of Pickering,* 23 I&N Dec. 621, 624–25 (BIA 2003) (holding that a conviction that is vacated for reasons solely related to rehabilitation or immigration hardships is not eliminated for immigration purposes), *rev'd on other grounds, Pickering* v. *Gonzales,* 465 F.3d 263, 267–70 (6th Cir. 2006).[36] Circuit courts of appeals have consistently accepted this principle, deeming *Pickering* reasonable and consistent with congressional intent. *See, e.g., Saleh* v. *Gonzales,* 495 F.3d 17, 23–25 (2d Cir. 2007) (collecting cases). As the Attorney General has explained, giving effect to judicial decisions that modified sentences in some manner for the sole purpose of mitigating immigration consequences would frustrate Congress's intent in setting forth those consequences for aliens convicted of certain crimes. *See Matter of Thomas & Thompson,* 27 I&N Dec. at 682 (explaining that by enacting the definition of ''conviction'' at section 101(a)(48) of the INA, 8 U.S.C. 1101(a)(48), ''Congress made clear that immigration consequences should flow from the original determination of guilt. In addition, Congress ensured uniformity in the immigration laws by avoiding the need for immigration judges to examine the post-conviction procedures of each State''); *see also Saleh,* 495 F.3d at 25 (''When a conviction is amended nunc pro tunc solely to enable a defendant to avoid immigration consequences, in contrast to an amendment or vacatur on the merits, there is no reason to conclude that the alien is any less suitable for removal.'').

Fourth, unlawful presence of more than one year's cumulative duration prior to filing an application for asylum would be considered a significant adverse factor, consistent with the unlawful presence bar, INA 212(a)(9)(B)(i)(II), 8 U.S.C. 1182(a)(9)(B)(i)(II), and the permanent bar under section 212(a)(9)(C) of the INA, 8 U.S.C. 1182(a)(9)(C). *See also Matter of Diaz & Lopez,* 25 I&N Dec. 188, 189 (BIA 2010).

Fifth, failure to file taxes or fulfill related obligations would be another adverse factor. Subject to some exceptions, aliens are generally required to file federal income tax returns, as either a resident or nonresident alien. 26 U.S.C. 6012, 7701(b); 26 CFR 1.6012–1(a)(1)(ii), (b).[37] This rule would hold all asylum applicants to the same standards as most individuals in the United States who are required to file federal, state, and local taxes, as individuals who are required to file taxes are subject to negative consequences should said filings and associated obligations not be met. *See, e.g.,* Md. Code, Tax-Gen. 10–804, 10–805(a) (2013) (subject to exclusion of certain types of income, a Maryland resident required to file a federal income tax return is also required to file a state income tax return); Ind. Code, 6–3–4–1 (2019) (persons whose income meets federal filing threshold are required to file a state return).

Sixth, this rule would consider as an adverse factor having had two or more prior asylum applications denied for any reason.

Seventh, the rule would also consider as an adverse factor having withdrawn with prejudice or abandoned an asylum application. This rule would thereby disfavor abusive prior or multiple applications. Asylum applications take a significant portion of processing time and already constitute half of the docket in immigration court. This rule would minimize abuse of the system—and allow for meritorious claims to be heard more efficiently—by disfavoring repeated applications when prior

[36] The Departments published a joint rule on December 19, 2019, that, inter alia, would provide regulatory guidance regarding the immigration consequences of criminal convictions that have been vacated, expunged, or modified. *See* Procedures for Asylum and Bars to Asylum Eligibility, 84 FR 69640 (Dec. 19, 2019) (proposed amendments to 8 CFR 208.13 and 1208.13).

[37] The Internal Revenue Service (''IRS'') uses two tests to determine whether an alien is considered a resident alien of the United States for tax purposes: The ''green card'' test and the ''substantial presence'' test. An alien meets the ''green card'' test if USCIS has issued the alien a registration card, Form I–551, designating the alien as a lawful permanent resident. IRS, *Alien Residency—Green Card Test, https://www.irs.gov/individuals/international-taxpayers/alien-residency-green-card-test* (last updated Feb. 20, 2020). An alien meets the ''substantial presence'' test if he or she has been physically present in the United States for 31 days of the current year *and* 183 days during the three-year period that includes the current year and the two years immediately prior, including all of the following: (1) All days an alien was present in the current year, (2) one-third of the days the alien was present in the first year before the current year, and (3) one-sixth of the days the alien was present in the second year before the current year. IRS, *Substantial Presence Test, https://www.irs.gov/individuals/international-taxpayers/substantial-presence-test* (last updated Jan. 15, 2020). There are certain exceptions to this rule. *Id.* Non-resident aliens who pass the ''substantial presence'' test are treated as resident aliens for tax purposes.

applications have been abandoned or withdrawn.

Eighth, DHS already may dismiss the case of an alien who fails to attend his or her asylum interview, without prior authorization or in the absence of exceptional circumstances. INA 208(d)(5)(A)(v), 8 U.S.C. 1158(d)(5)(A)(v). Such an applicant may also ''be otherwise sanctioned for such failure.'' *Id.* The Departments' consideration of an alien's failure to attend the asylum interview,[38] unless the alien demonstrates by a preponderance of the evidence the existence of exceptional circumstances or that the interview notice was not mailed to the last address provided by the alien or the alien's representative (and neither the alien nor the alien's representative received notice of the interview), as an adverse discretionary factor is a reasonable additional sanction under section 208(d)(5)(A)(v) of the INA, 8 U.S.C. 1158(d)(5)(A)(v). As with the failure to appear in immigration court, failure to appear for an asylum interview before DHS wastes government resources that could have been used to adjudicate other applications. *See* DHS, *Affirmative Asylum Application Statistics and Decisions Annual Report* 3 (June 20, 2016) (reporting 2,439 cases that USCIS referred to immigration judges because asylum applicants failed to appear for interviews or withdrew their applications and were not in lawful immigration status during Fiscal Year 2015).

Ninth, aliens who are subject to a final order of removal may file a motion to reopen their proceedings before an immigration judge to seek asylum if there is a change in country conditions and the underlying evidence of changed conditions is material and was not available or could not have been discovered at the time of the prior hearing. INA 240(c)(7), 8 U.S.C. 1229a(c)(7). In such situations, adjudicators should consider as a significant adverse factor the failure to file such a motion within one year of the change in country conditions. *See* INA 240(c)(7)(C)(ii), 8 U.S.C. 1229a(c)(7)(C)(ii); 8 CFR 1003.2(c)(3)(ii), 1003.23(b)(4)(i). The Departments believe that such a factor would appropriately incentivize aliens to exercise due diligence with regard to their cases, as is otherwise required for motions to reopen, and aid in the efficient processing of asylum applications before EOIR. *Cf.* INA 208(a)(2)(B), 8 U.S.C. 1158(a)(2)(B); *Wang* v. *BIA,* 508 F.3d 710, 715–16 (2d Cir. 2007) (discussing the requirement of acting with due diligence in order to establish equitable tolling of the filing deadline for motions to reopen asylum proceedings premised upon an allegation of ineffective assistance of counsel).

The factors set forth in this rule do not affect the adjudicator's ability to consider whether there exist extraordinary circumstances, such as those involving national security or foreign policy considerations, or whether the denial of asylum would result in an exceptional and extremely unusual hardship to the alien. *Cf. Matter of Jean,* 23 I&N Dec. at 385 (''I am highly disinclined to exercise my discretion—except, again, in extraordinary circumstances, such as those involving national security or foreign policy considerations, or cases in which an alien clearly demonstrates that the denial of relief would result in exceptional and extremely unusual hardship—on behalf of dangerous or violent felons seeking asylum.''). This approach supersedes the Board's previous approach in *Matter of Pula* that past persecution or a strong likelihood of future persecution ''should generally outweigh all but the most egregious adverse factors.'' 19 I&N Dec. at 474. Especially given that an applicant may still seek non-discretionary statutory withholding of removal and protection under the CAT regulations, the Departments believe that the inclusion of the proposed adverse discretionary factors in the rule will ensure that immigration judges and asylum officers properly consider, in all cases, whether every applicant merits a grant of asylum as a matter of discretion, even if the applicant has otherwise demonstrated asylum eligibility.

7. Firm Resettlement

By statute, an alien who ''was firmly resettled in another country prior to arriving in the United States'' is ineligible for asylum. INA 208(b)(2)(A)(vi), 8 U.S.C. 1158(b)(2)(A)(vi). This bar to asylum was first included in the asylum laws by IIRIRA in 1996, but Congress added it as a prohibition to entry as a refugee from abroad in 1980. Refugee Act of 1980, sec. 201(b), 94 Stat. 103 (adding INA 207(c)(1), 8 U.S.C. 1157(c)(1)).[39] Before IIRIRA's enactment, the Attorney General also included firm resettlement as a bar to asylum under section 208 of the INA, 8 U.S.C. 1158, by regulation. *See* Aliens and Nationality; Refugee and Asylum Procedures, 45 FR 37392, 37394 (June 2, 1980) (adding part 208 to chapter I of 8 CFR, including the instruction at 8 CFR 208.8(f)(1)(ii) that a request for asylum would be denied if the alien ''has been firmly resettled in a foreign country''); [40] *see also Yang,* 79 F.3d at 935–39 (according *Chevron* deference to the inclusion of firm resettlement as a bar to asylum in the regulations).

DOJ first defined ''firm resettlement'' in the context of asylum applications in 1990. Aliens and Nationality; Asylum and Withholding of Deportation Procedures, 55 FR 30674, 30683–84 (July 27, 1990) (adding 8 CFR 208.15 to part 208 of chapter 1 of 8 CFR). At the time, DOJ did not provide an explanation for the chosen definition, although it was similar to the existing definition of firm resettlement for refugees. *Id.* at 30678. Aside from technical edits, and minor updates to ensure gender neutrality and change references from ''nation'' to ''country,'' the definition of firm resettlement has remained the same for nearly 30 years. *See* 8 CFR 208.15, 1208.15.

Due to the increased availability of resettlement opportunities [41] and the interest of those genuinely in fear of persecution in attaining safety as soon as possible, the Departments now

[38] On November 14, 2019, DHS proposed modifications to the asylum process, including changes to the provisions related to failing to appear for an asylum interview. *See* Asylum Application, Interview, and Employment Authorization for Applicants, 86 FR 62374 (Nov. 14, 2019). The Departments do not believe the proposals conflict, but welcome public comment.

[39] The firm resettlement concept has an even longer history in the immigration laws. *See* *Rosenberg* v. *Woo,* 402 U.S. 49, 54–55 (1971) (discussing the inclusion of firm resettlement considerations in the Displaced Persons Act of 1948 and Refugee Relief Act of 1953, and the subsequent history).

[40] DOJ also included a definition of ''firm resettlement'' in the context of refugee status determinations under section 207 of the INA, 8 U.S.C. 1157, in 1980, providing generally that a refugee is considered to be ''firmly resettled'' if he had been offered resident status, citizenship, or some other type of permanent resettlement by another nation and has travelled to and entered that nation as a consequence of his flight from persecution. A refugee will not be considered ''firmly resettled,'' however, if he establishes, to the satisfaction of the federal official reviewing the case, that the conditions of his residence in that nation have been so substantially and consciously restricted by the authorities of that nation that he has not in fact been resettled. *See* Aliens and Nationality; Refugee and Asylum Procedures, 45 FR at 37394. This definition continues to apply in substantially similar form to DHS determinations regarding the admission of refugees. 8 CFR 207.1(b). The Departments do not propose any changes to the definition or application of the firm resettlement bar for refugees in this rule.

[41] Forty-three countries have signed the Refugee Convention since 1990. *See* United Nations High Commissioner for Refugees, *States Parties to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol, https://www.unhcr.org/en-us/protection/basic/3b73b0d63/states-parties-1951-convention-its-1967-protocol.html* (last visited May 20, 2020).

propose to revise the definition of firm resettlement that applies to asylum adjudications at 8 CFR 208.15 and 1208.15. Specifically, the Departments propose to specify three circumstances under which an alien would be considered firmly resettled:

(1) The alien either resided or could have resided in any permanent legal immigration status or any non-permanent but potentially indefinitely renewable legal immigration status (including asylee, refugee, or similar status, but excluding a status such as a tourist) in a country through which the alien transited prior to arriving in or entering the United States, regardless of whether the alien applied for or was offered such status, *cf. Matter of K–S–E–,* 27 I&N Dec. 818, 819 (BIA 2020) (''Permanent resettlement exists where there is an available offer that realistically permits an individual's indefinite presence in the country.''); *Matter of A–G–G–,* 25 I&N Dec. 486, 502 (BIA 2011) (''The existence of a legal mechanism in the country by which an alien can obtain permanent residence *may* be sufficient to make a prima facie showing of an offer of firm resettlement * * *. Moreover, a determination of firm resettlement is not contingent on whether the alien applies for that status.'' (citations and footnote omitted));

(2) the alien physically resided voluntarily, and without continuing to suffer persecution, in any one country for one year or more after departing his country of nationality or last habitual residence and prior to arrival in or entry into the United States; or

(3) (i) the alien is a citizen of a country other than the one where the alien alleges a fear of persecution and the alien was present in that country prior to arriving in the United States, or (ii) the alien was a citizen of a country other than the one where the alien alleges a fear of persecution, the alien was present in that country prior to arriving in the United States, and the alien renounced that citizenship prior to or after arriving in the United States.

These proposed changes would expand the firm resettlement bar to include forms of relief that were available to an alien in a country in which he or she resided before traveling to the United States, even if the alien did not affirmatively apply for or accept such relief. If an alien was legally ''entitled to permanent refuge in another country'' in which the alien resided, that entitlement may result in the alien being firmly resettled there, even if the alien ''fail[ed] to take advantage of [that country's] procedures for obtaining [such] relief.'' *Matter of A–G–G–,* 25 I&N Dec. at 502 (quoting *Elzour* v. *Ashcroft,* 378 F.3d 1143, 1152 (10th Cir. 2004). It follows *a fortiori,* then, that an alien to whom an offer of permanent legal status was actually made may be considered to have firmly resettled, *Matter of K–S–E–,* 27 I&N Dec. at 819–20, and that such an offer may not be ''negated by the alien's unwillingness or reluctance to satisfy the [reasonable] terms for acceptance,'' *id.* at 821. Not only do these changes recognize that an alien fleeing persecution would ordinarily be expected to seek refuge at the first available opportunity in another country where they would not have a reasonable fear of persecution or torture, but they will also ensure that the asylum system is used by those in genuine need of immediate protection, not by those who have chosen the United States as a destination for other reasons and then rely on the asylum system to reach that destination. *See Matter of A–G–G–,* 25 I&N Dec. at 503 (clarifying that the purpose of the firm settlement bar is to ''limit refugee protection to those with nowhere else to turn'').

The Departments further propose to specify that the firm resettlement bar applies ''when the evidence of record indicates that the firm resettlement bar may apply,'' and to specifically allow both DHS and the immigration judge to first raise the issue based on the record evidence. This proposal would make clear that the alien would continue to bear the burden to demonstrate that the firm resettlement bar does not apply, consistent with 8 CFR 1240.8(d). Finally, the Departments propose that the firm resettlement of a parent or parents with whom a child was residing at the time shall be imputed to the child. Although the Departments have had no prior settled policy necessarily imputing the firm resettlement of parents to a child, *Holder* v. *Martinez Gutierrez,* 566 U.S. 583, 596 n.4 (2012), the imputation proposed in this rule is consistent with both case law and recognition of the practical reality that a child generally cannot form a legal intent to remain in one place. *See, e.g., Matter of Ng,* 12 I&N Dec. 411 (Reg. Comm'r 1967) (firm resettlement of father is imputed to a child who resided with his resettled family); *Vang* v. *INS,* 146 F.3d 1114, 1116–17 (9th Cir. 1998) (''We follow the same principle in determining whether a minor has firmly resettled in another country, *i.e.,* we look to whether the minor's parents have firmly resettled in a foreign country before coming to the United States, and then derivatively attribute the parents' status to the minor.'').

To the extent any BIA decisions relied on prior regulatory language and remain inconsistent with the proposed new regulatory language, the proposed changes would expressly overrule those BIA decisions.

8. Rogue Officials

In order to demonstrate eligibility for withholding of removal or deferral of removal under the CAT regulations, an alien must demonstrate that it is more likely than not that he or she will be tortured in the country of removal. *See* 8 CFR 1208.16(c)(2). Torture is defined as causing ''severe pain or suffering, whether physical or mental,'' and it must be intentionally inflicted ''by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity,'' among other requirements. 8 CFR 1208.18(a)(1). The regulations do not provide further guidance for determining what sorts of officials constitute ''public officials,'' including whether an official such as a police officer is a public official for the purposes of the CAT regulations if he or she acts in violation of official policy or his or her official status—in other words, a ''rogue'' police official.

