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Contents

Federal Register

Vol. 85, No. 120

Monday, June 22, 2020

Agriculture Department
See Forest Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 37416

Bonneville Power Administration
NOTICES
Public Hearing:
Suspension of the Financial Reserves Policy Surcharge for the Remainder of the BP–20 Rate Period; Opportunities for Public Review and Comment, 37444–37447

Bureau of Consumer Financial Protection
RULES
Advisory Opinions Pilot, 37331–37333
PROPOSED RULES
Advisory Opinions Proposal, 37394–37396

Centers for Disease Control and Prevention
NOTICES
Meetings, 37455–37456
Meetings:
Board of Scientific Counselors, National Institute for Occupational Safety and Health, 37454–37455

Centers for Medicare & Medicaid Services
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 37456–37457

Civil Rights Commission
NOTICES
Meetings:
New Jersey Advisory Committee, 37417

Coast Guard
RULES
Special Local Regulations:
Great Western Tube Float; Colorado River, Parker, AZ, 37339–37341
USA Triathlon, Milwaukee Harbor, Milwaukee, WI, 37337–37339
PROPOSED RULES
Safety Zone:
I–5 Bridge Construction Project, Columbia River, Vancouver, WA, 37397–37399

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration
See Patent and Trademark Office

Copyright Office, Library of Congress
RULES
Group Registration of Short Online Literary Works, 37341–37347
PROPOSED RULES
Exemptions to Permit Circumvention of Access Controls on Copyrighted Works, 37399–37403

Denali Commission
NOTICES
Fiscal Year 2021 Draft Work Plan, 37436–37438

Drug Enforcement Administration
NOTICES
Importer of Controlled Substances Application:
Organic Standards Solutions International, LLC, 37471

Education Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Protection and Advocacy of Individual Rights Program Assurances, 37444
Applications for New Awards:
Out of School Time Career Pathway Program, 37438–37443

Energy Department
See Bonneville Power Administration
See Federal Energy Regulatory Commission
See Western Area Power Administration
NOTICES
Meetings:
Environmental Management Site–Specific Advisory Board, Nevada, 37447–37448
Secretary of Energy Advisory Board, 37447

Environmental Protection Agency
RULES
Final Approval of State Underground Storage Tank Program Revisions and Incorporation by Reference:
Texas, 37347–37354
Toxic Chemical Release Reporting:
Addition of Certain Per- and Polyfluoroalkyl Substances, 37354–37364
PROPOSED RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
Iowa; Air Quality Implementation Plan-Muscatine Sulfur Dioxide Nonattainment Area and Start-up, Shutdown, Malfunction State Implementation Plan Call Withdrawal, 37405–37411
Missouri; Control of Emissions from Industrial Surface Coating Operations, 37411–37413
Final Approval of State Underground Storage Tank Program Revisions and Incorporation by Reference:
Texas, 37413–37414

Federal Aviation Administration
RULES
Airworthiness Directives:
Gulfstream Aerospace Corporation Airplanes, 37333–37335
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Operational Waivers for Small Unmanned Aircraft Systems, 37493

Federal Communications Commission
RULES
Assessment and Collection of Regulatory Fees for Fiscal Year 2020, 37364–37376
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 37450–37452
Meetings:
Hospital Robocall Protection Group, 37452–37453
Order Denying Stay Petition, 37453

Federal Emergency Management Agency
NOTICES
Final Flood Hazard Determinations, 37469

Federal Energy Regulatory Commission
NOTICES
Combined Filings, 37448–37449

Federal Highway Administration
NOTICES
Final Federal Agency Actions:
Proposed Highway in California, 37494–37495

Federal Maritime Commission
NOTICES
Investigation into Conditions Created by Canadian Ballast Water Regulations in the U.S./Canada Great Lakes Trade, 37453–37454

Fish and Wildlife Service
NOTICES
Permit Application:
Endangered Species; Recovery, 37469–37470

Food and Drug Administration
NOTICES
Meetings:
Oncologic Drugs Advisory Committee; Establishment of a Public Docket, 37458–37459
Withdrawal of Approval of New Drug Applications; Correction:
Hospira, Inc., et al., 37459

Forest Service
NOTICES
Meetings:
Ketchikan Resource Advisory Committee, 37416–37417

Health and Human Services Department
See Centers for Disease Control and Prevention
See Centers for Medicare & Medicaid Services
See Food and Drug Administration
See Health Resources and Services Administration
See Indian Health Service
See National Institutes of Health

Health Resources and Services Administration
NOTICES
Supplemental Award:
Education Development Center for the Home Visiting Collaborative Improvement and Innovation Network 2.0 Cooperative Agreement, 37459–37460

Homeland Security Department
See Coast Guard
See Federal Emergency Management Agency
See U.S. Customs and Border Protection
RULES
Removal of 30-Day Processing Provision for Asylum Applicant-Related Form I–765 Employment Authorization Applications, 37502–37546
PROPOSED RULES
Retrospective Analysis of the Chemical Facility Anti–Terrorism Standards, 37393–37394

Indian Health Service
PROPOSED RULES
Removal of Suspended Regulations, 37414–37415

Interior Department
See Fish and Wildlife Service
See Land Management Bureau

International Boundary and Water Commission, United States and Mexico
NOTICES
Environmental Assessments; Availability, etc.:
United States Section: Arroyo Colorado at Harlingen Flood Flow Improvement Project, Cameron County, TX, 37470–37471

International Trade Administration
PROPOSED RULES
Steel Import Monitoring and Analysis System:
Modification of Regulations; Correction, 37397
NOTICES
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Certain Quartz Surface Products from India and the Republic of Turkey, 37431–37432
Certain Quartz Surface Products from India and Turkey, 37422–37424
Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China, 37426–37429
Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China and the Socialist Republic of Vietnam, 37417–37422
Large Diameter Welded Pipe from Greece, 37424–37426
Magnesium Metal from the People's Republic of China, 37429–37431

Justice Department
See Drug Enforcement Administration
See Prisons Bureau

Land Management Bureau
NOTICES
Realty Action:
Competitive Issuance of a Communications Use Lease in Hinsdale County, CO, 37470

Library of Congress
See Copyright Office, Library of Congress

Management and Budget Office
NOTICES
Senior Executive Service Performance Review Board Membership, 37471

National Archives and Records Administration
NOTICES
Records Schedules, 37472–37473

National Credit Union Administration
NOTICES
Meetings; Sunshine Act, 37473

National Highway Traffic Safety Administration
NOTICES
Petition for Decision of Inconsequential Noncompliance:
Michelin North America, Inc., 37495–37496

National Institutes of Health
NOTICES
Meetings:
Eunice Kennedy Shriver National Institute of Child Health and Human Development, 37463
National Heart, Lung, and Blood Institute, 37460–37462
National Institute of Allergy and Infectious Diseases, 37460–37464
National Institute on Alcohol Abuse and Alcoholism, 37464
Prospective Grant of an Exclusive Patent License:
Development and Commercialization of Fenoterol and Certain Fenoterol Analogues for the Treatment of Cancer, 37464–37466
Ointment for the Topical Administration to Ischemic Treat and/or Neuropathic Ulcers in Humans, 37461