When faced with questions of such ''rogue'' officials, the federal courts have generally implied from the lack of further explanation regarding the definition of ''public official'' that no exception excluding ''rogue'' officials from the definition exists. The Ninth Circuit Court of Appeals recently provided a particularly detailed explanation of this point:

> The statute and regulations do not establish a ''rogue official'' exception to CAT relief. The regulations say that torture, for purposes of relief, has to be ''at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.'' The four policemen were ''public officials,'' even though they were local police and state or federal authorities might not similarly acquiesce. Since the officers were apparently off-duty when they tortured Barajas-Romero, they were evidently not acting ''in an official capacity,'' but the regulation does not require that the public official be carrying out his official duties, so long as he is the actor or knowingly acquiesces in the acts. The regulation uses the word ''or'' between the phrases ''inflicted by * * * a public official'' and ''acting in an official capacity.'' The word ''or'' can only mean that either one suffices, so the torture need not be both by a public official and also that the official is acting in his official capacity. An ''and'' construction would require that the conjunction be ''and.'' The record leaves no room for doubt that the four policemen were public officials who themselves inflicted the torture.

Barajas-Romero v. *Lynch,* 846 F.3d 351, 362–63 (9th Cir. 2017); *see also Rodriguez-Molinero* v. *Lynch,* 808 F.3d 1134, 1139 (7th Cir. 2015) (''Nor is the issue, as the immigration judge opined, whether the police officers who tortured the petitioner 'were rogue officers individually compensated by Jose to engage in isolated incidents of retaliatory brutality, rather than evidence of a broader pattern of governmental acquiescence in torture.' It is irrelevant whether the police were rogue (in the sense of not serving the interests of the Mexican government) or not.''). *But see Suarez-Valenzuela* v. *Holder,* 714 F.3d 241, 248 (4th Cir. 2013) (upholding the BIA's finding that a rogue police officer who harmed the respondent ''acted out of fear that the government would punish him and not with any form of government approval''); *Wang* v. *Ashcroft,* 320 F.3d 130, 144 (2d Cir. 2003) (''Moreover, although the BIA was bound to consider any past torture inflicted upon Wang by Chinese officials, 8 CFR 208.16(c)(3), Wang failed to establish that his alleged previous beating was anything more than a deviant practice carried out by one rogue military official.'').

The Departments propose revising 8 CFR 208.18(a)(1), (7) and 1208.18(a)(1), (7) to clarify (1) that pain or suffering inflicted by, or at the instigation of or with the consent or acquiescence of, a public official is not torture unless it is done while the official is acting in his or her official capacity (*i.e.* under ''color of law'') and (2) that pain or suffering inflicted by, or at the instigation of or with the consent or acquiescence of, a public official not acting under color of law (*i.e.,* a ''rogue official'') does not constitute a ''pain or suffering inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity,'' even if such actions cause pain and suffering that could rise to the severity of torture. Nothing in CAT or the CAT regulations issued pursuant to the implementing legislation indicates that any violent action of someone who happens to be employed by a government entity always constitutes inflicting, instigating, consenting to, or acquiescing in severe harm or suffering by a public official even when that employee is off-duty or not acting in any official governmental capacity. Indeed, the U.S. ratification history of the CAT specifically approves of a ''color of law'' analysis. *See, e.g.,* S. Exec. Rep. No. 101–30, at 14 (1990) (''Thus, the Convention applies only to torture that occurs in the context of governmental authority, excluding torture that occurs as a wholly private act or, in terms more familiar in U.S. law, it applies to torture inflicted 'under color of law.'''). Further, the Federal statute partially implementing CAT in the criminal law context uses a color of law descriptor as well. *See* 18 U.S.C. 2340(1) (''[T]orture' means an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control.''). As the BIA has explained, ''the key consideration in determining if a public official was acting under color of law is whether he was able to engage in torturous conduct because of his government position or if he could have done so without any connection to the government. Issues to consider in making this determination include whether government connections provided the officer access to the victim, or to his whereabouts or other identifying information; whether the officer was on duty and in uniform at the time of his conduct; and whether the officer threatened to retaliate through official channels if the victim reported his conduct to authorities.'' *Matter of O–F–A–S,* 27 I&N Dec. 709, 718 (BIA 2019). This proposed amendment to 8 CFR 208.18 and 1208.18 clarifies that the requirement that the individual be acting in an official capacity applies to both a ''public official,'' such as a police officer, and an ''other person,'' such as an individual deputized to act on the government's behalf.

The Departments also propose to clarify the definition of ''acquiescence of a public official'' at 8 CFR 208.18(a)(7) and 1208.18(a)(7). *See Scarlett* v. *Barr,* ____F.3d ____, 2020 WL 2046544, *13–14 (2d Cir. April 28, 2020) (discussing the need for further agency guidance concerning certain aspects of the ''acquiescence'' standard). The current definition provides that the ''official acquiescence'' standard ''requires that the public official, prior to the activity constituting torture, have awareness of such activity and thereafter breach his or her legal responsibility to intervene to prevent such activity.'' 8 CFR 208.18(a)(7), 1208.18(a)(7). The Departments propose to clarify that, as several courts of appeals and the BIA have recognized, ''awareness''—as used in the CAT ''acquiescence'' definition—requires a finding of either actual knowledge or willful blindness. *See, e.g., Silva-Rengifo* v. *Att'y Gen. of U.S.,* 473 F.3d 58, 70 (3d Cir. 2007); *Matter of J–G–D–F–,* 27 I&N Dec. 82, 90 (BIA 2017); *see also* S. Exec. Rep. No. 101–30, at 9. The Departments further propose to clarify in this rule that, for purposes of the CAT regulations, ''willful blindness'' means that ''the public official or other person acting in an official capacity was aware of a high probability of activity constituting torture and deliberately avoided learning the truth; it is not enough that such public official acting in an official capacity or other person acting in an official capacity was mistaken, recklessly disregarded the truth, or negligently failed to inquire.'' Proposed 8 CFR 208.18(a)(7), 1208.18(a)(7). This proposed definition is drawn from well-established legal principles. *See, e.g., Global-Tech Appliances, Inc.* v. *SEB S.A.,* 563 U.S. 754, 769–70 (2011); *United States* v. *Hansen,* 791 F.3d 863, 868 (8th Cir. 2015); *United States* v. *Heredia,* 483 F.3d 913, 918 n.4, 924 (9th Cir. 2007) (en banc); *Roye* v. *Att'y Gen. of U.S.,* 693 F.3d 333, 343 n.13 (3d Cir. 2012).

Additionally, the rule clarifies the second part of the two-part test for acquiescence set out in the Senate's understanding in the CAT ratification documents. *See* 136 Cong. Rec. S17486–01, 1990 WL 168442 (Oct. 27, 1990). In the ratification process, the United States government was concerned that the definition of torture needed to be clear enough to give officials due process notice of what conduct was criminal. *See Convention Against Torture: Hearing Before the S. Foreign Relations Comm.,* S. Hrg. No. 101–718, 101st Cong., 2d Sess. 14 (1990) (testimony of Mark Richard, Deputy Assistant Att'y Gen., Criminal Division, U.S. Department of Justice). The two steps of the acquiescence requirement, corresponding to a mens rea and an actus reus requirement, were included in the list of understandings to clarify that ''to be culpable under the [CAT] * * * the public official must have had prior awareness of [the activity constituting torture] and must have breached his legal responsibility to intervene to prevent the activity.'' *Id.* The rule clarifies that acquiescence is not established by prior awareness of the activity alone, but requires an omission of an act that the official had a duty to do and was able to do. *Cf.* Model Penal Code sec. 2.01(1) (''A person is not guilty of an offense unless his liability is based on conduct that includes a voluntary act or the omission to perform an act of which he is physically capable.''). First, the official or other person in question must have been charged with preventing the activity as part of his or her duties. So,

for instance, an official who is not charged with preventing crime or who is outside his or her jurisdiction would not have a legal responsibility to prevent activity constituting torture, even if that person was aware of the activity. *See, e.g., Ramirez-Peyro* v. *Holder,* 574 F.3d 893, 905 (8th Cir. 2009) (remanding for further analysis by the Board on whether police officers breached their legal duty to intervene when they declined to arrest themselves, their co-workers, and other individuals who assaulted the applicant). Second, such a person does not breach a legal duty to intervene if the person is unable to intervene, or if the person intervenes, but is nevertheless unable to prevent the activity. *See, e.g., Martinez Manzanares* v. *Barr,* 925 F.3d 222, 229 (5th Cir. 2019); *Zaldana Menijar* v. *Lynch,* 812 F.3d 491, 502 (6th Cir. 2015); *Garcia* v. *Holder,* 746 F.3d 869, 873–74 (8th Cir. 2014); *Garcia-Milian* v. *Holder,* 755 F.3d 1026, 1034 (9th Cir. 2014); *Ferry* v. *Gonzales,* 457 F.3d 1117, 1131 (10th Cir. 2006); *Reyes-Sanchez* v. *U.S. Att'y Gen.,* 369 F.3d 1239, 1243 (11th Cir. 2004). This aspect of the rule is meant to supersede any judicial decisions that could be read to hold that an official actor could acquiesce in torturous activities that he or she is unable to prevent. *See, e.g., Pieschacon-Villegas* v. *Att'y Gen.,* 671 F.3d 303, 311–12 (3d Cir. 2011); *Sarhan* v. *Holder,* 658 F.3d 649, 657–60 (7th Cir. 2011) (holding that the government's ineffectiveness at protecting women from honor killings showed governmental acquiescence); *see generally Nat'l Cable & Telecomms. Ass'n* v. *Brand X internet Servs.,* 545 U.S. 967, 982 (2005).

D. Information Disclosure

The regulations at 8 CFR 208.6 and 1208.6 govern the disclosure of information contained in or pertaining to an asylum application, credible fear records, and reasonable fear records. The nondisclosure provisions in 8 CFR 208.6(a)–(b) and 1208.6(a)–(b) cover ''[i]nformation contained in or pertaining to any asylum application,'' records pertaining to any credible fear or reasonable fear determination, and other records kept by the Departments that indicate that a specific alien has applied for asylum or received a credible fear or reasonable fear interview or review thereof. The ''asylum application'' includes information pertaining to statutory withholding of removal, 8 U.S.C. 1231(b)(3), and protection under the CAT regulations. *See* 8 CFR 208.3(b), 1208.3(b). The regulations prohibit disclosing protected information to unauthorized ''third parties'' but are silent, save by exception, as to who constitutes an unauthorized third party. Under the exceptions for nondisclosure contained in 8 CFR 208.6(c) and 1208.6(c), certain limited categories of persons and entities may receive otherwise-confidential asylum-related or other pertinent information for certain purposes. This includes a disclosure to any U.S. government official or contractor having a need to examine information in connection with the adjudication of an asylum application or consideration of a credible fear or reasonable fear claim. 8 CFR 208.6(c)(1)(i)–(ii) and 1208.6(c)(1)(i)–(ii). Accordingly, DHS and EOIR employees, and aliens' representatives of record, are not considered unauthorized third parties for purposes of the existing regulation.[42] Further, the Attorney General and Secretary of Homeland Security have the discretion to disclose any such information to any party. 8 CFR 208.6(a), 1208.6(a).

The Departments propose changes to 8 CFR 208.6 and 8 CFR 1208.6 to clarify that information may be disclosed in certain circumstances that directly relate to the integrity of immigration proceedings, including situations in which there is suspected fraud or improper duplication of applications or claims. An alien's decision to apply for asylum necessarily entails the alien's decision to provide the Government with information necessary to determine whether the person deserves refuge in the United States. Within the immigration system in the United States, such information does not exist in a vacuum, and there is a clear need to ensure that the confidentiality provisions are not being used to shield fraud and abuse that can only be uncovered by comparing applications and information across proceedings. Further, there is need to ensure that other types of criminal activity are not shielded from investigation and prosecution due to the confidentiality provisions. Furthermore, the proposed changes allow the information to be disclosed where it is necessary to the Government's defense of any legal action relating to the alien's immigration or custody status. Aliens routinely file suit in both district courts and courts of appeals raising an assortment of challenges to their immigration and custody status. Although the current regulation allows disclosure where the suit arises from the adjudication of an asylum application or of which the asylum application ''is a part,'' there is no clear exception covering disclosures in other civil immigration litigation in which it is necessary for the Government to disclose this information in order to fully defend the Government's position.

As such, the Department proposes to amend 8 CFR 208.6 and 8 CFR 1208.6 to specify that to the extent not already specifically permitted, and without the necessity of seeking the exercise of the Attorney General's or Secretary's discretion under paragraphs 208.6(a) and 1208.6(a), respectively, the Government may disclose[43] all relevant and applicable information in or pertaining to the application for asylum, statutory withholding of removal, and protection under the CAT regulations as part of a federal or state investigation, proceeding, or prosecution; as a defense to any legal action relating to the alien's immigration or custody status; an adjudication of the application itself or an adjudication of any other application or proceeding arising under the immigration laws; pursuant to any state or federal mandatory reporting requirement; and to deter, prevent, or ameliorate the effects of child abuse.

E. Severability

The Departments are proposing severability provisions in each of the new 8 CFR parts. The Departments believe that the provisions of each new part function sensibly independent of other provisions. However, to protect the goals for which this rule is being proposed, the Departments are codifying their intent that the provisions be severable so that, if necessary, the regulations can continue to function without a stricken provision.

V. Regulatory Requirements

A. Regulatory Flexibility Act

The Departments have reviewed this regulation in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)) and have determined that this rule will not have a significant economic impact on a substantial number of small entities. This regulation affects only individual aliens and the Federal Government.

[42] Further, the sharing of information between the Departments regarding an alien in immigration proceedings does not constitute a disclosure under these regulations and is otherwise excepted pursuant to 8 CFR 208.6(c) and 1208.6(c). As DHS is a party to all proceedings before EOIR, any records related to an aliens in such proceedings possessed by EOIR are also necessarily already possessed by DHS.

[43] Nothing in the proposed rule would prohibit agencies from placing additional restrictions on the disclosure of information consistent with internal policies as long as those policies do not conflict with the proposed regulatory language.

Individuals do not constitute small entities under the Regulatory Flexibility Act.

B. Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any 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.

C. Congressional Review Act

This proposed rule is anticipated not to be a major rule as defined by section 804 of the Congressional Review Act. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. 5 U.S.C. 804(2).

D. Executive Order 12866 and Executive Order 13563 (Regulatory Planning and Review)

The proposed rule is considered by the Departments to be a ''significant regulatory action'' under section 3(f)(4) of Executive Order 12866 because it raises novel legal or policy issues. Accordingly, the regulation has been submitted to the Office of Management and Budget (''OMB'') for review.

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

The proposed rule would change or provide additional clarity for adjudicators across many issues commonly raised by asylum applications and would potentially streamline the overall adjudicatory process for asylum applications. Although the proposed regulation would provide clarity to asylum law and operational streamlining to the credible fear review process, the proposed regulation does not change the nature of the role of an immigration judge or an asylum officer during proceedings for consideration of credible fear claims or asylum applications. Notably, immigration judges will retain their existing authority to review *de novo* the determinations made by asylum officers in a credible fear proceedings, and will continue to control immigration court proceedings. In credible fear proceedings, asylum officers will continue to evaluate the merits of claims for asylum, withholding of removal, and CAT protection for possible referral to the immigration judge. While this rule expands the bases on which an asylum officer may determine that a claim does not merit referral (and, as a consequence, make a negative fear determination), the alien will still be able to seek review of that negative fear determination before the immigration judge.

Immigration judges and asylum officers are already trained to consider all relevant legal issues in assessing a credible fear claim or asylum application, and the proposed rule does not propose any changes that would make adjudications more challenging than those that are already conducted. For example, immigration judges already consider issues of persecution, nexus, particular social group, frivolousness, firm resettlement, and discretion in assessing the merit of an asylum application, and the provision of clearer standards for considering those issues in the proposed regulation does not add any operational burden or increase the level of operational analysis required for adjudication. Accordingly, the Departments do not expect the proposed changes to increase the adjudication time for immigration court proceedings involving asylum applications or for reviews of negative fear determinations.

Depending on the manner in which DHS exercises its prosecutorial discretion for aliens potentially subject to expedited removal, the facts and circumstances of each individual alien's situation, and the Departments' interpretation and implementation of the relevant regulations by individual adjudicators, the proposed changes may decrease the number of cases of aliens subject to expedited removal that result in a full hearing on an application for asylum. In all cases, however, an alien will retain the opportunity to request immigration judge review of DHS's initial fear determination.

The Departments propose changes that may affect any alien subject to expedited removal who makes a fear claim and any alien who applies for asylum, statutory withholding of removal, or protection under the CAT regulations. The Departments note that the proposed changes are likely to result in fewer asylum grants annually due to clarifications regarding the significance of discretionary considerations and changes to the definition of firm resettlement. However; because asylum applications are inherently fact-specific, and because there may be multiple bases for denying an asylum application, neither DOJ nor DHS can quantify precisely the expected decrease. As of April 24, 2020, EOIR had 527,927 cases pending with an asylum application. In FY 2019, at the immigration court level, EOIR granted 18,816 asylum applications and denied 45,285 asylum applications. An additional 27,112 asylum applications were abandoned, withdrawn, or otherwise not adjudicated. As of January 1, 2020, USCIS had 338,931 applications for asylum and for withholding of removal pending.[44] In FY 2019, USCIS received 96,861 asylum applications, and approved 19,945 such applications.[45]

The Departments expect that the aliens most likely to be impacted by this rule's provisions are those who are already unlikely to receive a grant of asylum under existing law. Assuming DHS places those aliens into expedited removal proceedings, the Departments assess that it will be more likely that they would receive a more prompt adjudication of their claims for asylum or withholding of removal than they would under the existing regulations. Depending on the individual circumstances of each case, this rule would mean that such aliens would likely not remain in the United States—for years, potentially—pending resolution of their claims.

An alien who is ineligible for asylum may still be eligible to apply for the protection of withholding of removal

[44] *See* USCIS, *Number of Service-wide Forms Fiscal Year to Date, by Quarter and Form Status, Fiscal Year 2020, https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/Quarterly_All_Forms_FY2020Q1.pdf* (last visited May 28, 2020).

[45] *See* USCIS, *Number of Service-wide Forms Fiscal Year to Date, by Quarter, and Form Status, Fiscal Year 2019, https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/Quarterly_All_Forms_FY19Q4.pdf* (last visited May 28, 2020).

The data in this report only include approvals or denials (*i.e.,* asylum applicants otherwise in lawful status who were not found eligible for asylum by USCIS). Denials do not include out-of-status cases that were not found eligible for asylum and then were referred by USCIS to immigration court.

under section 241(b)(3) of the INA or withholding of removal under regulations issued pursuant to the legislation implementing U.S. obligations under Article 3 of CAT. *See* INA 241(b)(3), 8 U.S.C. 1231(b)(3); 8 CFR 208.16, 208.17 through 18, 1208.16, and 1208.17 through 18. For those aliens barred from asylum under this rule who would otherwise be positively adjudicated for asylum, it is possible they would qualify for withholding (provided a bar to withholding did not apply separate and apart from this rule). To the extent there are any direct impacts of this rule, they would almost exclusively fall on that population.[46] Further, the full extent of the impacts on this population is unclear and would depend on the specific circumstances and personal characteristics of each alien, and neither DHS nor DOJ collects such data at such a level of granularity.

Overall, the Departments assess that operational efficiencies will likely result from these proposed changes, which could, inter alia, reduce the number of meritless claims before the immigration courts, provide the Departments with the ability to more promptly grant relief or protection to qualifying aliens, and ensure that those who do not qualify for relief or protection are removed more efficiently than they are under current rules.

E. Executive Order 13132 (Federalism)

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

[46] Because statutory withholding of removal has a higher burden of proof, an alien granted such protection would necessarily also meet the statutory burden of proof for asylum, but would not be otherwise eligible for asylum due to a statutory bar or as a matter of discretion. Because asylum applications may be denied for multiple reasons and because the factual bases relevant for application of the proposed changes are not tracked at a granular level, there is no precise data on how many otherwise grantable asylum applications may be denied under this rule and, thus, there is no way to calculate precisely how many aliens will nevertheless be granted withholding. Further, because the immigration judge would have to adjudicate the application in either case, there is no cost to DOJ.

F. Executive Order 12988 (Civil Justice Reform)

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

G. Paperwork Reduction Act

DOJ and DHS invite comment on the impact to the proposed collection of information. In accordance with the Paperwork Reduction Act, the information collection notice is published in the **Federal Register** to obtain comments regarding the proposed edits to the information collection instrument.

Comments are encouraged and will be accepted until August 14, 2020. All submissions received must include the OMB Control Number 1615–0067 in the body of the submission. Comments on this information collection should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of Information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Asylum and for Withholding of Removal.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–589; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. Form I–589 is necessary to determine whether an alien applying for asylum or withholding of removal in the United States is classified as refugee, and is eligible to remain in the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–589 is approximately 114,000, and the estimated hour burden per response is 18 hours per response. The estimated number of respondents providing biometrics is 110,000, and the estimated hour burden per response is 1.17 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection of information in hours is 2,180,700.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $46,968,000.

H. Signature

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

List of Subjects

8 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Fees, Freedom of Information, Immigration, Privacy, Reporting and recordkeeping requirements, Surety bonds.

8 CFR Part 208

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements.

8 CFR Part 235

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements.

8 CFR Part 1003

Administrative practice and procedure, Aliens, Immigration, Legal services, Organization and functions (Government agencies).

8 CFR Part 1208

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements.

8 CFR Part 1235

Administrative practice and procedure, Aliens, Immigration,

Reporting and recordkeeping requirements.

Department of Homeland Security

Accordingly, for the reasons set forth in the preamble, the Department of Homeland Security proposes to amend 8 CFR parts 103, 208, and 235 as follows:

PART 103—IMMIGRATION BENEFITS; BIOMETRIC REQUIRMENTS; AVAILABILITY OF RECORDS

■ 1. The authority citation for part 103 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a; 8 U.S.C. 1101, 1103, 1304, 1356, 1356b, 1372; 31 U.S.C. 9701; Public Law 107–296, 116 Stat. 2135 (6 U.S.C. 1 *et seq.*); E.O. 12356, 47 FR 14874, 15557, 3 CFR, 1982 Comp., p. 166; 8 CFR part 2; Public Law 112–54, 125 Stat 550.

■ 2. Amend § 103.5 by
■ a. Revising paragraph (a) introductory text;
■ b. Revising the first full sentence of paragraph (a)(1)(i); and
■ c. Adding paragraph (d).

The revisions and addition read as follows:

§ 103.5 Reopening or reconsideration.

(a) Motions to reopen or reconsider proceedings or decisions on benefit requests in other than special agricultural worker and legalization cases—

(1) * * *

(i) *General.* Except where the Board has jurisdiction and as otherwise provided in 8 CFR parts 3, 210, 242, and 245a, when the affected party files a motion, the official having jurisdiction may, for proper cause shown, reopen the proceeding or reconsider the prior decision regarding the benefit request. * * *

* * * * *

(d) The provisions of this part are separate and severable from one another. In the event that any provision in this part is stayed, enjoined, not implemented, or otherwise held invalid, the remaining provisions shall nevertheless be implemented as an independent rule and continue in effect.

* * * * *

PART 208—PROCEDURES FOR ASYLUM AND WITHHOLDING OF REMOVAL

■ 3. The authority citation for part 208 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1158, 1226, 1252, 1282; Title VII of Public Law 110–229; 8 CFR part 2.

■ 4. Amend § 208.1 by adding paragraphs (c), (d), (e), (f), and (g) to read as follows:

§ 208.1 General.

* * * * *

(c) *Particular social group.* For purposes of adjudicating an application for asylum under section 208 of the Act or an application for withholding of removal under section 241(b)(3) of the Act, a particular social group is one that is based on an immutable or fundamental characteristic, is defined with particularity, and is recognized as socially distinct in the society at question. Such a particular social group cannot be defined exclusively by the alleged persecutory acts or harms and must also have existed independently of the alleged persecutory acts or harms that form the basis of the claim. The Secretary, in general, will not favorably adjudicate claims of aliens who claim a fear of persecution on account of membership in a particular social group consisting of or defined by the following circumstances: Past or present criminal activity or association (including gang membership); presence in a country with generalized violence or a high crime rate; being the subject of a recruitment effort by criminal, terrorist, or persecutory groups; the targeting of the applicant for criminal activity for financial gain based on perceptions of wealth or affluence; interpersonal disputes of which governmental authorities were unaware or uninvolved; private criminal acts of which governmental authorities were unaware or uninvolved; past or present terrorist activity or association; past or present persecutory activity or association; or status as an alien returning from the United States. This list is nonexhaustive, and the substance of the alleged particular social group, rather than the precise form of its delineation, shall be considered in determining whether the group falls within one of the categories on the list. No alien shall be found to be a refugee or have it decided that the alien's life or freedom would be threatened based on membership in a particular social group in any case unless that person first articulates on the record, or provides a basis on the record for determining, the definition and boundaries of the alleged particular social group. A failure to define, or provide a basis for defining, a formulation of a particular social group before an immigration judge shall waive any such claim for all purposes under the Act, including on appeal, and any waived claim on this basis shall not serve as the basis for any motion to reopen or reconsider for any reason, including a claim of ineffective assistance of counsel.

(d) *Political opinion.* For purposes of adjudicating an application for asylum under section 208 of the Act or an application for withholding of removal under section 241(b)(3) of the Act, a political opinion is one expressed by or imputed to an applicant in which the applicant possesses an ideal or conviction in support of the furtherance of a discrete cause related to political control of a state or a unit thereof. The Secretary, in general, will not favorably adjudicate claims of aliens who claim a fear of persecution on account of a political opinion defined solely by generalized disapproval of, disagreement with, or opposition to criminal, terrorist, gang, guerilla, or other non-state organizations absent expressive behavior in furtherance of a cause against such organizations related to efforts by the state to control such organizations or behavior that is antithetical to or otherwise opposes the ruling legal entity of the state or a legal sub-unit of the state. A person who has been forced to abort a pregnancy or to undergo involuntary sterilization, or who has been persecuted for failure or refusal to undergo such a procedure or for other resistance to a coercive population control program, shall be deemed to have been persecuted on account of political opinion, and a person who has a well-founded fear that he or she will be forced to undergo such a procedure or subject to persecution for such failure, refusal, or resistance shall be deemed to have a well-founded fear of persecution on account of political opinion.

(e) *Persecution.* For purposes of screening or adjudicating an application for asylum under section 208 of the Act or an application for withholding of removal under section 241(b)(3) of the Act, persecution requires an intent to target a belief or characteristic, a severe level of harm, and the infliction of a severe level of harm by the government of a country or by persons or an organization that the government was unable or unwilling to control. For purposes of evaluating the severity of the level of harm, persecution is an extreme concept involving a severe level of harm that includes actions so severe that they constitute an exigent threat. Persecution does not encompass the generalized harm that arises out of civil, criminal, or military strife in a country, nor does it encompass all treatment that the United States regards as unfair, offensive, unjust, or even unlawful or unconstitutional. It does not include intermittent harassment, including brief detentions; threats with no actual effort to carry out the threats; or, non-severe

economic harm or property damage, though this list is nonexhaustive. The existence of laws or government policies that are unenforced or infrequently enforced do not, by themselves, constitute persecution, unless there is credible evidence that those laws or policies have been or would be applied to an applicant personally.

(f) *Nexus*—(1) *General.* For purposes of adjudicating an application for asylum under section 208 of the Act or an application or withholding of removal under section 241(b)(3) of the Act, the Secretary, in general, will not favorably adjudicate the claims of aliens who claim persecution based on the following list of nonexhaustive circumstances:

(i) Interpersonal animus or retribution;

(ii) Interpersonal animus in which the alleged persecutor has not targeted, or manifested an animus against, other members of an alleged particular social group in addition to the member who has raised the claim at issue;

(iii) Generalized disapproval of, disagreement with, or opposition to criminal, terrorist, gang, guerilla, or other non-state organizations absent expressive behavior in furtherance of a discrete cause against such organizations related to control of a state or expressive behavior that is antithetical to the state or a legal unit of the state;

(iv) Resistance to recruitment or coercion by guerilla, criminal, gang, terrorist or other non-state organizations;

(v) The targeting of the applicant for criminal activity for financial gain based on wealth or affluence or perceptions of wealth or affluence;

(vi) Criminal activity;

(vii) Perceived, past or present, gang affiliation; or,

(viii) Gender.

(2) [Reserved]

(g) *Evidence based on stereotypes.* For purposes of adjudicating an application for asylum under section 208 of the Act or an application for withholding of removal under section 241(b)(3) of the Act, evidence promoting cultural stereotypes about an individual or a country, including stereotypes based on race, religion, nationality, or gender, and offered to support the basis of an alleged fear of harm from the individual or country shall not be admissible in adjudicating that application.

■ 5. Amend § 208.2 by adding paragraph (c)(1)(ix) to read as follows:

§ 208.2 Jurisdiction.

* * * * *

(c) * * *

(1) * * *

(ix) An alien found to have a credible fear of persecution, reasonable possibility of persecution, or reasonable possibility of torture in accordance with § 208.30, and §§ 1003.42 or 1208.30 of this title.

* * * * *

■ 6. Amend § 208.5 by revising the first sentence of paragraph (a) to read as follows:

§ 208.5 Special duties toward aliens in custody of DHS.

(a) *General.* When an alien in the custody of DHS requests asylum or withholding of removal, or expresses a fear of persecution or harm upon return to his or her country of origin or to agents thereof, DHS shall make available the appropriate application forms and shall provide the applicant with the information required by section 208(d)(4) of the Act, including in the case of an alien who is in custody with a positive credible fear or reasonable fear determination under §§ 208.30 or 208.31, and except in the case of an alien who is in custody pending a credible fear determination under § 208.30 or a reasonable fear determination pursuant to § 208.31. * * *

* * * * *

■ 7. Amend § 208.6 by—

■ a. Revising paragraphs (a) and (b); and

■ b. Adding paragraphs (d), (e), and (f).

The revisions and additions read as follows:

§ 208.6 Disclosure to third parties.

(a) Information contained in or pertaining to any asylum application, records pertaining to any credible fear determination conducted pursuant to § 208.30, and records pertaining to any reasonable fear determination conducted pursuant to § 208.31, shall not be disclosed without the written consent of the applicant, except as permitted by this section or at the discretion of the Secretary.

(b) The confidentiality of other records kept by DHS and the Executive Office for Immigration Review that indicate that a specific alien has applied for asylum, received a credible fear or reasonable fear interview, or received a credible fear or reasonable fear review shall also be protected from disclosure, except as permitted in this section. DHS will coordinate with the Department of State to ensure that the confidentiality of those records is maintained if they are transmitted to Department of State offices in other countries.

* * * * *

(d)(1) Any information contained in an application for asylum, withholding of removal under section 241(b)(3) of the Act, or protection under regulations issued pursuant to the Convention Against Torture's implementing legislation, any relevant and applicable information supporting that application, any information regarding an alien who has filed such an application, and any relevant and applicable information regarding an alien who has been the subject of a reasonable fear or credible fear determination may be disclosed:

(i) As part of an investigation or adjudication of the merits of that application or of any other application under the immigration laws,

(ii) As part of any state or federal criminal investigation, proceeding, or prosecution;

(iii) Pursuant to any state or federal mandatory reporting requirement;

(iv) To deter, prevent, or ameliorate the effects of child abuse;

(v) As part of any proceeding arising under the immigration laws, including proceedings arising under the Act; and

(vi) As part of the Government's defense of any legal action relating to the alien's immigration or custody status including petitions for review filed in accordance with 8 U.S.C. 1252.

(2) If information may be disclosed under paragraph (d)(1) of this section, the disclosure provisions in paragraphs (a), (b), and (c) of this section shall not apply.

(e) Nothing in this section shall be construed as prohibiting the disclosure of information contained in an application for asylum, withholding of removal under section 241(b)(3)(B) of the Act, or protection under regulations issued pursuant to the Convention Against Torture's implementing legislation, information supporting that application, information regarding an alien who has filed such an application, or information regarding an alien who has been the subject of a reasonable fear or credible fear determination:

(1) Among employees and officers of the Department of Justice, the Department of Homeland Security, the Department of State, the Department of Health and Human Services, the Department of Labor, or a U.S. national security agency having a need to examine the information for an official purpose; or

(2) Where a United States Government employee or contractor has a good faith and reasonable belief that disclosure is necessary to prevent the commission of a crime, the furtherance of an ongoing crime, or to ameliorate the effects of a crime.

■ 8. Amend § 208.13 by:

■ a. Revising paragraph (b)(3) introductory text;

■ b. Revising paragraph (b)(3)(ii);
■ c. Adding paragraphs (b)(3)(iii) and (iv), and (d).

The revisions and additions read as follows:

§ 208.13 Establishing asylum eligibility.

* * * * *

(b) * * *

(3) *Reasonableness of internal relocation.* For purposes of determinations under paragraphs (b)(1)(i), (ii), and (2) of this section, adjudicators should consider the totality of the relevant circumstances regarding an applicant's prospects for relocation, including the size of the country of nationality or last habitual residence, the geographic locus of the alleged persecution, the size, reach, or numerosity of the alleged persecutor, and the applicant's demonstrated ability to relocate to the United States in order to apply for asylum.