National Oceanic and Atmospheric Administration
RULES
Atlantic Highly Migratory Species:
Commercial Aggregated Large Coastal Shark and Hammerhead Shark Management Group in the Atlantic Region; Retention Limit Adjustment, 37390–37392
International Fisheries:
Eastern Pacific Tuna Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Area of Overlap Between the Convention Areas of the Inter-American Tropical Tuna Commission and the Western and Central Pacific Fisheries Commission, 37376–37390
NOTICES
Application for Exempted Fishing Permits:
West Coast Pelagic Conservation Group, 37433
Applications for Permits:
Endangered Species; File Nos. 21111, 23683, and 23851, 37433–37434
Coastal Pelagic Species Fishery:
Application for Exempted Fishing Permits; California Wetfish Producers Association, 37434–37435

National Science Foundation
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 37473–37474

Nuclear Regulatory Commission
NOTICES
License Renewal:
Pacific Gas and Electric Company; Humboldt Bay Independent Spent Fuel Storage Installation, 37474–37475
Meetings; Sunshine Act, 37475–37476
NUREG; Issuance:
Report to Congress on Abnormal Occurrences: Fiscal Year 2019; Dissemination of Information, 37476

Patent and Trademark Office
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals
Global Intellectual Property Academy Surveys, 37435–37436

Pipeline and Hazardous Materials Safety Administration
NOTICES
Meetings:
Gas and Liquid Pipeline Safety Advisory Committees, 37496–37497

Postal Regulatory Commission
PROPOSED RULES
Periodic Reporting, 37403–37405
NOTICES
New Postal Products, 37476–37479

Postal Service
NOTICES
Market Test of Experimental Product:
Extended Mail Forwarding, 37479
Product Change:
Priority Mail—Non-Published Rates, 37479

Prisons Bureau
RULES
Video Visiting and Telephone Calls Under the Coronavirus Aid, Relief, and Economic Security Act, 37335–37337

Securities and Exchange Commission
NOTICES
Self-Regulatory Organizations; Proposed Rule Changes:
Cboe BZX Exchange, Inc., 37488
Cboe Exchange, Inc., 37479–37483
ICE Clear Credit, LLC, 37483–37486
NYSE Arca, Inc., 37488–37491
The Nasdaq Stock Market, LLC, 37486–37488

State Department
NOTICES
Delegation of Authority:
Authorities of the Director of the Office of Foreign Missions, 37492
Modified Display Dates Due to the COVID–19 Pandemic, for Culturally Significant Objects Imported for Exhibition, 37491–37492

Surface Transportation Board
NOTICES
Abandonment Exemption:
CSX Transportation, Inc.; Greenbrier and Fayette Counties, WV, 37492–37493
Quarterly Rail Cost Adjustment Factor, 37493

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration
See National Highway Traffic Safety Administration
See Pipeline and Hazardous Materials Safety Administration

U.S. Customs and Border Protection
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Commercial Invoice, 37467
Guam-Commonwealth of the Northern Mariana Islands Visa Waiver Information, 37466
Meetings:
Commercial Customs Operations Advisory Committee, 37467–37468

Veterans Affairs Department

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Conflicting Interests Certification for Proprietary Schools, 37498–37499

Western Area Power Administration

NOTICES

Rate Order:

Pacific Northwest-Pacific Southwest Intertie Project, 37450

Separate Parts In This Issue

Part II

Homeland Security Department, 37502–37546

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.

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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.

6 CFR
Proposed Rules:
27 37393

8 CFR
208 37502

12 CFR
Ch. X 37331
Proposed Rules:
Ch. X 37394

14 CFR
39 37333

19 CFR
Proposed Rules:
360 37397

28 CFR
540 37335

33 CFR
100 (2 documents) 37337, 37339
Proposed Rules:
165 37397

37 CFR
201 37341
202 37341
Proposed Rules:
201 37399

39 CFR
Proposed Rules:
3050 37403

40 CFR
282 37347
372 37354
Proposed Rules:
52 (2 documents) 37405, 37411
282 37413

42 CFR
Proposed Rules:
136a 37414

47 CFR
1 37364

50 CFR
300 37376
635 37390

Rules and Regulations

Federal Register
Vol. 85, No. 120
Monday, June 22, 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.

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Chapter X

Advisory Opinions Pilot

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Procedural rule.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) announces the establishment of a new pilot advisory opinion program (Pilot AO Program).

DATES: This procedural rule is applicable on June 22, 2020.

FOR FURTHER INFORMATION CONTACT: For additional information about the Pilot AO Program, contact Marianne Roth, Chief Risk Officer, Office of Strategy, at 202–435–7684. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Under the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act),[1] the Bureau's ''primary functions'' include issuing guidance implementing Federal consumer financial law.[2] The Bureau believes that providing clear and useful guidance to regulated entities is an important aspect of facilitating markets that serve consumers.

The Bureau currently issues several types of guidance regarding the statutes that it administers and regarding the regulations and Official Interpretations that it normally issues through the notice-and-comment process. On occasion, the Bureau provides guidance in interpretive rules or general statements of policy. The Bureau also routinely issues Compliance Aids that present legal requirements in a manner that is useful for compliance professionals, other industry stakeholders, and the public, or include practical suggestions for how entities might choose to go about complying with those requirements.[3] Additionally, the Bureau provides individualized ''implementation support'' to regulated entities through its Regulatory Inquiries Function (RIF).[4] Neither Compliance Aids nor the RIF are intended to interpret ambiguities in legal requirements.

The Bureau is establishing the Pilot AO Program in response to feedback received from external stakeholders encouraging the Bureau to provide written guidance in cases of regulatory uncertainty. The Bureau received requests of this nature in comments submitted in response to the Request for Information Regarding Bureau Guidance and Implementation Support (Guidance RFI). The Guidance RFI noted, among other things, current Bureau forms of individualized support to regulated entities—principally the RIF—and asked whether the Bureau should consider an AO program to provide interpretations, including the particular scope and benefits of AOs that would be distinct from generalized frequently asked questions (FAQs), and the types of questions or issues that could or could not be appropriately dealt with by AOs.[5]

In response to the Guidance RFI, several respondents recommended the Bureau issue such AOs. Commenters that supported AOs wrote that a Bureau AO program would reduce ambiguity and increase regulatory certainty, support proactive consumer protection, and enhance timeliness of guidance. Several of these commenters suggested that AOs be binding, ultimately be incorporated into a central location (like the Official Interpretations to Bureau regulations), and be accessible and useful to third parties as well as requestors.

Other commenters responded to the Guidance RFI and opposed the issuance of AOs. They had three primary objections: First, that AOs will not provide the public with meaningful additional assistance in understanding legal requirements; second, that AOs could create confusion; and third, that interpretations are better made via notice and comment.

Comments on the Bureau's Proposed Policy on No-Action Letters and the BCFP Product Sandbox[6] also addressed whether the Bureau should include an interpretive letter (IL) or AO program to the Compliance Assistance Sandbox (CAS). Commenters supporting the inclusion of an IL or AO program to the CAS said that the Bureau could further compliance and clarify regulatory expectations by issuing interpretive legal opinions in circumstances warranting further legal clarity on a particular practice or activity. They noted that other regulatory agencies provide for opinions of this kind. A commenter opposing the inclusion of an IL or AO program to the CAS reiterated the objections made by commenters on the Guidance RFI that AOs could increase confusion and that interpretations are better made via notice and comment.