* * * * *

(ii) In cases in which the persecutor is a government or is government-sponsored, it shall be presumed that internal relocation would not be reasonable, unless DHS establishes by a preponderance of the evidence that, under all the circumstances, it would be reasonable for the applicant to relocate.

(iii) Regardless of whether an applicant has established persecution in the past, in cases in which the persecutor is not the government or a government-sponsored actor, or otherwise is a private actor, there shall be a presumption that internal relocation would be reasonable unless the applicant establishes, by a preponderance of the evidence, that it would be unreasonable to relocate.

(iv) For purposes of determinations under paragraphs (b)(3)(ii) and (b)(3)(iii) of this section, persecutors who are private actors—including persecutors who are gang members, rogue officials, family members who are not themselves government officials, or neighbors who are not themselves government officials—shall not be considered to be persecutors who are the government or government-sponsored absent evidence that the government sponsored the persecution.

* * * * *

(d) *Discretion.* Factors that fall short of grounds of mandatory denial of an asylum application may constitute discretionary considerations.

(1) *Significant adverse discretionary factors.* The following are significant adverse discretionary factors that a decision-maker shall consider, if applicable, in determining whether an alien merits a grant of asylum in the exercise of discretion:

(i) An alien's unlawful entry or unlawful attempted entry into the United States unless such entry or attempted entry was made in immediate flight from persecution in a contiguous country;

(ii) The failure of an alien to apply for protection from persecution or torture in at least one country outside the alien's country of citizenship, nationality, or last lawful habitual residence through which the alien transited before entering the United States unless:

(A) The alien received a final judgment denying the alien protection in such country;

(B) The alien demonstrates that he or she satisfies the definition of ''victim of a severe form of trafficking in persons'' provided in 8 CFR 214.11; or

(C) Such country or all such countries were, at the time of the transit, not parties to the 1951 United Nations Convention relating to the Status of Refugees, the 1967 Protocol, or the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and

(iii) An alien's use of fraudulent documents to enter the United States, unless the alien arrived in the United States by air, sea, or land directly from the applicant's home country without transiting through any other country.

(2)(i) The Secretary, except as provided in paragraph (d)(2)(ii) of this section, will not favorably exercise discretion under section 208 of the Act for an alien who:

(A) Immediately prior to his arrival in the United States or en route to the United States from the alien's country of citizenship, nationality, or last lawful habitual residence, spent more than 14 days in any one country unless:

(*1*) The alien demonstrates that he or she applied for protection from persecution or torture in such country and the alien received a final judgment denying the alien protection in such country;

(*2*) The alien demonstrates that he or she satisfies the definition of ''victim of a severe form of trafficking in persons'' provided in 8 CFR 214.11; or

(*3*) Such country was, at the time of the transit, not a party to the 1951 United Nations Convention relating to the Status of Refugees, the 1967 Protocol, or the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(B) Transits through more than one country between his country of citizenship, nationality, or last habitual residence and the United States unless:

(*1*) The alien demonstrates that he or she applied for protection from persecution or torture in at least one such country and received a final judgment denying the alien protection in that country;

(*2*) The alien demonstrates that he or she satisfies the definition of ''victim of a severe form of trafficking in persons'' provided in 8 CFR 214.11; or

(*3*) All such countries were, at the time of the transit, not parties to the 1951 United Nations Convention relating to the Status of Refugees, the 1967 Protocol, or the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ;

(C) Would otherwise be subject to § 208.13(c) but for the reversal, vacatur, expungement, or modification of a conviction or sentence unless the alien was found not guilty;

(D) Accrued more than one year of unlawful presence in the United States prior to filing an application for asylum;

(E) At the time the asylum application is filed with DHS has:

(*1*) Failed to timely file (or timely file a request for an extension of time to file) any required federal, state, or local income tax returns;

(*2*) Failed to satisfy any outstanding federal, state, or local tax obligations; or

(*3*) Has income that would result in tax liability under section 1 of the Internal Revenue Code of 1986 and that was not reported to the Internal Revenue Service;

(F) Has had two or more prior asylum applications denied for any reason;

(G) Has withdrawn a prior asylum application with prejudice or been found to have abandoned a prior asylum application;

(H) Failed to attend an interview regarding his asylum application with DHS, unless the alien shows by a preponderance of the evidence that:

(*1*) Exceptional circumstances prevented the alien from attending the interview; or

(*2*) The interview notice was not mailed to the last address provided by the alien or his or her representative and neither the alien nor the alien's representative received notice of the interview; or

(I) Was subject to a final order of removal, deportation, or exclusion and did not file a motion to reopen to seek asylum based on changed country conditions within one year of those changes in country conditions.

(ii) Where one or more of the adverse discretionary factors set forth in paragraph (d)(2)(i) of this section are present, the Secretary, in extraordinary circumstances, such as those involving

national security or foreign policy considerations, or cases in which an alien, by clear and convincing evidence, demonstrates that the denial of the application for asylum would result in exceptional and extremely unusual hardship to the alien, may favorably exercise discretion under section 208 of the Act, notwithstanding the applicability of paragraph (d)(2)(i) of this section. Depending on the gravity of the circumstances underlying the application of paragraph (d)(2)(i) of this section, a showing of extraordinary circumstances might still be insufficient to warrant a favorable exercise of discretion under section 208 of the Act.

■ 9. Revise § 208.15 to read as follows:

§ 208.15 Definition of "firm resettlement."

(a) An alien is considered to be firmly resettled if:

(1) The alien either resided or could have resided in any permanent legal immigration status or any non-permanent, potentially indefinitely renewable legal immigration status (including asylee, refugee, or similar status but excluding status such as of a tourist) in a country through which the alien transited prior to arriving in or entering the United States, regardless of whether the alien applied for or was offered such status;

(2) The alien physically resided voluntarily, and without continuing to suffer persecution or torture, in any one country for one year or more after departing his country of nationality or last habitual residence and prior to arrival in or entry into the United States; or

(3)(i) The alien is a citizen of a country other than the one where the alien alleges a fear of persecution and the alien was present in that country prior to arriving in the United States, or

(ii) The alien was a citizen of a country other than the one where the alien alleges a fear of persecution, the alien was present in that country prior to arriving in the United States, and the alien renounced that citizenship after arriving in the United States.

(b) The provisions of 8 CFR 1240.8(d) shall apply when the evidence of record indicates that the firm resettlement bar may apply. In such cases, the alien shall bear the burden of proving the bar does not apply. Either DHS or the immigration judge may raise the issue of the application of the firm resettlement bar based on the evidence of record. The firm resettlement of an alien's parent(s) shall be imputed to the alien if the resettlement occurred before the alien turned 18 and the alien resided with the alien's parents at the time of the firm resettlement unless the alien establishes that he or she could not have derived any permanent legal immigration status or any potentially indefinitely renewable temporary legal immigration status (including asylee, refugee, or similar status but excluding status such as of a tourist) from the alien's parent.

■ 10. Amend § 208.16 by:

■ a. Revising paragraph (b)(3) introductory text;

■ b. Revising paragraph (b)(3)(ii);

■ c. Adding paragraphs (b)(3)(iii) and (iv).

The revisions and additions read as follows:

§ 208.16 Withholding of removal under section 241(b)(3)(B) of the Act and withholding of removal under the Convention Against Torture.

* * * * *

(b)(3) *Reasonableness of internal relocation.* For purposes of determinations under paragraphs (b)(1) and (2) of this section, adjudicators should consider the totality of the relevant circumstances regarding an applicant's prospects for relocation, including the size of the country of nationality or last habitual residence, the geographic locus of the alleged persecution, the size, reach, or numerosity of the alleged persecutor, and the applicant's demonstrated ability to relocate to the United States in order to apply for withholding of removal.

* * * * *

(ii) In cases in which the persecutor is a government or is government-sponsored, it shall be presumed that internal relocation would not be reasonable, unless DHS establishes by a preponderance of the evidence that, under the totality of the circumstances, it would be reasonable for the applicant to relocate.

(iii) Regardless of whether an applicant has established persecution in the past, in cases in which the persecutor is not the government or a government-sponsored actor, or otherwise is a private actor, there shall be a presumption that internal relocation would be reasonable unless the applicant establishes, by a preponderance of the evidence, that it would be unreasonable to relocate.

(iv) For purposes of determinations under paragraphs (b)(3)(ii) and (iii) of this section, persecutors who are private actors, including but not limited to persecutors who are gang members, rogue officials, or family members who are not themselves government officials or neighbors who are not themselves government officials, shall not be considered to be persecutors who are the government or government-sponsored absent evidence that the government sponsored the persecution.

* * * * *

■ 11. Amend § 208.18 by revising paragraphs (a)(1) and (7) to read as follows:

§ 208.18 Implementation of the Convention Against Torture.

(a) * * *

(1) Torture is defined as any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or her or a third person information or a confession, punishing him or her for an act he or she or a third person has committed or is suspected of having committed, or intimidating or coercing him or her or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official acting in an official capacity or other person acting in an official capacity. Pain or suffering inflicted by a public official who is not acting under color of law (''rogue official'') shall not constitute pain or suffering inflicted by or at the instigation of or with the consent or acquiescence of a public official acting in an official capacity or other person acting in an official capacity, although a different public official acting in an official capacity or other person acting in an official capacity could instigate, consent to, or acquiesce in the pain or suffering inflicted by the rogue official.

* * * * *

(7) Acquiescence of a public official requires that the public official, prior to the activity constituting torture, have awareness of such activity and thereafter breach his or her legal responsibility to intervene to prevent such activity. Such awareness requires a finding of either actual knowledge or willful blindness. Willful blindness means that the public official acting in an official capacity or other person acting in an official capacity was aware of a high probability of activity constituting torture and deliberately avoided learning the truth; it is not enough that such public official acting in an official capacity or other person acting in an official capacity was mistaken, recklessly disregarded the truth, or negligently failed to inquire. In order for a public official to breach his or her legal responsibility to intervene to prevent activity constituting torture, the official must have been charged with preventing the activity as part of his or her duties and have failed to intervene. No person will be deemed to have

breached a legal responsibility to intervene if such person is unable to intervene, or if the person intervenes but is unable to prevent the activity that constitutes torture.

* * * * *

■ 12. Revise § 208.20 to read as follows:

§ 208.20 Determining if an asylum application is frivolous.

(a) For applications filed on or after April 1, 1997, an applicant is subject to the provisions of section 208(d)(6) of the Act only if the alien received the notice required by section 208(d)(4)(A) of the Act and a final order by an immigration judge or the Board of Immigration Appeals specifically finds that the alien knowingly filed a frivolous asylum application. An alien knowingly files a frivolous asylum application if:

(1) The application is described in paragraph (c) of this section; and

(2) The alien filed the application with either actual knowledge, or willful blindness, of the fact that the application was described in paragraph (c) in this section.

(b) For applications filed on or after [EFFECTIVE DATE OF FINAL RULE], an asylum officer may determine that the applicant knowingly filed a frivolous asylum application and may refer the applicant to an immigration judge on that basis, so long as the applicant has received the notice required by section 208(d)(4)(A) of the Act. Such finding will be made only if the asylum officer is satisfied that the applicant has had sufficient opportunity to account for any discrepancies or implausible aspects of the claim. For any application referred to an immigration judge, an asylum officer's determination that an application is frivolous will not render an applicant permanently ineligible for immigration benefits unless an immigration judge or the Board makes a finding of frivolousness as described in paragraph 1208.20(c).

(c) For purposes of this section, beginning on [effective date of final rule], an asylum application is frivolous if it:

(1) Contains a fabricated essential element;

(2) Is premised upon false or fabricated evidence unless the application would have been granted without the false or fabricated evidence;

(3) Is filed without regard to the merits of the claim; or

(4) Is clearly foreclosed by applicable law.

(d) If the alien has been provided the warning required by section 208(d)(4)(A) of the Act, he or she need not be given any additional or further opportunity to account for any issues with his or her claim prior to the entry of a frivolousness finding.

(e) An asylum application may be found frivolous even if it was untimely filed.

(f) A withdrawn asylum application may also be found frivolous unless:

(1) The alien wholly disclaims the application and withdraws it with prejudice;

(2) The alien is eligible for and agrees to accept voluntary departure for a period of no more than 30 days pursuant to section 240B(a) of the Act;

(3) The alien withdraws any and all other applications for relief or protection with prejudice; and

(4) The alien waives his right to appeal and any rights to file, for any reason, a motion to reopen or reconsider.

(g) For purposes of this section, a finding that an alien knowingly filed a frivolous asylum application shall not preclude the alien from seeking withholding of removal under section 241(b)(3) of the Act or protection under the regulations issued pursuant to the Convention Against Torture's implementing legislation.

■ 13. Add § 208.25 to read as follows:

§ 208.25 Severability.

The provisions of this part are separate and severable from one another. In the event that any provision in this part is stayed, enjoined, not implemented, or otherwise held invalid, the remaining provisions shall nevertheless be implemented as an independent rule and continue in effect.

■ 14. Amend § 208.30 by:

■ a. Revising the section heading;

■ b. Revising paragraphs (a), (b), (c), and (d);

■ c. Revising (e) introductory text, (e)(1) through (5), (e)(6) introductory text, (e)(6)(ii), (e)(6)(iii) introductory text, (e)(6)(iv), the first sentence of the introductory text of paragraph (e)(7), (e)(7)(ii); and

■ d. Revising paragraphs (f) and (g).

The revisions read as follows:

§ 208.30 Credible fear of persecution, reasonable possibility of persecution, and reasonable possibility of torture determinations involving stowaways and applicants for admission who are found inadmissible pursuant to section 212(a)(6)(C) or 212(a)(7) of the Act, whose entry is limited or suspended under section 212(f) or 215(a)(1) of the Act, or who failed to apply for protection from persecution in a third country where potential relief is available while en route to the United States.

(a) *Jurisdiction.* The provisions of this subpart B apply to aliens subject to sections 235(a)(2) and 235(b)(1) of the Act. Pursuant to section 235(b)(1)(B) of the Act, DHS has exclusive jurisdiction to make the determinations described in this subpart B. Except as otherwise provided in this subpart B, paragraphs (b) through (g) of this section are the exclusive procedures applicable to stowaways and applicants for admission who are found inadmissible pursuant to section 212(a)(6)(C) or 212(a)(7) of the Act and who receive fear interviews, determinations, and reviews under section 235(b)(1)(B) of the Act. Prior to January 1, 2030, an alien physically present in or arriving in the Commonwealth of the Northern Mariana Islands is ineligible to apply for asylum and may only establish eligibility for withholding of removal pursuant to section 241(b)(3) of the Act or withholding or deferral of removal under the regulations issued pursuant to the Convention Against Torture's implementing legislation.

(b) *Process and authority.* If an alien subject to section 235(a)(2) or 235(b)(1) of the Act indicates an intention to apply for asylum, or expresses a fear of persecution or torture, or a fear of return to his or her country, the inspecting officer shall not proceed further with removal of the alien until the alien has been referred for an interview by an asylum officer in accordance with this section. An asylum officer shall then screen the alien for a credible fear of persecution, and as necessary, a reasonable possibility of persecution and reasonable possibility of torture. An asylum officer, as defined in section 235(b)(1)(E) of the Act, has the authorities described in § 208.9(c) and must conduct an evaluation and make a determination consistent with this section.

(c) *Treatment of dependents.* A spouse or child of an alien may be included in that alien's fear evaluation and determination, if such spouse or child:

(1) Arrived in the United States concurrently with the principal alien; and

(2) Desires to be included in the principal alien's determination. However, any alien may have his or her evaluation and determination made separately, if he or she expresses such a desire.

(d) *Interview.* The asylum officer will conduct the interview in a nonadversarial manner, separate and apart from the general public. The purpose of the interview shall be to elicit all relevant and useful information bearing on whether the alien can establish a credible fear of persecution, reasonable possibility of persecution, or

reasonable possibility of torture. The asylum officer shall conduct the interview as follows:

(1) If the officer conducting the interview determines that the alien is unable to participate effectively in the interview because of illness, fatigue, or other impediments, the officer may reschedule the interview.

(2) At the time of the interview, the asylum officer shall verify that the alien has received in writing the relevant information regarding the fear determination process. The officer shall also determine that the alien has an understanding of the fear determination process.

(3) The alien may be required to register his or her identity.

(4) The alien may consult with a person or persons of the alien's choosing prior to the interview or any review thereof, and may present other evidence, if available. Such consultation shall be at no expense to the Government and shall not unreasonably delay the process. Any person or persons with whom the alien chooses to consult may be present at the interview and may be permitted, in the discretion of the asylum officer, to present a statement at the end of the interview. The asylum officer, in his or her discretion, may place reasonable limits on the number of persons who may be present at the interview and on the length of the statement.