After considering these comments, the Bureau is establishing the Pilot AO Program to provide guidance with interpretive content that is: Focused on regulatory uncertainty identified by requestors; reliable for the requestor and all similarly situated parties as the Bureau's authoritative interpretation of the law; and publicly released for the awareness of all affected persons. The Bureau appreciates the concerns raised by some commenters on the Guidance RFI and the CAS about an AO program. With respect to concerns that AOs would not provide meaningful assistance to stakeholders regarding the interpretation of legal requirements, the Bureau believes that the comments described above indicate that there is meaningful demand for the resolution of regulatory uncertainty beyond the Bureau's existing tools for issuing guidance. Accordingly, the Pilot AO Program can help enhance compliance. With respect to comments that AOs could create confusion, the Bureau believes that clear communication of the status of AOs issued under the Pilot AO Program as interpretive rules under the Administrative Procedure Act (APA) will minimize potential for confusion as

[1] Public Law 111–203, 124 Stat. 2081 (2010).

[2] 12 U.S.C. 5511(c)(5).

[3] *See* Policy Statement on Compliance Aids, 85 FR 4579 (Jan. 27, 2020).

[4] *See* Bureau of Consumer Financial Protection Request for Information Regarding Bureau Guidance and Implementation Support (Guidance RFI), 83 FR 13959, 13961–62 (Apr. 2, 2018).

[5] Guidance RFI, at 13964.

[6] *See* Bureau of Consumer Financial Protection Policy on No-Action Letters and the BCFP Product Sandbox, 83 FR 64036–64045 (Dec. 13, 2018).

to the significance of different types of guidance. Further, AOs will be signed by the Director, addressing concerns that an AO program could lead to the proliferation of conflicting staff-level opinions.

With respect to comments regarding the importance of notice and comment, the Bureau agrees that broad stakeholder input is valuable in many contexts. As explained below, the Bureau does not intend to issue advisory opinions on issues that are better addressed through the notice-and-comment process. However, as the APA contemplates by exempting interpretive rules from notice-and-comment requirements, the Bureau also believes that there are contexts where it is appropriate to interpret the applicable law through timely guidance without needing to engage in a sometimes-lengthy notice-and-comment process.

The Bureau is initiating its program for AOs in the form of a pilot, which will allow the Bureau to gain additional experience with AOs. Public comments on the Bureau's concurrent proposal, together with the Bureau's experience with the pilot, will inform how the Bureau uses AOs in the future.

II. Parameters of the Pilot AO Program

A. Overview

The primary purpose of the Pilot AO Program is to provide a mechanism through which the Bureau may more effectively carry out its statutory purposes and objectives by better enabling compliance in the face of regulatory uncertainty. Under the program, parties will be able to request interpretive guidance, in the form of an AO, to resolve such regulatory uncertainty.[7]

B. Submission and Content of Requests

Requests may be submitted via email to *advisoryopinion@cfpb.gov,* or through other means designated by the Bureau.[8] Requests must identify the requestor.[9] Where information submitted to the Bureau is information the requestor would not normally make public, the Bureau intends to treat it as confidential pursuant to its rule, Disclosure of Records and Information,[10] to the extent applicable. The Bureau encourages requestors to identify any such information to the extent they choose to include it in their submissions. For the pilot program, requestors will be limited to covered persons or service providers that are subject to the Bureau's supervisory authority under sections 1024, 1025, or 1026(e) of the Dodd-Frank Act or subject to the Bureau's enforcement authority under subtitle E of the Dodd-Frank Act.[11] The Bureau will not accept requests from third parties, such as trade associations or law firms, on behalf of unnamed entities as part of the pilot program.

C. Characteristics of AOs

AOs under the pilot program will be interpretive rules under the APA[12] that respond to a specific request for clarity on an interpretive question. The Bureau will publish AOs in the **Federal Register** and on *consumerfinance.gov*, including the Bureau's summary of the material facts and the Bureau's legal analysis of the issue.[13] Unless otherwise stated, each AO will be applicable to the requestor and to similarly situated parties to the extent that their situations conform to the Bureau's summary of material facts in the AO.[14]

Where a statutory safe harbor is applicable to an AO, the AO will explain that fact. The Truth in Lending Act (TILA), Equal Credit Opportunity Act (ECOA), Electronic Fund Transfer Act (EFTA), and Real Estate Settlement Procedures Act (RESPA) provide certain protections from liability for acts or omissions done in good faith in conformity with an interpretation by the Bureau.[15] The Fair Debt Collection Practices Act (FDCPA) contains similar protections, specifically using the term ''advisory opinion.''[16]

D. Factors in Bureau Selection of Topics for AOs

The Bureau intends to consider the following factors as part of its consideration of whether to address topics through AOs.[17] The Bureau will prioritize open questions within the Bureau's purview that can legally be addressed through an interpretive rule, where an AO is an appropriate tool relative to other Bureau tools for resolving that question. Initial factors weighing for the appropriateness of an AO include: That the interpretive issue has been noted during prior Bureau examinations as one that might benefit from additional regulatory clarity; that the issue is one of substantive importance or impact or one whose clarification would provide significant benefit; and/or that the issue concerns an ambiguity that the Bureau has not previously addressed through an interpretive rule or other authoritative source. Factors weighing strongly for a presumption that an AO is not an appropriate tool include: That the interpretive issue is the subject of an ongoing Bureau investigation or enforcement action; that the interpretive issue is the subject of an ongoing or planned rulemaking; that the issue is better suited for the notice-and-comment process; that the issue could be addressed effectively through a Compliance Aid; or that there is clear Bureau or court precedent that is already available to the public on the issue.

The Bureau intends to further evaluate potential topics for AOs based on additional factors, including: Alignment with the Bureau's statutory objectives; size of the benefit offered to consumers by resolution of the interpretive issue; known impact on the actions of other regulators; and impact on available Bureau resources. The Pilot AO Program will primarily focus on the following statutory objectives of the Bureau: (1) That consumers are provided with timely and understandable information to make responsible decisions about financial transactions; (2) that outdated, unnecessary, or unduly burdensome regulations are regularly identified and addressed in order to reduce unwarranted regulatory burdens; (3) that Federal consumer financial law is enforced consistently, without regard to the status of a person as a depository

[7] For convenience, this document uses the term ''regulatory uncertainty'' to encompass uncertainty with respect to regulatory or, where applicable, statutory provisions.

[8] Applications should not include sensitive personal information, such as account numbers or Social Security numbers, or names of other individuals.

[9] The Bureau notes that during the Pilot AO Program, requestors are not required to include the additional information set out in the Bureau's separate **Federal Register** document regarding the Proposed AO Program.

[10] 12 CFR 1070.

[11] 12 U.S.C. 5514, 5515, 5516(e), 5561–5567.

[12] 5 U.S.C. 553(b).

[13] An AO will not necessarily adopt any proposed interpretation offered by the requestor. The Bureau retains the discretion to answer requests with its own interpretation regardless of the proposed interpretation of the requestor.

[14] Accordingly, the initial request drafted by the requestor is not necessarily a reliable guide to the scope or terms of an AO; the scope and terms of an AO will be set out in the AO itself. Moreover, the Bureau will not normally investigate the underlying facts of the requestor's situation, and an AO is not applicable to the requestor if the underlying facts of the requestor's situation do not conform to the Bureau's summary of material facts.