(5) If the alien is unable to proceed effectively in English, and if the asylum officer is unable to proceed competently in a language the alien speaks and understands, the asylum officer shall arrange for the assistance of an interpreter in conducting the interview. The interpreter must be at least 18 years of age and may not be the alien's attorney or representative of record, a witness testifying on the alien's behalf, a representative or employee of the alien's country of nationality, or, if the alien is stateless, the alien's country of last habitual residence.

(6) The asylum officer shall create a summary of the material facts as stated by the alien. At the conclusion of the interview, the officer shall review the summary with the alien and provide the alien with an opportunity to correct any errors therein.

(e) Procedures for determining credible fear of persecution, reasonable possibility of persecution, and reasonable possibility of torture.

(1) An alien establishes a credible fear of persecution if there is a significant possibility the alien can establish eligibility for asylum under section 208 of the Act. ''Significant possibility'' means a substantial and realistic possibility of succeeding. When making such a determination, the asylum officer shall take into account:

(i) The credibility of the statements made by the alien in support of the alien's claim;

(ii) Such other facts as are known to the officer, including whether the alien could avoid any future harm by relocating to another part of his or her country, if under all the circumstances it would be reasonable to expect the alien to do so; and

(iii) The applicability of any bars to being able to apply for asylum or to eligibility for asylum set forth at section 208(a)(2)(B)–(C) and (b)(2) of the Act, including any bars established by regulation under section 208(b)(2)(C) of the Act.

(2) An alien establishes a reasonable possibility of persecution if there is a reasonable possibility that the alien would be persecuted on account of his or her race, religion, nationality, membership in a particular social group, or political opinion in the country of removal. When making such determination, the officer will take into account:

(i) The credibility of the statements made by the alien in support of the alien's claim;

(ii) Such other facts as are known to the officer, including whether the alien could avoid a future threat to his or her life or freedom by relocating to another party of the proposed country of removal and, under all circumstances, it would be reasonable to expect the applicant to do so; and

(iii) The applicability of any bars at section 241(b)(3)(B) of the Act.

(3) An alien establishes a reasonable possibility of torture if there is a reasonable possibility that the alien would be tortured in the country of removal, consistent with the criteria in §§ 208.16(c), 208.17, and 208.18. The alien must demonstrate a reasonable possibility that he or she will suffer severe pain or suffering in the country of removal, and that the feared harm would comport with the other requirements of § 208.18(a)(1) through (8). When making such a determination, the asylum officer shall take into account:

(i) The credibility of the statements made by alien in support of the alien's claim, and

(ii) Such other facts as are known to the officer, including whether the alien could relocate to a part of the country of removal where he or she is not likely to be tortured.

(4) In all cases, the asylum officer will create a written record of his or her determination, including a summary of the material facts as stated by the alien, any additional facts relied on by the officer, and the officer's determination of whether, in light of such facts, the alien has established a credible fear of persecution, reasonable possibility of persecution, or reasonable possibility of torture. An asylum officer's determination will not become final until reviewed by a supervisory asylum officer.

(5)(i)(A) Except as provided in paragraphs (e)(5)(ii) through(iii), (e)(6), or (e)(7) of this section, if an alien would be able to establish a credible fear of persecution but for the fact that the alien is subject to one or more of the mandatory bars to applying for asylum or being eligible for asylum contained in section 208(a)(2)(B)–(D) and (b)(2) of the Act, including any bars established by regulation under section 208(b)(2)(C) of the Act, then the asylum officer will enter a negative credible fear of persecution determination with respect to the alien's eligibility for asylum.

(B) If an alien described in paragraph (e)(5)(i)(A) of this section is able to establish either a reasonable possibility of persecution (including by establishing that he or she is not subject to one or more of the mandatory bars to eligibility for withholding of removal contained in section 241(b)(3)(B) of the Act) or a reasonable possibility of torture, then the asylum officer will enter a positive reasonable possibility of persecution or torture determination, as applicable. The Department of Homeland Security shall place the alien in asylum-and-withholding-only proceedings under § 208.2(c)(1) for full consideration of the alien's claim for withholding of removal under section 241(b)(3) of the Act or withholding or deferral of removal under the regulations issued pursuant to the implementing legislation for the Convention Against Torture.

(C) If an alien described in paragraph (e)(5)(i)(A) of this section fails to establish either a reasonable possibility of persecution (including by failing to establish that he or she is not subject to one or more of the mandatory bars to eligibility for withholding of removal contained in section 241(b)(3)(B) of the Act) or a reasonable possibility of torture, the asylum officer will provide the alien with a written notice of decision, which will be subject to immigration judge review consistent with paragraph (g) of this section, except that the immigration judge will review the fear findings under the reasonable possibility standard instead of the credible fear of persecution standard described in paragraph (g) of this section and in 8 CFR 1208.30(g).

(ii) If the alien is found to be an alien described in 8 CFR 208.13(c)(3), then the asylum officer shall enter a negative credible fear determination with respect to the alien's application for asylum. The Department shall nonetheless place the alien in asylum-and-withholding-only proceedings under § 208.2(c)(1) for full consideration of the alien's claim for withholding of removal under section 241(b)(3) of the Act, or for withholding or deferral of removal under the regulations issued pursuant to the implementing legislation for the Convention Against Torture, if the alien establishes, respectively, a reasonable possibility of persecution or torture. However, if an alien fails to establish, during the interview with the asylum officer, a reasonable possibility of either persecution or torture, the asylum officer will provide the alien with a written notice of decision, which will be subject to immigration judge review consistent with paragraph (g) of this section, except that the immigration judge will review the fear of persecution findings under the reasonable possibility standard instead of the credible fear standard described in paragraph (g) and in 8 CFR 1208.30(g).

(iii) If the alien is found to be an alien described in § 208.13(c)(4), then the asylum officer shall enter a negative credible fear determination with respect to the alien's application for asylum. The Department shall nonetheless place the alien in asylum-and-withholding-only proceedings under § 208.2(c)(1) for full consideration of the alien's claim for withholding of removal under section 241(b)(3) of the Act or withholding of deferral of removal under the regulations issued pursuant to the implementing legislation for the Convention Against Torture if the alien establishes, respectively, a reasonable possibility of persecution or torture. However, if an alien fails to establish, during the interview with the asylum officer, a reasonable possibility of either persecution or torture, the asylum officer will provide the alien with a written notice of decision, which will be subject to immigration judge review consistent with paragraph (g) of this section, except that the immigration judge will review the fear of persecution findings under the reasonable possibility standard instead of the credible fear standard described in paragraph (g) and in 8 CFR 1208.30(g).

(6) Prior to any determination concerning whether an alien arriving in the United States at a U.S.-Canada land border port-of-entry or in transit through the U.S. during removal by Canada has a credible fear of persecution, reasonable possibility of persecution, or reasonable possibility of torture, the asylum officer shall conduct a threshold screening interview to determine whether such an alien is ineligible to apply for asylum pursuant to section 208(a)(2)(A) of the Act and subject to removal to Canada by operation of the Agreement Between the Government of the United States and the Government of Canada For Cooperation in the Examination of Refugee Status Claims from Nationals of Third Countries (''Agreement''). In conducting this threshold screening interview, the asylum officer shall apply all relevant interview procedures outlined in paragraph (d) of this section, provided, however, that paragraph (d)(2) of this section shall not apply to aliens described in this paragraph (e)(6). The asylum officer shall advise the alien of the Agreement's exceptions and question the alien as to applicability of any of these exceptions to the alien's case.

* * * * *

(ii) If the alien establishes by a preponderance of the evidence that he or she qualifies for an exception under the terms of the Agreement, the asylum officer shall make a written notation of the basis of the exception, and then proceed immediately to a determination concerning whether the alien has a credible fear of persecution, reasonable possibility of persecution, or reasonable possibility of torture under paragraph (d) of this section.

(iii) An alien qualifies for an exception to the Agreement if the alien is not being removed from Canada in transit through the United States and:

* * * * *

(iv) As used in paragraphs (e)(6)(iii)(B), (C) and (D) of this section only, ''legal guardian'' means a person currently vested with legal custody of such an alien or vested with legal authority to act on the alien's behalf, provided that such an alien is both unmarried and less than 18 years of age, and provided further that any dispute with respect to whether an individual is a legal guardian will be resolved on the basis of U.S. law.

(7) When an immigration officer has made an initial determination that an alien, other than an alien described in paragraph (e)(6) of this section and regardless of whether the alien is arriving at a port of entry, appears to be subject to the terms of an agreement authorized by section 208(a)(2)(A) of the Act, and seeks the alien's removal consistent with that provision, prior to any determination concerning whether the alien has a credible fear of persecution, reasonable possibility of persecution, or a reasonable possibility of torture, the asylum officer shall conduct a threshold screening interview to determine whether the alien is ineligible to apply for asylum in the United States and is subject to removal to a country (''receiving country'') that is a signatory to the applicable agreement authorized by section 208(a)(2)(A) of the Act, other than the U.S.-Canada Agreement effectuated in 2004. * * *

* * * * *

(ii) If the alien establishes by a preponderance of the evidence that he or she qualifies for an exception under the terms of the applicable agreement, or would more likely than not be persecuted on account of his or her race, religion, nationality, membership in a particular social group, or tortured, in the receiving country, the asylum officer shall make a written notation to that effect, and may then proceed to determine whether any other agreement is applicable to the alien under the procedures set forth in this paragraph (e)(7). If the alien establishes by a preponderance of the evidence that he or she qualifies for an exception under the terms of each of the applicable agreements, or would more likely than not be persecuted on account of his or her race, religion, nationality, membership in a particular social group, or tortured, in each of the prospective receiving countries, the asylum officer shall make a written notation to that effect, and then proceed immediately to a determination concerning whether the alien has a credible fear of persecution, reasonable possibility of persecution, or a reasonable possibility of torture, under paragraph (d) of this section.

* * * * *

(f) *Procedures for a positive fear determination.* If, pursuant to paragraph (e) of this section, an alien stowaway or an alien subject to expedited removal establishes either a credible fear of persecution, reasonable possibility of persecution, or a reasonable possibility of torture:

(1) DHS shall issue a Notice of Referral to Immigration Judge for asylum-and-withholding-only proceedings under § 208.2(c)(1).

(2) Parole of the alien may be considered only in accordance with section 212(d)(5) of the Act and 8 CFR 212.5 of this chapter.

(g) *Procedures for a negative fear determination.* (1) If, pursuant to paragraphs (e) and (f) of this section, an alien stowaway or an alien subject to expedited removal does not establish a credible fear of persecution, reasonable possibility of persecution, or reasonable

possibility of torture, DHS shall provide the alien with a written notice of decision and inquire whether the alien wishes to have an immigration judge review the negative determination, in accordance with section 235(b)(1)(B)(iii)(III) of the Act and this § 208.30. The alien must indicate whether he or she desires such review on a Record of Negative Fear Finding and Request for Review by Immigration Judge. If the alien refuses to make an indication, DHS shall consider such a response as a decision to decline review.

(i) If the alien requests such review, DHS shall arrange for detention of the alien and serve him or her with a Notice of Referral to Immigration Judge, for review of the negative fear determination in accordance with paragraph (g)(2) of this section.

(ii) If the alien is not a stowaway and does not request a review by an immigration judge, DHS shall order the alien removed with a Notice and Order of Expedited Removal, after review by a supervisory officer.

(iii) If the alien is a stowaway and the alien does not request a review by an immigration judge, DHS shall complete removal proceedings in accordance with section 235(a)(2) of the Act.

(2) Review by immigration judge of a negative fear determination.

(i) Immigration judges shall review negative fear determinations as provided in 8 CFR 1208.30(g).

(ii) DHS shall provide the record of any negative fear determinations being reviewed, including copies of the Notice of Referral to Immigration Judge, the asylum officer's notes, the summary of the material facts, and other materials upon which the determination was based, to the immigration judge with the negative fear determination.

■ 15. Amend § 208.31 by revising paragraph (f), the introductory text of paragraph (g), and paragraphs (g)(1) and (2) to read as follows:

§ 208.31 Reasonable fear of persecution or torture determinations involving aliens ordered removed under section 238(b) of the Act and aliens whose removal is reinstated under section 241(a)(5) of the Act.

* * * * *

(f) *Removal of aliens with no reasonable fear of persecution or torture.* If the asylum officer determines that the alien has not established a reasonable fear of persecution or torture, the asylum officer shall inform the alien in writing of the decision and shall inquire whether the alien wishes to have an immigration judge review the negative decision, using the Record of Negative Reasonable Fear Finding and Request for Review by Immigration Judge, on which the alien must indicate whether he or she desires such review. If the alien refuses to make an indication, DHS shall consider such a response as a decision to decline review.

(g) *Review by immigration judge.* The asylum officer's negative decision regarding reasonable fear shall be subject to review by an immigration judge upon the alien's request. If the alien requests such review, the asylum officer shall serve him or her with a Notice of Referral to Immigration Judge. The record of determination, including copies of the Notice of Referral to Immigration Judge, the asylum officer's notes, the summary of the material facts, and other materials upon which the determination was based shall be provided to the immigration judge with the negative determination. In the absence of exceptional circumstances, such review shall be conducted by the immigration judge within 10 days of the filing of the Notice of Referral to Immigration Judge with the immigration court. Upon review of the asylum officer's negative reasonable fear determination:

(1) If the immigration judge concurs with the asylum officer's determination that the alien does not have a reasonable fear of persecution or torture, the case shall be returned to DHS for removal of the alien. No appeal shall lie from the immigration judge's decision.

(2) If the immigration judge finds that the alien has a reasonable fear of persecution or torture, the alien may submit an Application for Asylum and Withholding of Removal.

(i) The immigration judge shall consider only the alien's application for withholding of removal under 8 CFR 1208.16 and shall determine whether the alien's removal to the country of removal must be withheld or deferred.

(ii) Appeal of the immigration judge's decision whether removal must be withheld or deferred lies with the Board of Immigration Appeals. If the alien or DHS appeals the immigration judge's decision, the Board shall review only the immigration judge's decision regarding the alien's eligibility for withholding or deferral of removal under 8 CFR 1208.16.

PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

■ 16. The authority citation for part 235 continues to read as follows:

Authority: 8 U.S.C. 1101 and note, 1103, 1183, 1185 (pursuant to E.O. 13323, 69 FR 241, 3 CFR, 2003 Comp., p. 278), 1201, 1224, 1225, 1226, 1228, 1365a note, 1365b, 1379, 1731–32; Title VII of Public Law 110–229; 8 U.S.C. 1185 note (section 7209 of Public Law 108–458); Public Law 112–54.

■ 17. Amend § 235.6 by
■ a. Revising paragraphs (a)(1)(ii), (a)(2)(i), and (iii); and
■ b. Adding paragraph (c).

The revisions and addition read as follows:

§ 235.6 Referral to immigration judge.

(a) * * *

(1) * * *

(ii) If an immigration officer verifies that an alien subject to expedited removal under section 235(b)(1) of the Act has been admitted as a lawful permanent resident or refugee, or granted asylum, or, upon review pursuant to § 235.3(b)(5)(iv), an immigration judge determines that the alien was once so admitted or granted asylum, provided that such status has not been terminated by final administrative action, and the Service initiates removal proceedings against the alien under section 240 of the Act.

* * * * *

(2) * * *

(i) If an asylum officer determines that the alien does not have a credible fear of persecution, reasonable possibility of persecution, or reasonable possibility of torture, and the alien requests a review of that determination by an immigration judge; or

* * * * *

(iii) If an immigration officer refers an applicant in accordance with the provisions of 8 CFR 208.30 or 8 CFR 208.31.

* * * * *

(c) The provisions of this part are separate and severable from one another. In the event that any provision in this part is stayed, enjoined, not implemented, or otherwise held invalid, the remaining provisions shall nevertheless be implemented as an independent rule and continue in effect.

* * * * *

Department of Justice

Accordingly, for the reasons set forth in the preamble, the Attorney General proposed to amend 8 CFR parts 1003, 1208 and 1235 as follows:

PART 1003—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

■ 18. The authority citation for part 1003 continues to read as follows:

Authority: 5 U.S.C. 301; 6 U.S.C. 521; 8 U.S.C. 1101, 1103, 1154, 1155, 1158, 1182, 1226, 1229, 1229a, 1229b, 1229c, 1231, 1254a, 1255, 1324d, 1330, 1361, 1362; 28 U.S.C. 509, 510, 1746; sec. 2 Reorg. Plan No.

2 of 1950; 3 CFR, 1949–1953 Comp., p. 1002; section 203 of Public Law 105–100, 111 Stat. 2196–200; sections 1506 and 1510 of Public Law 106–386, 114 Stat. 1527–29, 1531–32; section 1505 of Public Law 106–554, 114 Stat. 2763A–326 to –328.

■ 19. Amend § 1003.1 by revising paragraph (b)(9) to read as follows:

§ 1003.1 Organization, jurisdiction, and powers of the Board of Immigration Appeals.

* * * * *

(b) * * *

(9) Decisions of Immigration Judges in asylum proceedings pursuant to § 1208.2(b) and (c) of this chapter.

* * * * *

■ 20. Amend § 1003.42 by:

■ a. Revising the section heading;

■ b. Revising paragraphs (a), (b), (d) through (g), and (h)(1), and the third sentence of pargraph (h)(3); and

■ c. Adding paragraph (i).

The revisions and addition read as follows:

§ 1003.42 Review of credible fear of persecution, reasonable possibility of persecution, and reasonable possibility of torture determinations.

(a) *Referral.* Jurisdiction for an immigration judge to review a negative fear determination by an asylum officer pursuant to section 235(b)(1)(B) of the Act shall commence with the filing by DHS of the Notice of Referral to Immigration Judge. DHS shall also file with the notice of referral a copy of the written record of determination as defined in section 235(b)(1)(B)(iii)(II) of the Act, including a copy of the alien's written request for review, if any.

(b) *Record of proceeding.* The Immigration Court shall create a Record of Proceeding for a review of a negative fear determination. This record shall not be merged with any later proceeding involving the same alien.

* * * * *

(d) *Standard of review.* (1) The immigration judge shall make a de novo determination as to whether there is a significant possibility, taking into account the credibility of the statements made by the alien in support of the alien's claim, whether the alien is subject to any mandatory bars to applying for asylum or being eligible for asylum under section 208(a)(2)(B)–(D) and (b)(2) of the Act, including any bars established by regulation under section 208(b)(2)(C) of the Act, and such other facts as are known to the immigration judge, that the alien could establish his or her ability to apply for or be granted asylum under section 208 of the Act. The immigration judge shall make a de novo determination as to whether there is a reasonable possibility, taking into account the credibility of the statements made by the alien in support of the alien's claim, whether the alien is subject to any mandatory bars to eligibility for withholding of removal under section 241(b)(3)(B) of the Act, and such other facts as are known to the immigration judge, that the alien would be persecuted on account of his or her race, religion, nationality, membership in a particular social group, or political opinion in the country of removal, consistent with the criteria in 8 CFR 1208.16(b). The immigration judge shall also make a de novo determination as to whether there is a reasonable possibility, taking into account the credibility of the statements made by the alien in support of the alien's claim and such other facts as are known to the immigration judge, that the alien would be tortured in the country of removal, consistent with the criteria in 8 CFR 1208.16(c), 8 CFR 1208.17, and 8 CFR 1208.18.

(2) If the alien is determined to be an alien described in 8 CFR 208.13(c)(3) or 8 CFR 1208.13(c)(3) and is determined to lack a reasonable possibility of persecution or torture under 8 CFR 208.30(e)(5)(ii), the Immigration Judge shall first review de novo the determination that the alien is described in 8 CFR 208.13(c)(3) or 8 CFR 1208.13(c)(3) prior to any further review of the asylum officer's negative fear determination.

(3) If the alien is determined to be an alien described in 8 CFR 208.13(c)(4) or 8 CFR 1208.13(c)(4) and is determined to lack a reasonable possibility of persecution or torture under 8 CFR 208.30(e)(5)(iii), the immigration judge shall first review de novo the determination that the alien is described in 8 CFR 208.13(c)(4) or 8 CFR 1208.13(c)(4) prior to any further review of the asylum officer's negative fear determination.

(e) *Timing.* The immigration judge shall conclude the review to the maximum extent practicable within 24 hours, but in no case later than 7 days after the date the supervisory asylum officer has approved the asylum officer's negative credible fear determination issued on the Record of Negative Credible Fear Finding and Request for Review.

(f) *Decision.* (1) The decision of the immigration judge shall be rendered in accordance with the provisions of 8 CFR 1208.30(g)(2). In reviewing the negative fear determination by DHS, the immigration judge shall apply relevant precedent issued by the Board of Immigration Appeals, the Attorney General, the federal circuit court of appeals having jurisdiction over the immigration court where the Request for Review is filed, and the Supreme Court.

(2) No appeal shall lie from a review of a negative fear determination made by an Immigration Judge, but the Attorney General, in the Attorney General's sole and unreviewable discretion, may direct that the Immigration Judge refer a case for the Attorney General's review following the Immigration Judge's review of a negative fear determination.

(3) In any case the Attorney General decides, the Attorney General's decision shall be stated in writing and shall be transmitted to the Board for transmittal and service as provided in § 1003.1(f). Such decision by the Attorney General may be designated as precedent as provided in § 1003.1(g).

(g) *Custody.* An immigration judge shall have no authority to review an alien's custody status in the course of a review of a negative fear determination made by DHS.

(h) * * *

(1) *Arriving alien.* An immigration judge has no jurisdiction to review a determination by an asylum officer that an arriving alien is not eligible to apply for asylum pursuant to the 2002 U.S.-Canada Agreement formed under section 208(a)(2)(A) of the Act and should be returned to Canada to pursue his or her claims for asylum or other protection under the laws of Canada. *See* 8 CFR 208.30(e)(6). However, in any case where an asylum officer has found that an arriving alien qualifies for an exception to that Agreement, an immigration judge does have jurisdiction to review a negative fear finding made thereafter by the asylum officer as provided in this section.

* * * * *

(3) * * * However, if the asylum officer has determined that the alien may not or should not be removed to a third country under section 208(a)(2)(A) of the Act and subsequently makes a negative fear determination, an immigration judge has jurisdiction to review the negative fear finding as provided in this section.

* * * * *

(i) The provisions of this part are separate and severable from one another. In the event that any provision in this part is stayed, enjoined, not implemented, or otherwise held invalid, the remaining provisions shall nevertheless be implemented as an independent rule and continue in effect.

* * * * *

PART 1208—PROCEDURES FOR ASYLUM AND WITHHOLDING OF REMOVAL

■ 21. The authority citation for part 1208 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1158, 1226, 1252, 1282; Title VII of Public Law 110–229.

■ 22. Amend § 1208.1 by adding paragraphs (c), (d), (e), and (f) to read as follows:

§ 1208.1 General.

* * * * *

(c) *Particular social group.* For purposes of adjudicating an application for asylum under section 208 of the Act or an application for withholding of removal under section 241(b)(3) of the Act, a particular social group is one that is based on an immutable or fundamental characteristic, is defined with particularity, and is recognized as socially distinct in the society at question. Such a particular social group cannot be defined exclusively by the alleged persecutory acts or harm and must also have existed independently of the alleged persecutory acts or harm that forms the basis of the claim. The Attorney General, in general, will not favorably adjudicate claims of aliens who claim a fear of persecution on account of membership in a particular social group consisting of or defined by the following circumstances: Past or present criminal activity or association (including gang membership); presence in a country with generalized violence or a high crime rate; being the subject of a recruitment effort by criminal, terrorist, or persecutory groups; the targeting of the applicant for criminal activity for financial gain based on perceptions of wealth or affluence; interpersonal disputes of which governmental authorities were unaware or uninvolved; private criminal acts of which governmental authorities were unaware or uninvolved; past or present terrorist activity or association; past or present persecutory activity or association; or, status as an alien returning from the United States. This list is nonexhaustive, and the substance of the alleged particular social group, rather than the precise form of its delineation, shall be considered in determining whether the group falls within one of the categories on the list. No alien shall be found to be a refugee or have it decided that the alien's life or freedom would be threatened based on membership in a particular social group in any case unless that person first articulates on the record, or provides a basis on the record for determining, the definition and boundaries of the alleged particular social group. A failure to define, or provide a basis for defining, a formulation of a particular social group before an immigration judge shall waive any such claim for all purposes under the Act, including on appeal, and any waived claim on this basis shall not serve as the basis for any motion to reopen or reconsider for any reason, including a claim of ineffective assistance of counsel.

(d) *Political opinion.* For purposes of adjudicating an application for asylum under section 208 of the Act or an application for withholding of removal under section 241(b)(3) of the Act, a political opinion is one expressed by or imputed to an applicant in which the applicant possesses an ideal or conviction in support of the furtherance of a discrete cause related to political control of a state or a unit thereof. The Attorney General, in general, will not favorably adjudicate claims of aliens who claim a fear of persecution on account of a political opinion defined solely by generalized disapproval of, disagreement with, or opposition to criminal, terrorist, gang, guerilla, or other non-state organizations absent expressive behavior in furtherance of a cause against such organizations related to efforts by the state to control such organizations or behavior that is antithetical to or otherwise opposes the ruling legal entity of the state or a legal sub-unit of the state. A person who has been forced to abort a pregnancy or to undergo involuntary sterilization, or who has been persecuted for failure or refusal to undergo such a procedure or for other resistance to a coercive population control program, shall be deemed to have been persecuted on account of political opinion, and a person who has a well-founded fear that he or she will be forced to undergo such a procedure or subject to persecution for such failure, refusal, or resistance shall be deemed to have a well-founded fear of persecution on account of political opinion.

(e) *Persecution.* For purposes of adjudicating an application for asylum under section 208 of the Act or an application for withholding of removal under section 241(b)(3) of the Act, persecution requires an intent to target a belief or characteristic, a severe level of harm, and the infliction of a severe level of harm by the government of a country or by persons or an organization that the government was unable or unwilling to control. For purposes of evaluating the severity of the level of harm, persecution is an extreme concept involving a severe level of harm that includes actions so severe that they constitute an exigent threat. Persecution does not encompass the generalized harm that arises out of civil, criminal, or military strife in a country, nor does it encompass all treatment that the United States regards as unfair, offensive, unjust, or even unlawful or unconstitutional. It does not include intermittent harassment, including brief detentions; threats with no actual effort to carry out the threats; or, non-severe economic harm or property damage, though this list is nonexhaustive. The existence of government laws or policies that are unenforced or infrequently enforced do not, by themselves, constitute persecution, unless there is credible evidence that those laws or policies have been or would be applied to an applicant personally.

(f) *Nexus*—(1) *General.* For purposes of adjudicating an application for asylum under section 208 of the Act or an application for withholding of removal under section 241(b)(3) of the Act, the Attorney General, in general, will not favorably adjudicate the claims of aliens who claim persecution based on the following list of nonexhaustive circumstances:

(i) Interpersonal animus or retribution;

(ii) Interpersonal animus in which the alleged persecutor has not targeted, or manifested an animus against, other members of an alleged particular social group in addition to the member who has raised the claim at issue;

(iii) Generalized disapproval of, disagreement with, or opposition to criminal, terrorist, gang, guerilla, or other non-state organizations absent expressive behavior in furtherance of a discrete cause against such organizations related to control of a state or expressive behavior that is antithetical to the state or a legal unit of the state;

(iv) Resistance to recruitment or coercion by guerilla, criminal, gang, terrorist or other non-state organizations;

(v) The targeting of the applicant for criminal activity for financial gain based on wealth or affluence or perceptions of wealth or affluence;

(vi) Criminal activity;

(vii) Perceived, past or present, gang affiliation; or,

(viii) Gender.

(2) [Reserved]

(g) *Evidence based on stereotypes.* For purposes of adjudicating an application for asylum under section 208 of the Act or an application for withholding of removal under section 241(b)(3) of the Act, evidence promoting cultural stereotypes about an individual or a country, including stereotypes based on race, religion, nationality, or gender, and offered to support the basis of an

alleged fear of harm from the individual or country shall not be admissible in adjudicating that application.

■ 23. Amend § 1208.2 by adding paragraph (c)(1)(ix) to read as follows:

§ 1208.2 Jurisdiction.

* * * * *

(c) * * *

(1) * * *

(ix) An alien found to have a credible fear of persecution, reasonable possibility of persecution, or reasonable possibility of torture in accordance with § 208.30 of this title, § 1003.42 of this chapter or § 1208.30.

* * * * *

■ 24. Amend § 1208.5 by revising the first sentence of paragraph (a) to read as follows:

§ 1208.5 Special duties toward aliens in custody of DHS.

(a) *General.* When an alien in the custody of DHS requests asylum or withholding of removal, or expresses a fear of persecution or harm upon return to his or her country of origin or to agents thereof, DHS shall make available the appropriate application forms and shall provide the applicant with the information required by section 208(d)(4) of the Act, including in the case of an alien who is in custody with a positive credible fear determination under 8 CFR 208.30 or a reasonable fear determination pursuant to 8 CFR 208.31, and except in the case of an alien who is in custody pending a credible fear determination under 8 CFR 208.30 or a reasonable fear determination pursuant to 8 CFR 208.31. * * *

* * * * *

■ 25. Amend § 1208.6 by revising paragraph (b) and adding paragraphs (d) and (e) to read as follows:

§ 1208.6 Disclosure to third parties.

* * * * *

(b) The confidentiality of other records kept by DHS and the Executive Office for Immigration Review that indicate that a specific alien has applied for asylum, received a credible fear or reasonable fear interview, or received a credible fear or reasonable fear review shall also be protected from disclosure, except as permitted in this section. DHS will coordinate with the Department of State to ensure that the confidentiality of those records is maintained if they are transmitted to Department of State offices in other countries.

* * * * *

(d)(1) Any information contained in an application for asylum, withholding of removal under section 241(b)(3) the Act, or protection under regulations issued pursuant to the Convention Against Torture's implementing legislation, any relevant and applicable information supporting that application, any information regarding an alien who has filed such an application, and any relevant and applicable information regarding an alien who has been the subject of a reasonable fear or credible fear determination may be disclosed:

(i) As part of an investigation or adjudication of the merits of that application or of any other application under the immigration laws,

(ii) As part of any state or federal criminal investigation, proceeding, or prosecution;

(iii) Pursuant to any state or federal mandatory reporting requirement;

(iv) To deter, prevent, or ameliorate the effects of child abuse;

(v) As part of any proceeding arising under the immigration laws, including proceedings arising under the Act; and

(vi) As part of the Government's defense of any legal action relating to the alien's immigration or custody status, including petitions for review filed in accordance with 8 U.S.C. 1252.

(2) If information may be disclosed under paragraph (d)(1) of this section, the disclosure provisions in paragraphs (a), (b), and (c) of this section shall not apply.

(e) Nothing in this section shall be construed as prohibiting the disclosure of information contained in an application for asylum, withholding of removal under section 241(b)(3)(B) of the Act, or protection under the regulations issued pursuant to the Convention Against Torture's implementing legislation, any relevant and applicable information supporting that application, information regarding an alien who has filed such an application, or information regarding an alien who has been the subject of a reasonable fear or credible fear determination:

(1) Among employees of the Department of Justice, the Department of Homeland Security, the Department of State, the Department of Health and Human Services, the Department of Labor, or a U.S. national security agency having a need to examine the information for an official purpose; or

(2) Where a United States government employee or contractor has a good faith and reasonable belief that disclosure is necessary to prevent the commission of a crime, the furtherance of an ongoing crime, or to ameliorate the effects of a crime.

■ 26. Section 1208.13 is amended by:

■ a. Revising paragraph (b)(3) introductory text;

■ b. Revising paragraph (b)(3)(ii);

■ c. Adding paragraphs (b)(3)(iii) and (b)(3)(iv); and

■ d. Adding paragraphs (d) and (e).

The revisions and additions read as follows:

§ 1208.13 Establishing asylum eligibility.

* * * * *

(b) * * *

(3) *Reasonableness of internal relocation.* For purposes of determinations under paragraphs (b)(1)(i), (ii), and (b)(2) of this section, adjudicators should consider the totality of the relevant circumstances regarding an applicant's prospects for relocation, including the size of the country of nationality or last habitual residence, the geographic locus of the alleged persecution, the size, numerosity, and reach of the alleged persecutor, and the applicant's demonstrated ability to relocate to the United States in order to apply for asylum.

* * * * *

(ii) In cases in which the persecutor is a government or is government-sponsored, it shall be presumed that internal relocation would not be reasonable, unless the Department of Homeland Security establishes by a preponderance of the evidence that, under all the circumstances, it would be reasonable for the applicant to relocate.

(iii) Regardless of whether an applicant has established persecution in the past, in cases in which the persecutor is not the government or a government-sponsored actor, or otherwise is a private actor, there shall be a presumption that internal relocation would be reasonable unless the applicant establishes, by a preponderance of the evidence, that it would be unreasonable to relocate.