[15] *See* 15 U.S.C. 1640(f) (TILA); 15 U.S.C. 1691e(e) (ECOA); 15 U.S.C. 1693m(d) (EFTA); 12 U.S.C. 2617, 12 CFR 1024.4 (RESPA).

[16] *See* 15 U.S.C. 1692(k)(e) (FDCPA).

[17] The following are factors that the Bureau intends to weigh when deciding which topics to prioritize in the AO program, based on all of the information available to the Bureau. AO requests need not address these factors in order to be fully considered by the Bureau.

institution, in order to promote fair competition; and (4) that markets for consumer financial products and services operate transparently and efficiently to facilitate access and innovation.[18]

The Pilot AO Program will focus primarily on clarifying ambiguities in the Bureau's regulations, although AOs may clarify statutory ambiguities. The Bureau will not issue AOs on issues that require notice-and-comment rulemaking under the APA,[19] or that are better addressed through that process. For example, the Bureau does not intend to issue an advisory opinion that would change a regulation. Similarly, where a regulation or statute establishes a general standard that can only be applied through highly fact-intensive analysis, the Bureau does not intend to replace it with a bright-line standard that eliminates all of the required analysis. Highly fact-intensive applications of general standards, such as of the statutory prohibition on unfair, deceptive, or abusive acts or practices, pose particular challenges for issuing advisory opinions, although there may be times when the Bureau is able to offer advisory opinions that provide additional clarity on the meaning of such standards.

III. Regulatory Requirements

The Bureau has concluded that the Pilot AO Program constitutes a rule of agency organization, procedure, or practice, and that it is, therefore, exempt from the notice-and-comment rulemaking requirements of the APA.[20] For the same reason, it is not subject to the 30-day delayed effective date for substantive rules under section 553(d) of the APA.[21] Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis.[22]

IV. Signing Authority

The Director of the Bureau, having reviewed and approved this document, is delegating the authority to electronically sign this document to Laura Galban, a Bureau Federal Register Liaison, for purposes of publication in the **Federal Register**.

Dated: June 18, 2020.

Laura Galban,

Federal Register Liaison, Bureau of Consumer Financial Protection.

[FR Doc. 2020–13504 Filed 6–19–20; 8:45 am]

BILLING CODE 4810–AM–P

[18] *See* 12 U.S.C. 5511(b)(1), (3)–(5). The Bureau has a further statutory objective, that consumers are protected from unfair, deceptive, or abusive acts and practices (UDAAPs) and from discrimination. 12 U.S.C. 5511(b)(2). The Bureau considers this objective to be at least as important as its other objectives, and it does not plan to issue an AO that is in conflict with this objective. But because other regulatory tools are often more suitable for addressing UDAAPs and discrimination, the Bureau has chosen not to highlight this objective as a primary focus when selecting issues for the Pilot AO Program.

[19] 5 U.S.C. 553(b).

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

[21] 5 U.S.C. 553(d).

[22] 5 U.S.C. 603(a), 604(a).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–1024; Product Identifier 2019–CE–002–AD; Amendment 39–21126; AD 2020–11–01]

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 certain Gulfstream Aerospace Corporation (Gulfstream) Model GVI airplanes. This AD was prompted by a report that the primary flight control actuation system (PFCAS) linear variable displacement transducer (LVDT) mechanical disconnect monitor may not trigger the disconnect of the affected control surfaces as required in the event of a control surface failure. This AD requires updating the software of each PFCAS remote electronics unit (REU), which includes an improvement to the LVDT. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 27, 2020.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of July 27, 2020.

ADDRESSES: For the Gulfstream and Parker service information identified in this final rule, contact Gulfstream Aerospace Corporation, Technical Publications Dept., P.O Box 2206, Savannah, GA 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. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–1024.

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–2019–1024; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Myles Jalalian, Aerospace Engineer, Atlanta ACO Branch, FAA, 1701 Columbia Avenue, College Park, Georgia 30337; phone: (404) 474–5572; fax: (404) 474–5606; email: *myles.jalalian@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 Gulfstream Aerospace Corporation (Gulfstream) Model GVI airplanes. The NPRM published in the **Federal Register** on December 16, 2019 (84 FR 68363).

The NPRM was prompted by a report from Gulfstream that the PFCAS LVDT mechanical disconnect monitor may not trigger the disconnect of the affected control surfaces as required in the event of a control surface failure. The Model GVI flight control computer actuator LVDT disconnect monitor should disable the control surface for ailerons, elevators, and rudder in the event that one of those control surfaces fails. Gulfstream developed an REU software update that provides improvements to the LVDT of the PFCAS, which addresses the LVDT disconnect monitor problem.

This condition, if not addressed, could lead to spoiler hard-over or loss of structural integrity due to excessive surface deflection and result in loss of control of the airplane.

The NPRM proposed to require updating the software of each PFCAS REU, which includes an improvement to the LVDT. 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 no comments on the NPRM or on the determination of the cost to the public.

Conclusion

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed Gulfstream G650 Customer Bulletin Number 201, dated September 28, 2017, and Gulfstream G650ER Customer Bulletin Number 201, dated September 28, 2017; which specify incorporating Gulfstream G650 Aircraft Service Change 069, dated September 28, 2017, or Gulfstream G650ER Aircraft Service Change 069, dated September 28, 2017. This service information differs because each document applies to a different airplane designation.

The FAA also reviewed Gulfstream G650 Aircraft Service Change 069, dated September 28, 2017, and Gulfstream G650ER Aircraft Service Change 069, dated September 28, 2017, which provide and reference procedures for preparing the REU for a software update.

The FAA reviewed Parker Service Bulletin 469000–27–003, Revision 1, dated October 11, 2017, which contains procedures for updating the software of the REU from Label 34 to Label 35. This update includes improved LVDT disconnect and oscillatory monitoring, force fight mitigation, troubleshooting, and rectification of other reported problems.

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

Costs of Compliance

The FAA estimates that this AD affects 161 products installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Update REU software	386 work-hours × $85 per hour = $32,810	None	$32,810	$5,282,410

According to the manufacturer, some of the costs of this d 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.

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):

2020–11–01 Gulfstream Aerospace Corporation: Amendment 39–21126; Docket No. FAA–2019–1024; Product Identifier 2019–CE–002–AD.

(a) Effective Date

This AD is effective July 27, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Gulfstream Aerospace Corporation Model GVI airplanes, certificated in any category, serial numbers 6001 through 6111, 6113 through 6133, and 6135 through 6274.

Note 1 to paragraph (c) of this AD: Model GVI airplanes are also referred to by the marketing designations G650 and G650ER.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 27, Flight Controls.

(e) Unsafe Condition

This AD was prompted by a report that the primary flight control actuation system (PFCAS) linear variable displacement transducer (LVDT) mechanical disconnect monitor may not trigger the disconnect of the affected control surfaces as required in the event of a control surface failure. This condition, if not addressed, could lead to spoiler hard-over or loss of structural integrity due to excessive surface deflection and result in loss of control of the airplane.

(f) Compliance

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

(g) Software Upgrade

Within the next 24 months after July 27, 2020 (the effective date of this AD), update

the software for each PFCAS remote electronics unit (REU) from Label 34 to Label 35 by following the Accomplishment Instructions in Gulfstream G650 Customer Bulletin Number 201, dated September 28, 2017, or Gulfstream G650ER Customer Bulletin Number 201, dated September 28, 2017; the Modification Instructions, sections A through C, in Gulfstream G650 Aircraft Service Change No. 069, dated September 28, 2017, or Gulfstream G650ER Aircraft Service Change No. 069, dated September 28, 2017; and the Accomplishment Instructions in Parker Service Bulletin 469000–27–003, Revision 1, dated October 11, 2017; except you are not required to submit information to the manufacturer.

(h) 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 (i)(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.

(3) For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (h)(3)(i) and (ii) of this AD apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

(i) Related Information

For more information about this AD, contact Myles Jalalian, Aerospace Engineer, Atlanta ACO Branch, FAA, 1701 Columbia Avenue, College Park, Georgia 30337; phone: (404) 474–5572; fax: (404) 474–5606; email: *myles.jalalian@faa.gov.*

(j) 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 5.

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

(i) Gulfstream G650 Customer Bulletin Number 201, dated September 28, 2017. (ii) Gulfstream G650ER Customer Bulletin Number 201, dated September 28, 2017.

(iii) Gulfstream G650 Aircraft Service Change 069, dated September 28, 2017.

(iv) Gulfstream G650ER Aircraft Service Change 069, dated September 28, 2017.

(v) Parker Service Bulletin 469000–27–003, Revision 1, dated October 11, 2017

(3) For Gulfstream and Parker service information identified in this AD, Gulfstream Aerospace Corporation, Technical Publications Dept., P.O Box 2206, Savannah, GA 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 the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. In addition, you can access this service information on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–1024.

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

Issued on May 15, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–12799 Filed 6–19–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 540

[Docket No. BOP–1177I]

RIN 1120–AB77

Video Visiting and Telephone Calls Under the Coronavirus Aid, Relief, and Economic Security (CARES) Act

AGENCY: Bureau of Prisons, Department of Justice.

ACTION: Final rule.

SUMMARY: The Bureau of Prisons amends its regulations to provide inmates in federal custody with the opportunity for free video-teleconferencing and telephone usage during the national emergency with respect to Coronavirus Disease 2019.

DATES: This rule is effective June 22, 2020.

FOR FURTHER INFORMATION CONTACT: Sarah Qureshi, Office of General Counsel, Bureau of Prisons, phone (202) 353–8248.

SUPPLEMENTARY INFORMATION: On March 13, 2020, the President of the United States declared that a national emergency existed with respect to the outbreak of the novel coronavirus, SARS–CoV–2, known as Coronavirus Disease 2019 (COVID–19). Proclamation 9994 of March 13, 2020, 85 FR 15337 (Mar. 18, 2020), *available at https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/.* In the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Congress provided that, during the emergency period beginning on the date the President declared a national emergency with respect to COVID–19 and ending on the date 30 days after the date on which the national emergency declaration terminates, if the Attorney General finds that emergency conditions will materially affect the functioning of the Bureau of Prisons (Bureau), the Director of the Bureau shall promulgate a regulation regarding the ability of inmates to conduct visitation through video teleconferencing and by phone, free of charge to inmates. *See* CARES Act, Public Law 116–136, § 12003(c)(1), 134 Stat 281, 618 (2020) [HR 748].

On April 6, 2020, the Attorney General authorized the Bureau of Prisons to exercise this authority under the CARES Act. The CARES Act also exempted these regulations from the requirement of public notice and comment in the Administrative Procedure Act, 5 U.S.C. 553. *See id.* § 12003(c)(2).

The final rule amends Title 28 of the Code of Federal Regulations, part 540, to add new § 540.106, Video Visiting and Telephone Calls Under the CARES Act. Section 540.106 establishes that during the covered emergency period, when the Attorney General determines that emergency conditions will materially affect the functioning of the Bureau of Prisons, the Bureau may, on a case-by-case basis, authorize inmates to conduct visitation through video teleconferencing and telephonically, free of charge to inmates, notwithstanding provisions in part 540 to the contrary.

As a general matter, the Attorney General has authorized the Director of the Bureau of Prisons to exercise or perform any of the authority, functions, or duties conferred or imposed upon the Attorney General by laws relating to the commitment, control, or treatment of persons charged with or convicted of offenses against the United States. *See* 28 CFR 0.96.

The final rule also indicates that access to video and telephone visitation will only occur consistent with logistical and security provisions in this

subpart to ensure Bureau safety, security and good order and protection of the public, and may be modified, terminated, or reinstated during the emergency period based upon a determination by the Director, as designee of the Attorney General, regarding the level of material effect that emergency conditions continue to have on Bureau of Prisons functions. Further, misuse of Bureau systems or technology may result in communication restrictions and/or disciplinary action under 28 CFR part 541, and inmates are advised that they may challenge the Bureau's decisions under this section through the Bureau's administrative remedy program under 28 CFR part 542.

Regulatory Analyses

Executive Orders 12866, 13563, and 13771

This final rule has been drafted and reviewed in accordance with Executive Orders 12866, 13563, and 13771. This final rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866. Accordingly, it was not reviewed by OMB.

By way of background, the Bureau manages its own inmate telephone system (ITS). There are three components that make up the system and currently each has a different vendor: One provides software that facilitates the call processing and billing of the call; a second is the call carrier that transmits/facilitates the voice over internet protocol (VOIP) call outside the prison; and a third provides the software that maintains the inmate's account, digital call recording storage, and security settings.

The Bureau provides inmates with the option of placing direct dial; collect; and prepaid collect telephone calls via the ITS. Inmates housed in Bureau facilities normally pay the following per minute rates for direct dial telephone calls to their called parties: Direct Dial—Local: $0.06; Direct Dial—Long Distance: $0.21; Direct Dial—Canada: $0.35; Direct Dial—Mexico: $0.55; and Direct Dial—International: $0.99. If inmates place collect or prepaid collect calls, the called party will be charged applicable rates (not direct dial rates). Inmates at those facilties that provide video visitation normally pay a rate of $6.00 for a 25 minute video session.

The volume of calls and video sessions by prisoners normally fluctuates during non-emergency situtations. Inmates are ordinarily limited to calling 300 minutes per month, but the Bureau raised the limit to 500 minutes on March 13, 2020 in recognition of the impact of the COVID emergency to facilitate inmates' communiation with their families. Furthermore, notwithstanding the preparation of this rule, the Bureau implemented no-cost calling for inmates on April 9, 2020, for the same reason. Based on recent inmate usage, the Bureau projects that free-of-charge phone calls for inmates will cost the Bureau approximately $7 million per month during the COVID emergency and video sessions will cost approximately $170,000 per month. These costs are being covered out of current Bureau of Prisons appropriations. The total cost of the regulation is uncertain, however, because the length of the emergency and its impact on Bureau operations is not predictable.

Even with that uncertainty, the expected benefits of the rule outweigh the cost for several reasons. First, the provision of free telephone and video visitation is a compassionate response to the COVID emergency. Enabling free visitation by alernatives means that prisoners are able to maintain contact with their families during the COVID emergency. Second, maintaining some form of visitation is a means of ensuring good order and discipline during the emergency, which benefits the safety of prisoners and staff. Third, expending resources on video and telephone visitation benefits the health of prisoners and staff, as well as public health overall, during the emergency by limiting physical contact that could spread COVID. The Bureau has not identified any specific cost savings from the rule.