(iv) For purposes of determinations under paragraphs (b)(3)(ii) and (iii) of this section, persecutors who are private actors—including persecutors who are gang members, officials acting outside their official capacity, family members who are not themselves government officials, or neighbors who are not themselves government officials—shall not be considered to be persecutors who are the government or government-sponsored absent evidence that the government sponsored the persecution.

* * * * *

(d) *Discretion.* Factors that fall short of grounds of mandatory denial of an asylum application may constitute discretionary considerations.

(1) *Significant adverse discretionary factors.* The following are significant adverse discretionary factors that a decision-maker shall consider, if applicable, in determining whether an

alien merits a grant of asylum in the exercise of discretion:

(i) An alien's unlawful entry or unlawful attempted entry into the United States unless such entry or attempted entry was made in immediate flight from persecution in a contiguous country;

(ii) The failure of an alien to apply for protection from persecution or torture in at least one country outside the alien's country of citizenship, nationality, or last lawful habitual residence through which the alien transited before entering the United States unless:

(A) The alien received a final judgment denying the alien protection in such country;

(B) The alien demonstrates that he or she satisfies the definition of ''victim of a severe form of trafficking in persons'' provided in 8 CFR 214.11; or

(C) Such country or countries were, at the time of the transit, not parties to the 1951 United Nations Convention relating to the Status of Refugees, the 1967 Protocol, or the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and

(iii) An alien's use of fraudulent documents to enter the United States, unless the alien arrived in the United States by air, sea, or land directly from the applicant's home country without transiting through any other country.

(2)(i) The Attorney General, except as provided in paragraph (d)(2)(ii) of this section, will not favorably exercise discretion under section 208 of the Act for an alien who:

(A) Immediately prior to his arrival in the United States or en route to the United States from the alien's country of citizenship, nationality, or last lawful habitual residence, spent more than 14 days in any one country unless:

(*1*) The alien demonstrates that he or she applied for protection from persecution or torture in such country and the alien received a final judgment denying the alien protection in such country;

(*2*) The alien demonstrates that he or she satisfies the definition of ''victim of a severe form of trafficking in persons'' provided in 8 CFR 214.11; or

(*3*) Such country was, at the time of the transit, not a party to the 1951 United Nations Convention relating to the Status of Refugees, the 1967 Protocol, or the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(B) Transits through more than one country between his country of citizenship, nationality, or last habitual residence and the United States unless:

(*1*) The alien demonstrates that he or she applied for protection from persecution or torture in at least one such country and the alien received a final judgment denying the alien protection in such country;

(*2*) The alien demonstrates that he or she satisfies the definition of ''victim of a severe form of trafficking in persons'' provided in 8 CFR 214.11; or

(*3*) All such countries through which the alien transited en route to the United States were, at the time of the transit, not parties to the 1951 United Nations Convention relating to the Status of Refugees, the 1967 Protocol, or the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(C) Would otherwise be subject to paragraph (c) of this section but for the reversal, vacatur, expungement, or modification of a conviction or sentence unless the alien was found not guilty;

(D) Accrued more than one year of unlawful presence in the United States prior to filing an application for asylum;

(E) At the time the asylum application is filed with the immigration court or is referred from DHS has:

(*1*) Failed to timely file (or timely file a request for an extension of time to file) any required federal, state, or local income tax returns;

(*2*) Failed to satisfy any outstanding federal, state, or local tax obligations; or

(*3*) Has income that would result in tax liability under section 1 of the Internal Revenue Code of 1986 and that was not reported to the Internal Revenue Service;

(F) Has had two or more prior asylum applications denied for any reason;

(G) Has withdrawn a prior asylum application with prejudice or been found to have abandoned a prior asylum application;

(H) Failed to attend an interview regarding his or her asylum application with DHS, unless the alien shows by a preponderance of the evidence that:

(*1*) Exceptional circumstances prevented the alien from attending the interview; or

(*2*) The interview notice was not mailed to the last address provided by the alien or the alien's representative and neither the alien nor the alien's representative received notice of the interview; or

(I) Was subject to a final order of removal, deportation, or exclusion and did not file a motion to reopen to seek asylum based on changed country conditions within one year of the changes in country conditions.

(ii) Where one or more of the adverse discretionary factors set forth in paragraph (d)(2)(i) of this section are present, the Attorney General, in extraordinary circumstances, such as those involving national security or foreign policy considerations, or cases in which an alien, by clear and convincing evidence, demonstrates that the denial of the application for asylum would result in exceptional and extremely unusual hardship to the alien, may favorably exercise discretion under section 208 of the Act, notwithstanding the applicability of paragraph (d)(2)(i) of this section. Depending on the gravity of the circumstances underlying the application of paragraph (d)(2)(i) of this section, a showing of extraordinary circumstances might still be insufficient to warrant a favorable exercise of discretion under section 208 of the Act.

(e) *Prima facie eligibility.* (1) Notwithstanding any other provision of this part, upon oral or written motion by the Department of Homeland Security, an immigration judge shall, if warranted by the record, pretermit and deny any application for asylum, withholding of removal under section 241(b)(3) of the Act, or protection under the regulations issued pursuant to the Convention Against Torture's implementing legislation if the alien has not established a prima facie claim for relief or protection under applicable law. An immigration judge need not conduct a hearing prior to pretermitting and denying an application under this paragraph (e)(1) but must consider any response to the motion before making a decision.

(2) Notwithstanding any other provision of this part, upon his or her own authority, an immigration judge shall, if warranted by the record, pretermit and deny any application for asylum, withholding of removal under section 241(b)(3) of the Act, or protection under the regulations issued pursuant to the Convention Against Torture's implementing legislation if the alien has not established a prima facie claim for relief or protection under applicable law, provided that the immigration judge shall give the parties at least 10 days' notice prior to entering such an order. An immigration judge need not conduct a hearing prior to pretermitting and denying an application under this paragraph (e)(2) but must consider any filings by the parties within the 10-day period before making a decision.

■ 27. Amend § 1208.14 by

■ a. In paragraphs (c)(4)(ii) introductory text and (c)(4)(ii)(A), removing the words ''§ 1235.3(b) of this chapter'' and adding, in their place, the words ''§ 235.3(b) of this title''; and

■ b. In paragraph (c)(4)(ii)(A), removing the citations ''§ 1208.30'' and

''§ 1208.30(b)'' and adding, in their place, the words ''§ 208.30 of this title''.

■ 28. Section 1208.15 is revised to read as follows:

§ 1208.15 Definition of "firm resettlement."

(a) An alien is considered to be firmly resettled if:

(1) The alien either resided or could have resided in any permanent legal immigration status or any non-permanent but potentially indefinitely renewable legal immigration status (including asylee, refugee, or similar status but excluding a status such as a tourist) in a country through which the alien transited prior to arriving in or entering the United States, regardless of whether the alien applied for or was offered such status;

(2) The alien physically resided voluntarily, and without continuing to suffer persecution, in any one country for one year or more after departing his country of nationality or last habitual residence and prior to arrival in or entry into the United States; or

(3)(i) The alien is a citizen of a country other than the one where the alien alleges a fear of persecution and the alien was present in that country prior to arriving in the United States; or

(ii) The alien was a citizen of a country other than the one where the alien alleges a fear of persecution, the alien was present in that country prior to arriving in the United States, and the alien renounced that citizenship prior to or after arriving in the United States.

(b) The provisions of 8 CFR 1240.8(d) shall apply when the evidence of record indicates that the firm resettlement bar may apply. In such cases, the alien shall bear the burden of proving the bar does not apply. Either the Department of Homeland Security or the immigration judge may raise the issue of the application of the firm resettlement bar based on the evidence of record. The firm resettlement of an alien's parent(s) shall be imputed to the alien if the resettlement occurred before the alien turned 18 and the alien resided with the alien's parents at the time of the firm resettlement unless he or she could not have derived any permanent legal immigration status or any non-permanent legal immigration status potentially indefinitely renewable (including asylee, refugee, or similar status but excluding status such as of a tourist) from the alien's parent.

■ 29. Amend § 1208.16 by;

■ a. Revising paragraph (b)(3) introductory text;

■ b. Revising paragraph (b)(3)(ii); and

■ c. Adding paragraphs (b)(3)(iii) and (b)(3)(iv).

The revisions and addition read as follows:

§ 1208.16 Withholding of removal under section 241(b)(3)(B) of the Act and withholding of removal under the Convention Against Torture.

* * * * *

(b) * * *

(3) *Reasonableness of internal relocation.* For purposes of determinations under paragraphs (b)(1) and (b)(2) of this section, adjudicators should consider the totality of the relevant circumstances regarding an applicant's prospects for relocation, including the size of the country of nationality or last habitual residence, the geographic locus of the alleged persecution, the size, reach, or numerosity of the alleged persecutor, and the applicant's demonstrated ability to relocate to the United States in order to apply for withholding of removal.

* * * * *

(ii) In cases in which the persecutor is a government or is government-sponsored, it shall be presumed that internal relocation would not be reasonable, unless the DHS establishes by a preponderance of the evidence that, under all the circumstances, it would be reasonable for the applicant to relocate.

(iii) Regardless of whether an applicant has established persecution in the past, in cases in which the persecutor is not the government or a government-sponsored actor, or otherwise is a private actor, there shall be a presumption that internal relocation would be reasonable unless the applicant establishes, by a preponderance of the evidence, that it would be unreasonable to relocate.

(iv) For purposes of determinations under paragraphs (b)(3)(ii) and (b)(3)(iii) of this section, persecutors who are private actors, including persecutors who are gang members, officials acting outside their official capacity, or family members who are not themselves government officials or neighbors who are not themselves government officials, shall not be considered to be persecutors who are the government or government-sponsored absent evidence that the government sponsored the persecution.

* * * * *

■ 30. Amend § 1208.18 by revising paragraphs (a)(1) and (7) to read as follows:

§ 1208.18 Implementation of the Convention Against Torture.

(a) * * *

(1) Torture is defined as any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or her or a third person information or a confession, punishing him or her for an act he or she or a third person has committed or is suspected of having committed, intimidating or coercing him or her or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by, or at the instigation of, or with the consent or acquiescence of, a public official acting in an official capacity or other person acting in an official capacity. Pain or suffering inflicted by a public official who is not acting under color of law (''rogue official'') shall not constitute pain or suffering inflicted by, or at the instigation of, or with the consent or acquiescence of, a public official acting in an official capacity or other person acting in an official capacity, although a different public official acting in an official capacity or other person acting in an official capacity could instigate, consent to, or acquiesce in the pain or suffering inflicted by the rogue official.

* * * * *

(7) Acquiescence of a public official requires that the public official, prior to the activity constituting torture, have awareness of such activity and thereafter breach his or her legal responsibility to intervene to prevent such activity. Such awareness requires a finding of either actual knowledge or willful blindness. Willful blindness means that the public official acting in an official capacity or other person acting in an official capacity was aware of a high probability of activity constituting torture and deliberately avoided learning the truth; it is not enough that such public official acting in an official capacity or other person acting in an official capacity was mistaken, recklessly disregarded the truth, or negligently failed to inquire. In order for a public official to breach his or her legal responsibility to intervene to prevent activity constituting torture, the official must have been charged with preventing the activity as part of his or her duties and have failed to intervene. No person will be deemed to have breached a legal responsibility to intervene if such person is unable to intervene, or if the person intervenes but is unable to prevent the activity that constitutes torture.

* * * * *

■ 31. Revise § 1208.20 to read as follows:

§ 1208.20 Determining if an asylum application is frivolous.

(a) For applications filed on or after April 1, 1997, an applicant is subject to

the provisions of section 208(d)(6) of the Act only if the alien received the notice required by section 208(d)(4)(A) of the Act and a final order by an immigration judge or the Board of Immigration Appeals specifically finds that the alien knowingly filed a frivolous asylum application. An alien knowingly files a frivolous asylum application if:

(1) The application is described in paragraph (b) of this section; and

(2) The alien filed the application with either actual knowledge, or willful blindness, of the fact that the application was described in paragraph (b).

(b) For applications filed on or after [INSERT EFFECTIVE DATE OF FINAL RULE], an asylum officer may determine that the applicant knowingly filed a frivolous asylum application and may refer the applicant to an immigration judge on that basis, so long as the applicant has received the notice required by section 208(d)(4)(A) of the Act. Such finding will only be made if the asylum officer is satisfied that the applicant has had sufficient opportunity to account for any discrepancies or implausible aspects of the claim. For applications referred to an immigration judge, an asylum officer's determination that an application is frivolous will not render an applicant permanently ineligible for immigration benefits unless an immigration judge or the Board makes a finding of frivolousness as described in paragraph (a) of this section.

(c) For purposes of this section, beginning on [INSERT EFFECTIVE DATE OF FINAL RULE], an asylum application is frivolous if it:

(1) Contains a fabricated essential element;

(2) Is premised upon false or fabricated evidence unless the application would have been granted without the false or fabricated evidence;

(3) Is filed without regard to the merits of the claim; or

(4) Is clearly foreclosed by applicable law.

(d) If the alien has been provided the warning required by section 208(d)(4)(A) of the Act, he or she need not be given any additional or further opportunity to account for any issues with his or her claim prior to the entry of a frivolous finding.

(e) An asylum application may be found frivolous even if it was untimely filed.

(f) A withdrawn asylum application may be found frivolous unless:

(1) The alien wholly disclaims the application and withdraws it with prejudice;

(2) The alien is eligible for and agrees to accept voluntary departure for a period of no more than 30 days pursuant to section 240B(a) of the Act;

(3) The alien withdraws any and all other applications for relief or protection with prejudice; and

(4) The alien waives his right to appeal and any rights to file, for any reason, a motion to reopen or reconsider.

(g) For purposes of this section, a finding that an alien filed a knowingly frivolous asylum application shall not preclude the alien from seeking withholding of removal under section 241(b)(3) of the Act or protection under the regulations issued pursuant to the Convention Against Torture's implementing legislation.

■ 32. Add § 1208.25 to read as follows:

§ 1208.25 Severability.

The provisions of part 1208 are separate and severable from one another. In the event that any provision in part 1208 is stayed, enjoined, not implemented, or otherwise held invalid, the remaining provisions shall nevertheless be implemented as an independent rule and continue in effect.

■ 33. Amend § 1208.30 by:

■ a. Revising the section heading; and

■ b. Revising paragraphs (a), (b) introductory text, (b)(2), (e), and (g).

The revisions read as follows:

§ 1208.30 Credible fear of persecution, reasonable possibility of persecution, and reasonable possibility of torture determinations involving stowaways and applicants for admission who are found inadmissible pursuant to section 212(a)(6)(C) or 212(a)(7) of the Act or whose entry is limited or suspended under section 212(f) or 215(a)(1) of the Act, or who failed to apply for protection from persecution in a third country where potential relief is available while en route to the United States.

(a) *Jurisdiction.* The provisions of this subpart B apply to aliens subject to sections 235(a)(2) and 235(b)(1) of the Act. Pursuant to section 235(b)(1)(B) and 8 CFR 208.30, DHS has exclusive jurisdiction to make fear determinations, and the immigration judges have exclusive jurisdiction to review such determinations. Except as otherwise provided in this subpart B, paragraphs (b) through (g) of this section and 8 CFR 208.30 are the exclusive procedures applicable to stowaways and applicants for admission who are found inadmissible pursuant to section 212(a)(6)(C) or 212(a)(7) of the Act and who receive fear interviews, determinations, and reviews under section 235(b)(1)(B) of the Act and 8 CFR 208.30. Prior to January 1, 2030, an alien physically present in or arriving in the Commonwealth of the Northern Mariana Islands is ineligible to apply for asylum and may only establish eligibility for withholding of removal pursuant to section 241(b)(3) of the Act or withholding or deferral of removal under the regulations issued pursuant to the Convention Against Torture's implementing legislation.

(b) *Treatment of dependents.* A spouse or child of an alien may be included in that alien's fear evaluation and determination, if such spouse or child:

* * * * *

(2) *Desires to be included in the principal alien's determination.* However, any alien may have his or her evaluation and determination made separately, if he or she expresses such a desire.

* * * * *

(e) *Determination.* For the standards and procedures for asylum officers in conducting credible fear of persecution, reasonable possibility of persecution, and reasonable possibility of torture interviews and in making positive and negative fear determinations, see 8 CFR 208.30. The immigration judges will review such determinations as provided in paragraph (g) of this section and 8 CFR 1003.42.