Executive Order 13132

This regulation will not have substantial direct effect on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, under Executive Order 13132, this regulation does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

The Department of Justice certifies that this rule will not have a significant economic impact upon a substantial number of small entities because it pertains to the functioning of the BUREAU and funds authorized and appropriated for that purpose by Congress.

Unfunded Mandates Reform Act of 1995

This regulation will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

This regulation is not a major rule as defined by the Congressional Review Act, 5 U.S.C. 804. This regulation will not result in an annual effect on the economy of $100,000,000 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 companies to compete with foreign-based companies in domestic and export markets.

List of Subjects in 28 CFR Part 540

Prisoners.

Michael D. Carvajal,

Director, Federal Bureau of Prisons.

Under rulemaking authority vested in the Attorney General in 5 U.S.C. 301; 28 U.S.C. 509, 510 and delegated to the Director of the Bureau of Prisons in 28 CFR 0.96, 28 CFR part 540 is amended as follows:

■ 1. The authority citation for 28 CFR part 540 is revised to read as follows:

Authority: 5 U.S.C. 301; 551, 552a; 18 U.S.C. 1791, 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; Coronavirus Aid, Relief, and Economic Security Act, Sec. 12003(c).

■ 2. In subpart I, add § 540.106 to read as follows:

§ 540.106 Video visiting and telephone calls under the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

(a) During the ''covered emergency period'' as defined by the CARES Act with respect to the coronavirus disease (COVID–19), when the Attorney General determines that emergency conditions will materially affect the functioning of the Bureau of Prisons (Bureau), the Bureau may, on a case-by-case basis, authorize inmates to conduct visitation through video teleconferencing and telephonically, free of charge to inmates, notwithstanding provisions in part 540 to the contrary.

(b) Access to video and telephone visitation will only occur consistent with logistical and security provisions in this subpart to ensure Bureau safety,

security and good order and protection of the public.

(c) Access to video and telephone visitation under this section may be modified, terminated, or reinstated during the emergency period based upon a determination by the Director, as designee of the Attorney General, regarding the level of material effect that emergency conditions continue to have on Bureau functions.

(d) Misuse of Bureau systems or technology may result in communication restrictions and/or disciplinary action under 28 CFR part 541.

(e) Inmates may challenge the Bureau's decisions under this section through the Bureau's administrative remedy program under 28 CFR part 542.

[FR Doc. 2020–13004 Filed 6–19–20; 8:45 am]

BILLING CODE 4410–05–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2020–0207]

RIN 1625–AA08

Special Local Regulation; USA Triathlon, Milwaukee Harbor, Milwaukee, WI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation for certain waters of the Milwaukee Harbor. This action is necessary to provide for the safety of life on these navigable waters within the Lake Shore State Park Lagoon during a triathlon swim event. This rulemaking will prohibit persons and vessels from being in the regulated area unless authorized by the Captain of the Port Lake Michigan or a designated representative.

DATES: This rule is effective from 8 a.m. on August 7, 2020 through 2 p.m. on August 9, 2020.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2020–0207 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Chief Petty Officer Kyle Weitzell, Sector Lake Michigan Waterways Management Division, U.S. Coast Guard; telephone 414–747–7148, email *Kyle.W.Weitzell@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

On January 10, 2020, USA Triathlon notified the Coast Guard that it will be hosting a triathlon in Milwaukee, WI from August 7, 2020 through August 9, 2020. Over the course of the three days this triathlon is being held, there will be as many as 6,000 participants involved in the swim portion of the triathlon in the Lake Shore State Park Lagoon within the Milwaukee Harbor. In response, on April 8, 2020, the Coast Guard published a Notice Of Proposed Rulemaking (NPRM) titled ''Special Local Regulation; USA Triathlon, Milwaukee Harbor, Milwaukee, WI'' (85 FR 19709). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this triathlon swim event. During the comment period that ended May 8, 2020, the Coast Guard received five comments.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70041. The Captain of the Port Lake Michigan (COTP) has determined that potential hazards associated with the swim portion of the triathlon from August 7, 2020 through August 9, 2020 will be a safety concern for anyone within the Lake Shore State Park Lagoon. The purpose of this rule is to protect safety of persons, vessels, and the navigable waters in the safety zone before, during, and after the scheduled event.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received five comments on our NPRM published April 8, 2020. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

One comment expressed agreement with the proposed rule in that it is necessary to protect triathlon participants from potential injury.

One comment expressed concern regarding whether it was appropriate to hold this event during the COVID–19 pandemic, asked whether this event can take place next year, and asked whether the City of Milwaukee was aware of the event. In response to this comment, the process of issuing a special local regulation for this event does not constitute approval of the event. The Coast Guard is working closely with state and local governments, health officials, and sponsors of marine events to determine whether an event can be held safely. At the time this regulation will be published, we still face uncertainty with regard to how the COVID–19 pandemic will play out in the months to come. As we get closer to the event date, there may be the possibility that the event will be cancelled due to ongoing state or local restrictions put in place for large gatherings as a result of the COVID–19 pandemic. That being said, the COTP is continuing to implement these special local regulations in case this event does occur as scheduled, in order to protect persons, vessels, and the navigable waters of the United States. As of the publication of this rule, the COTP is not aware of any plans from the sponsor of this event to postpone this event until 2021. Additionally, the City of Milwaukee maintains a separate permitting process, independent from the process employed by the Coast Guard. The City of Milwaukee is aware of this event and will act in accordance with their own regulations, policies, and procedures.

Two comments expressed concern for the adequacy of environmental protection due to this regulation. Both comments expressed concern that this regulation places priority on the protection of human life, rather than wildlife, and that a triathlon would disturb wildlife in the event area. Paragraph IV.F of the NPRM published on April 8, 2020 discusses the environmental review for this special local regulation, which has been conducted in accordance with the National Environmental Policy Act of 1969 (NEPA). Under NEPA, a review of this regulation evaluated the potential effect on the human environment. NEPA, as codified in 40 CFR 1508.14, clarifies the ''human environment shall be interepreted comprehensively to include the natural and physical environment and the relationship of people with that environment.'' As such, the environmental review conducted for this regulation has taken into account potential effects on endangered and threatened species, critical habitats, migratory birds, wildlife refuges and reserves, essential fish habitats, and coastal management zones, in addition to historical and

cultural impacts. Given the action taken by the COTP to limit access to a small portion of navigable waters of the United States that is routinely used for recreation, it was determined, as stated in the NPRM published on April 8, 2020, that actions such as this have been found to have no significant effect on the environment and are excluded from further review. Refer to Paragraph V.F of this temporary rule for more information on environmental review of this regulation.

Finally, one comment was beyond the scope of the proposed regulation and is not addressed herein.

This rule establishes a special local regulation from 8 a.m. on August 7, 2020 through 2 p.m. on August 9, 2020. The special local regulation will cover all navigable waters of the Lake Shore State Park Lagoon in the Milwaukee Harbor within an area bound by coordinates 43°02.20′ N, 087°53.69′ W, then South to 43°01.75′ N, 087°53.71′ W, then Southwest to 43°01.73′ N, 087°53.96′ W, then Northeast to 43°02.20′ N, 087°53.83′ W, then East to point of origin. The duration of the regulation is intended to protect the safety of persons, vessels, and these navigable waters before, during, and after the swim portion of the traithlon. No vessel or person, except those participating in the event, would be permitted to enter the regulated area without obtaining permission from the COTP or the Patrol Commander. The daily schedule of the swim portion of the triathlon will be made available publicly by Broadcast Notice to Mariners.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on location, size, and duration of this proposed special local regulation. This regulation will be in effect only on the Lake Shore State Park Lagoon during the swim portion of the triathlon from August 7, 2020 through August 9, 2020. Additionally, the COTP may consider the movement of persons and vessels through or within the regulated, if it is safe to do so.

B. Impact on Small Entities

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

While some owners or operators of vessels intending to transit the regulated area may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a special local regulation lasting three days that would prohibit entry in the Lake Shore State Park Lagoon within the

Milwaukee Harbor during the swim portion of a triathlon. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Memorandum for Record supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05–1.

■ 2. Add § 100.T09–0207 to read as follows:

§ 100.T09–0207 Special Local Regulation; USA Triathlon, Milwaukee Harbor, Milwaukee, WI.

(a) *Regulated area.* This area includes all waters of the Lake Shore State Park Lagoon in the Milwaukee Harbor within an area bound by coordinates 43°02.20′ N, 087°53.69′ W, then South to 43°01.75′ N, 087°53.71′ W, then Southwest to 43°01.73′ N, 087°53.96′ W, then Northeast to 43°02.20′ N, 087°53.83′ W, then East to point of origin.

(b) *Special Local Regulations.* (1) The regulations in this section, along with the regulations of § 100.901, apply to this marine event. No vessel may enter, transit through, or anchor within the regulated area without the permission of the Captain of the Port Lake Michigan (COTP) or the Patrol Commander.

(2) Vessel operators desiring to enter or operate within the regulated area shall contact the COTP or the Patrol Commander on VHF–FM Channel 16 to obtain permission to do so. Vessel operators given permission to enter or operate within the regulated area must comply with all directions given to them by the COTP or the Patrol Commander.

(c) *Effective dates.* These regulations are in effect from 8 a.m. on August 7, 2020 through 2 p.m. on August 9, 2020. Public notice of specific enforcement times will be made available through Broadcast Notice to Mariners.

Dated: June 4, 2020

T.J. Stuhlreyer,

Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.

[FR Doc. 2020–12494 Filed 6–19–20; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2020–0217]

RIN 1625–AA08

Special Local Regulation; Great Western Tube Float; Colorado River, Parker, AZ

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the location of the special local regulation for the annual Great Western Tube Float, which is held on the navigable waters of the Colorado River in Parker, AZ. The change of the location for the special local regulation is necessary to provide for the safety of life on the navigable waters during the event. This action will restrict vessel traffic in certain waters of the Colorado River, from 7 a.m. to 6 p.m. one Saturday in June, from Buckskin Mountain State Park to La Paz County Park.

DATES: This rule is effective July 22, 2020.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2020–0217 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or Lieutenant Briana Biagas, Waterways Management, U.S. Coast Guard; telephone 619–278–7656, email *D11MarineEventsSD@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Great Western Tube Float is an annual recurring event listed in Table 1, Item 9 of 33 CFR 100.1102, Annual Marine Events on the Colorado River, between Davis Dam (Bullhead City, Arizona) and Headgate Dam (Parker, Arizona). Special local regulations exist for the marine event to allow for special use of the Colorado River, Parker, AZ for this event.

On March 17, 2020, the Parker Area Chamber of Commerce notified the Coast Guard that the location of the marine event was being changed. The new location for the Great Western Tube Float will provide effective control over the marine event and insure safety of life in the regatta or marine parade area. In response, on April 27, 2020, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Special Local Regulation; Great Western Tube Float; Colorado River, Parker, AZ (85 FR 23264). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this annual marine event. During the comment period that ended May 12, 2020, we received 1 comment.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70041. The Captain of the Port San Diego (COTP) has determined this rule is needed to change the location of the marine event to the navigable waters of the Colorado River from Buckskin Mountain State Park to La Paz County Park, to reflect the actual location of this event. This change is needed to accommodate the sponsor's event plan and ensure that adequate regulations are in place to protect the safety of vessels and individuals that may be present in the regulated area.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received 1 comment on our NPRM published April 27, 2020. The commenter supported the Coast Guard's proposal to change the location of the marine event. The commenter noted they have rafted down the Colorado River many times and know how treacherous the river can be. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule changes the location of the Great Western Tube Float, an annual

event normally held on a Saturday in June on the waters of the Colorado River, Parker, AZ.

33 CFR 100.1102 lists the annual marine events and special local regulations on the Colorado River, between Davis Dam (Bullhead City, Arizona) and Headgate Dam (Parker, Arizona). The enforcement date and regulated location for this marine event are listed in Table 1, Item 9 of Section 100.1102.

This rule changes the location to the navigable waters of the Colorado River from Buckskin Mountain State Park to La Paz County Park, to reflect the actual location of this event. This change is needed to accommodate the sponsor's event plan and ensure that adequate regulations are in place to protect the safety of vessels and individuals that may be present in the regulated area.

The special local regulations are necessary to provide for the safety of the crew, spectators, participants, and other vessels and users of the Colorado River waterway. Persons and vessels will continue to be prohibited from anchoring, blocking, loitering, or impeding within this regulated waterway during the enforcement period unless authorized by the COTP, or his designated representative. Additionally, movement of all vessels within the regulated area and entry of all vessels into the regulated area will be restricted. Before the effective period, the Coast Guard will publish information on the event in the weekly LNM. The proposed regulatory text appears at the end of this document.

V. Regulatory Analysis

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and time-of-day of the special local regulation. This event takes place annually on one Saturday in June and will utilize only a small portion of the Colorado River during the event. This event is already included in our regulations, the only change is to the location on the river where the event would take place. The Coast Guard will publish a local notice to mariners in the weeks before the event that details the vessel restrictions of the regulated area.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received 00 comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of marine event special local regulations on the navigable waters of the Colorado River. It is

categorically excluded from further review under paragraph L61of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05–1.

■ 2. In § 100.1102, in Table 1 to § 100.1102, revise item ''9'' to read as follows:

§ 100.1102 Annual Marine Events on the Colorado River, between Davis Dam (Bullhead City, Arizona) and Headgate Dam (Parker, Arizona).

* * * * *

TABLE 1 TO § 100.1102

* * * * * * *

9. Great Western Tube Float	
Sponsor	City of Parker, AZ.
Event Description	River float.
Date	One Saturday in June.
Location	Parker, AZ.
Regulated Area	The navigable waters of the Colorado River from Buckskin Mountain State Park to La Paz County Park.

* * * * * * *

Dated: June 3, 2020.

T.J. Barelli,

Captain, U.S. Coast Guard, Captain of the Port San Diego.

[FR Doc. 2020–12627 Filed 6–19–20; 8:45 am]

BILLING CODE 9110–04–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Parts 201 and 202

[Docket No. 2018–12]

Group Registration of Short Online Literary Works

AGENCY: U.S. Copyright Office, Library of Congress.