* * * * *

(g) *Procedures for negative fear determinations*—(1) *Review by immigration judge of a mandatory bar finding.* (i) If the alien is determined to be an alien described in 8 CFR 208.13(c)(3) or § 1208.13(c)(3) and is determined to lack a credible fear of persecution or a reasonable possibility of persecution or torture under 8 CFR 208.30(e)(5)(ii), the immigration judge shall first review de novo the determination that the alien is described in 8 CFR 208.13(c)(3) or § 1208.13(c)(3). If the immigration judge finds that the alien is not described in 8 CFR 208.13(c)(3) or § 1208.13(c)(3), then the immigration judge shall vacate the order of the asylum officer, and DHS may commence asylum-and-withholding-only proceedings under § 1208.2(c)(1). If the immigration judge concurs with the determination that the alien is an alien described in 8 CFR 208.13(c)(3) or § 1208.13(c)(3), the immigration judge will then review the asylum officer's negative determinations regarding credible fear and regarding reasonable possibility made under 8 CFR 208.30(e)(5)(iv) consistent with paragraph (g)(2) of this section, except that the immigration judge will review the fear of persecution findings under the reasonable possibility standard

instead of the credible fear standard described in paragraph (g)(2) of this section.

(ii) If the alien is determined to be an alien described as ineligible for asylum in 8 CFR 208.13(c)(4) or § 1208.13(c)(4) and is determined to lack a reasonable possibility of persecution or torture under 8 CFR 208.30(e)(5)(v), the immigration judge shall first review de novo the determination that the alien is described as ineligible for asylum in 8 CFR 208.13(c)(4) or § 1208.13(c)(4). If the immigration judge finds that the alien is not described as ineligible for asylum in 8 CFR 208.13(c)(4) or § 1208.13(c)(4), then the immigration judge shall vacate the order of the asylum officer, and DHS may commence asylum-and-withholding-only proceedings under § 1208.2(c)(1). If the immigration judge concurs with the determination that the alien is an alien described as ineligible for asylum in 8 CFR 208.13(c)(4) or § 1208.13(c)(4), the immigration judge will then review the asylum officer's negative decision regarding reasonable possibility made under 8 CFR 208.30(e)(5)(v) consistent with paragraph (g)(2) of this section, except that the immigration judge will review the fear of persecution findings under the reasonable possibility standard instead of the credible fear of persecution standard described in paragraph (g)(2) of this section.

(2) *Review by immigration judge of a negative fear finding.* (i) The asylum officer's negative decision regarding a credible fear of persecution, reasonable possibility of persecution, and reasonable possibility of torture shall be subject to review by an immigration judge upon the applicant's request, in accordance with section 235(b)(1)(B)(iii)(III) of the Act. If the alien refuses to make an indication, DHS will consider such a response as a decision to decline review.

(ii) The record of the negative fear determination, including copies of the Notice of Referral to Immigration Judge, the asylum officer's notes, the summary of the material facts, and other materials upon which the determination was based shall be provided to the immigration judge with the negative fear determination.

(iii) A fear hearing will be closed to the public unless the alien states for the record or submits a written statement that the alien is waiving that requirement; in that event the hearing shall be open to the public, subject to the immigration judge's discretion as provided in 8 CFR 1003.27.

(iv) Upon review of the asylum officer's negative fear determinations:

(A) If the immigration judge concurs with the determination of the asylum officer that the alien has not established a credible fear of persecution, reasonable possibility of persecution, or reasonable possibility of torture, the case shall be returned to DHS for removal of the alien. The immigration judge's decision is final and may not be appealed.

(B) If the immigration judge finds that the alien, other than an alien stowaway, establishes a credible fear of persecution, reasonable possibility of persecution, or reasonable possibility of torture, the immigration judge shall vacate the Notice and Order of Expedited Removal, and DHS may commence asylum-and-withholding-only proceedings under § 1208.2(c)(1), during which time the alien may file an application for asylum and withholding of removal in accordance with § 1208.4(b)(3)(i). Such application shall be considered de novo in all respects by an immigration judge regardless of any determination made under this paragraph.

(C) If the immigration judge finds that an alien stowaway establishes a credible fear of persecution, reasonable possibility of torture, or reasonable possibility of torture, the alien shall be allowed to file an application for asylum and for withholding of removal before the immigration judge in accordance with § 1208.4(b)(3)(iii). The immigration judge shall decide the application as provided in that section. Such application shall be considered de novo in all respects by an immigration judge regardless of any determination made under this paragraph. Such decision on that application may be appealed by either the stowaway or DHS to the Board of Immigration Appeals. If a denial of the application for asylum and for withholding of removal becomes final, and deferral of removal has not otherwise been granted pursuant to § 1208.17(a), the alien shall be removed from the United States in accordance with section 235(a)(2) of the Act. If an approval of the application for asylum, withholding of removal, or, as pertinent, deferral of removal becomes final, DHS shall terminate removal proceedings under section 235(a)(2) of the Act.

■ 34. Amend § 1208.31 by revising paragraph (f), (g) introductory text, (g)(1) and (2) to read as follows:

§ 1208.31 Reasonable fear of persecution or torture determinations involving aliens ordered removed under section 238(b) of the Act and aliens whose removal is reinstated under section 241(a)(5) of the Act.

* * * * *

(f) *Removal of aliens with no reasonable fear of persecution or torture.* If the asylum officer determines that the alien has not established a reasonable fear of persecution or torture, the asylum officer shall inform the alien in writing of the decision and shall inquire whether the alien wishes to have an immigration judge review the negative decision, using the Record of Negative Reasonable Fear Finding and Request for Review by Immigration Judge, on which the alien must indicate whether he or she desires such review. If the alien refuses to make an indication, DHS shall consider such a response as a decision to decline review.

(g) *Review by Immigration Judge.* The asylum officer's negative decision regarding reasonable fear shall be subject to review by an immigration judge upon the alien's request. If the alien requests such review, the asylum officer shall serve him or her with a Notice of Referral to the Immigration Judge. The record of determination, including copies of the Notice of Referral to the Immigration Judge, the asylum officer's notes, the summary of the material facts, and other materials upon which the determination was based shall be provided to the immigration judge with the negative determination. In the absence of exceptional circumstances, such review shall be conducted by the immigration judge within 10 days of the filing of the Notice of Referral to the Immigration Judge with the immigration court. Upon review of the asylum officer's negative reasonable fear determination:

(1) If the immigration judge concurs with the asylum officer's determination that the alien does not have a reasonable fear of persecution or torture, the case shall be returned to DHS for removal of the alien. No appeal shall lie from the immigration judge's decision.

(2) If the immigration judge finds that the alien has a reasonable fear of persecution or torture, the alien may submit an Application for Asylum and Withholding of Removal. Such application shall be considered de novo in all respects by an immigration judge regardless of any determination made under this paragraph.

(i) The immigration judge shall consider only the alien's application for withholding of removal under § 1208.16 and shall determine whether the alien's removal to the country of removal must be withheld or deferred.

(ii) Appeal of the immigration judge's decision whether removal must be withheld or deferred lies with the Board of Immigration Appeals. If the alien or DHS appeals the immigration judge's

decision, the Board shall review only the immigration judge's decision regarding the alien's eligibility for withholding or deferral of removal under § 1208.16.

PART 1212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

■ 35. The authority citation for part 1212 continues to read as follows:

Authority: 8 U.S.C. 1101 and note, 1102, 1103, 1182 and note, 1184, 1187, 1223, 1225, 1226, 1227, 1255; 8 U.S.C. 1185 note (section 7209 of Public Law 108–458); Title VII of Public Law 110–229.

■ 36. Add § 1212.13 to read as follows:

§ 1212.13 Severability.

The provisions of this part are separate and severable from one another. In the event that any provision in this part is stayed, enjoined, not implemented, or otherwise held invalid, the remaining provisions shall nevertheless be implemented as an independent rule and continue in effect.

■ 37. Amend § 1212.14(a)(1)(vii), by removing the words ''§ 1235.3 of this chapter'' and adding, in their place, the words ''§ 235.3 of this title''.

PART 1235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

■ 38. The authority citation for part 1235 continues to read as follows:

Authority: 8 U.S.C. 1101 and note, 1103, 1183, 1185 (pursuant to E.O. 13323, 69 FR 241, 3 CFR, 2003 Comp., p. 278), 1201, 1224, 1225, 1226, 1228, 1365a note, 1379, 1731–32; Title VII of Public Law 110–229; 8 U.S.C. 1185 note (section 7209 of Public Law 108–458).

§ § 1235.1, 1235.2, 1235.3 and 1235.5 [Removed]

■ 39. Remove and reserve §§ 1235.1, 1235.2, 1235.3, and 1235.5.

■ 40. Amend § 1235.6 by:

■ a. Removing paragraphs (a)(1)(ii) and (iii);

■ b. Redesignating paragraph (a)(1)(iv) as paragraph (a)(1)(ii);

■ c. Revising newly redesignated paragraph (a)(1)(ii), and paragraphs (a)(2)(i), and (iii); and

■ d. Adding paragraph (c).

The revisions and addition read as follows:

§ 1235.6 Referral to immigration judge.

(a) * * *

(1) * * *

(ii) If an immigration officer verifies that an alien subject to expedited removal under section 235(b)(1) of the Act has been admitted as a lawful permanent resident or refugee, or granted asylum, or, upon review pursuant to § 235.3(b)(5)(iv) of this title, an immigration judge determines that the alien was once so admitted or granted asylum, provided that such status has not been terminated by final administrative action, and the Service initiates removal proceedings against the alien under section 240 of the Act.

* * * * *

(2) * * *

(i) If an asylum officer determines that an alien does not have a credible fear of persecution, reasonable possibility of persecution, or reasonable possibility of torture, and the alien requests a review of that determination by an immigration judge; or

* * * * *

(iii) If an immigration officer refers an applicant in accordance with the provisions of § 208.30 or § 208.31.

* * * * *

(c) The provisions of this part are separate and severable from one another. In the event that any provision in this part is stayed, enjoined, not implemented, or otherwise held invalid, the remaining provisions shall nevertheless be implemented as an independent rule and continue in effect.

* * * * *

Chad R. Mizelle,

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

Dated: June 4, 2020.

William P. Barr,

Attorney General.

[FR Doc. 2020–12575 Filed 6–10–20; 4:15 pm]

BILLING CODE 4410–30–P; 9111–97–P

Reader Aids

Federal Register

Vol. 85, No. 115

Monday, June 15, 2020

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6050**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **www.govinfo.gov.**

Federal Register information and research tools, including Public Inspection List and electronic text are located at: **www.federalregister.gov.**

E-mail

FEDREGTOC (Daily Federal Register Table of Contents Electronic Mailing List) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new**, enter your email address, then follow the instructions to join, leave, or manage your subscription.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html and select** *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, JUNE

32977–33526 1
33527–34084 2
34085–34352 3
34353–34492 4
34493–34956 5
34957–35164 8
35165–35372 9
35373–35544 10
35545–35796 11
35797–36138 12
36139–36306 15

CFR PARTS AFFECTED DURING JUNE

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

2 CFR

910 32977

3 CFR

Proclamations:
9496 (amended by Proc. 10049) 35793
10043 34353
10044 34941
10045 34943
10046 34945
10047 34947
10048 34949
10049 35793
Executive Orders:
13925 34079
13926 34951
13927 35165
13928 36139
Administrative Orders:
Memorandums:
Memorandum of April 14, 2020 35797
Memorandum of June 2, 2020 34955
Memorandum of June 4, 2020 35171
Notices:
Notice of June 11, 2020 36137

7 CFR

1 34085
9 35799
985 35545
Proposed Rules:
205 34651
301 34537
966 35222

8 CFR

Proposed Rules:
208 36264
235 36264
1003 36264
1208 36264
1235 36264

9 CFR

Proposed Rules:
7 35812
310 33031
352 33034

10 CFR

9 33527
50 34087
35 33527
Proposed Rules:
9 33581
35 33581
72 33582
170 34370
429 35700
430 .....35382, 35700
431 .....33036, 34111, 34541, 35382, 35383, 35394

12 CFR

3 32980
6 32980
7 .....33530, 35373
25 34734
30 32991
160 33530
195 34734
208 .....32980, 32991
217 32980
324 32980
364 32991
741 32991
1005 34870
Proposed Rules:
745 34545

13 CFR

120 .....33004, 33010, 35550
121 35550

14 CFR

29 34493
39 .....34088, 34090, 34597, 34599, 35175, 35177, 35553, 35555, 36143, 36145
71 .....33536, 34602, 34604
97 .....35800, 35803
Proposed Rules:
39 .....33043, 33046, 33583, 34118, 34121, 34136, 34139, 34141, 34371, 34375, 34655, 34656, 34658, 34661, 34664, 35227, 35602, 35604, 35812, 35814, 35816
71 .....33587, 33589, 33590, 34144, 34146, 34148, 34666, 35229, 35231, 35818, 36172, 36174

15 CFR

4a 35374
744 .....34495, 34503
774 34306

16 CFR

1253 33015
Proposed Rules:
317 34548

17 CFR

39 35805
229 33290
230 33290
232 33290
239 33290

240.....33020, 33290
243.....33290
249.....33290
270.....33290
274.....33290
Proposed Rules:
1.....36000
3.....35820
4.....36000
41.....36000
190.....36000

19 CFR

Proposed Rules:
24.....34549, 34836
111.....34549, 34836

21 CFR

112.....34508
573.....33538
1308.....34607, 36148

22 CFR

120.....35376
122.....35376
123.....35376
124.....35376
129.....35376
531.....36150

26 CFR

1.....35557
Proposed Rules:
1 .....34050, 35233, 35398, 35606, 35746, 35835
53.....35746

27 CFR

9.....34095
18.....33539
19.....33539
24.....33539
25.....33539
26.....33539
27.....33539
28.....33539
30.....33539
70.....33539

29 CFR

541.....34609
778.....34610
1614.....35558
4022.....36153
4044.....36153
Proposed Rules:
1614.....33049

30 CFR

550.....34912

31 CFR

569.....34510

32 CFR

104.....34518
199.....34101
Proposed Rules:
507.....35846

33 CFR

100 .....33543, 33547, 34633, 34634
117.....33550
165 .....33553, 33561, 33566, 33568, 33570, 34104, 34519, 34520, 34639, 34641, 35806
207.....34643
326.....34643
Proposed Rules:
100.....33592, 35404
165.....34668

34 CFR

361.....33021
Proposed Rules:
Ch. III.....34554

36 CFR

13.....35181
Proposed Rules:
251.....34378

37 CFR

Proposed Rules:
201.....34150

38 CFR

9.....35562
71.....34522

39 CFR

3030.....35807
Proposed Rules:
551.....35404

40 CFR

9.....35191
52 .....33021, 33023, 33571, 34106, 34108, 34357, 34524, 35198, 35377, 35809, 36154, 36161
63.....34326
70.....33023
81.....35377
174.....34646
180.....34359
228.....35564
271.....33026
282.....34361
721.....35191
Proposed Rules:
52 .....33049, 33052, 34379, 34381, 34559, 34671, 34673, 34675, 34677, 34681, 34686, 35607, 35852
80.....34688
81.....34381
82.....35874
83.....35612
180.....33059
282.....34395
721.....36175

41 CFR

Proposed Rules:
102–35.....35236
102–36.....35236
102–37.....35236
102–38.....35236
102–39.....35236
102–40.....35236

42 CFR

417.....33796
422.....33796
423.....33796
Proposed Rules:
136.....36182

43 CFR

Proposed Rules:
5000.....34689
5400.....34689
5410.....34689
5420.....34689
5430.....34689
5440.....34689
5450.....34689
5460.....34689
5470.....34689
5500.....34689

44 CFR

67.....34648

45 CFR

302.....35201
303.....35201
305.....35201
307.....35201
309.....35201
1168.....35566
Proposed Rules:
153.....33595

47 CFR

0.....34525
1.....33578
2.....33578
11.....35567
51.....35208
54.....33578, 34525
73.....35567
74.....35567
Proposed Rules:
1.....35405
2.....35405
18.....35405
54.....35627
64.....35406

48 CFR

201.....34527
206.....34528
208.....34530
210.....34530
212.....34530
215.....34530, 34532
218.....34527
219.....34528
225.....34533
234.....34530
249.....34535
252.....34535, 34536
Proposed Rules:
2.....34561
9.....34561
15.....34561
19.....34155, 34561
42.....34155
52.....34155, 34561
204.....34569
212.....34569
239.....34576
252.....34569, 34576
825.....35238

49 CFR

29.....33494
385.....33396
395.....33396
Proposed Rules:
191.....35240
192.....35240
572.....33617

50 CFR

17.....35574
216.....35379
300.....35379
622 .....36164, 36165, 36166
648 .....33027, 33579, 35209
660.....35210, 35594
679.....35381
Proposed Rules:
17.....33060, 35510
21.....34578
36.....35628
218.....33914

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List June 9, 2020

Public Laws Electronic Notification Service (PENS)

PENS is a free email notification service of newly enacted public laws. To subscribe, go to *https://listserv.gsa.gov/cgi-bin/wa.exe?SUBED1=PUBLAWS-L&A=1*

Note: This service is strictly for email notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.