ACTION: Final rule.

SUMMARY: The U.S. Copyright Office is amending its regulations to establish a new group registration option for short online literary works. This final rule largely adopts the eligibility requirements set forth in the Office's December 2018 notice of proposed rulemaking, with certain updates. To qualify for this option, each work must contain at least 50 but no more than 17,500 words. The works must be created by the same individual, or jointly by the same individuals, and each creator must be named as the copyright claimant or claimants for each work. The works must all be published online within a three-calendar-month period. If these requirements have been met, the applicant may submit up to 50 works with one application and one filing fee. The applicant must complete an online application designated for a group of ''Short Online Literary Works'' and upload a .ZIP file containing a separate digital file for each work. The Office will examine each work to determine if it contains a sufficient amount of creative authorship, and if the Office registers the claim, the registration will cover each work as a separate work of authorship.

DATES: Effective August 17, 2020.

FOR FURTHER INFORMATION CONTACT: Regan A. Smith, General Counsel and Associate Register of Copyrights; Robert J. Kasunic, Associate Register of Copyrights and Director of Registration Policy and Practice; Kevin R. Amer, Deputy General Counsel; or Erik Bertin, Deputy Director of Registration Policy and Practice, by telephone at 202–707–3000, or by email at *regans@copyright.gov, rkas@copright.gov, kamer@copyright.gov,* or *ebertin@copyright.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Copyright Act authorizes the Register of Copyrights to specify by regulation the administrative classes of works for the purpose of seeking a registration and the deposit required for each class.[1] The Act also gives the Register the discretion to allow groups of related works to be registered with one application and one filing fee.[2] This procedure is known as group registration.[3]

This rulemaking was initiated in response to a petition jointly submitted by the National Writers Union (''NWU''), the American Society of Journalists and Authors, the Science Fiction and Fantasy Writers of America, Inc. (''SFWA''), and the Horror Writers Association, requesting a rulemaking to create a new group registration option to accommodate works distributed online by individual writers, that would not qualify as contributions to periodicals.[4] The petition requested that the Office create a new group registration procedure for ''short-form works'' which

[1] 17 U.S.C. 408(c)(1).

[2] *Id.*

[3] *See generally* 37 CFR 202.3(b)(5), 202.4.

[4] *See* NWU et al. Comments and Petition for Rulemaking at 4 (Jan. 30, 2017) (the ''Petition''), *https://www.regulations.gov/contentStreamer?documentId=COLC-2016-0013-0003&attachmentNumber=1&contentType=pdf.*

would allow individual writers to submit one ''application and fee every three months.''[5] The Authors Guild, the Association of Garden Communicators, the Society of Children's Book Authors and Illustrators, the Songwriters Guild of America, and the Textbook & Academic Authors Association endorsed this petition.[6] They stated that writers ''urgently need a group registration [option] for short pieces, especially those disseminated online,'' including ''blogs, public Facebook posts . . ., short articles, and even copyrightable tweets.''[7]

On December 21, 2018, the Office published a notice of proposed rulemaking (''NPRM'') to establish a new group registration option for ''short online literary works,'' to be known as ''GRTX.''[8] The NPRM proposed allowing an applicant to register up to 50 literary works with one application and one filing fee using the online Standard Application designated for a ''Literary Work.'' Each work would have to contain at least 100 words but no more than 17,500 words. The works would have to be created by the same individual, and that individual must be named as the copyright claimant for each work. The works would have to be published on a website or online platform within a three-calendar-month period.

In response to the NPRM, the Office received comments from SFWA, the Copyright Alliance, the Authors Guild, the Association of American Publishers (''AAP''), NWU and National Press Photographers Association (''NWU/NPPA''), Patrice A. Lyons, Marcos Arias, and Joseph Savage. The comments were broadly favorable to the new group registration option, but also requested various modifications to the proposed rule. In general, commenters were interested in expanding eligibility for this option to greater numbers of works. Proposals included broadening the word-count range for eligible works, increasing the number of works that may be included in the group, and extending eligibility to joint works and works made for hire.

Having carefully considered each of the comments, the Office now issues a final rule that closely follows the proposed rule, with certain modifications. First, the final rule lowers the minimum number of words each work must contain from 100 to 50 words. Second, the final rule allows group registration of joint works, provided that all works within the application are jointly authored and the joint authors are identical for each work. Third, the rule requires claims under this option to be submitted using a new online application specifically for GRTX filings, rather than on the Standard Application, and makes certain technical amendments in accordance with that change. Finally, the rule provides that works in the group should be uploaded to the electronic registration system in a .ZIP file containing a separate file for each work, rather than uploaded individually.

II. The Final Rule

A. Eligibility Requirements

1. Works That May Be Included in the Group

The Copyright Act defines a ''literary work'' as a work ''expressed in words, numbers, or other verbal or numerical symbols or indicia, regardless of the nature of the material objects . . . in which [it is] embodied.''[9] The NPRM provided that to qualify for the GRTX group registration option, an eligible literary work must contain a sufficient number of words and may not be comprised mainly of numbers or other verbal or numerical symbols or indicia. The Office noted that it would accept deposit copies that contain text combined with another form of authorship, but that claims in any form of authorship other than ''text'' would not be permitted on the application due to the additional time and effort necessary to examine works containing multiple forms of authorship. Commenters generally accepted these limitations. NWU/NPPA noted that some authors, such as bloggers, find it burdensome to register visual works separately from related literary works. However, NWU/NPPA did not request that the GRTX group option be expanded to include visual works, and for reasons of administrability, the Office is not prepared to do so with this group registration option.[10] The final rule therefore retains the language defining an eligible literary work as one ''consisting of text.''

With respect to the length of eligible works, the proposed rule defined a ''short'' online literary work as one that contains at least 100 words and no more than 17,500 words. The 100-word threshold was intended to exclude short phrases and slogans, which are ineligible for copyright protection,[11] as well as other short forms of expression that contain less than a paragraph of text. The latter works are ill-suited to group registration, the Office noted, because assessing their copyrightability would require the Office to engage in a careful case-by-case analysis that could undermine the efficiency that this option is designed to promote. The 17,500-word upper limit was intended to exclude novels, novellas, or other longer works, which ''are more likely to require significant time to create and do not lend themselves to a rapid and continuous publication schedule.''[12]

Several commenters proposed that the Office modify one or both of these word-count requirements. The Copyright Alliance, the Authors Guild, SFWA, and Joseph Savage requested that the Office lower the 100-word threshold, pointing to common types of short literary works that might be excluded by such a rule, including poems, blog and microblog entries, and ''bite-sized fiction.''[13] The Copyright Alliance and the Authors Guild proposed a 50-word threshold, arguing that it would address the needs for efficient review and examination processes, while also accommodating a broader variety of short literary works.[14]

The Office is persuaded by these commenters that a 100-word threshold might exclude many copyrightable literary works that otherwise would be eligible for group registration under this option. At the same time, as these commenters also recognized, some lower limit is necessary to avoid difficult and potentially time-consuming questions over whether extremely short works contain more than *de minimis* expression. Ultimately, the Office agrees with the Copyright Alliance and the Authors Guild that a 50-word threshold strikes an appropriate balance, and accordingly has incorporated this change into the final rule. This lower limit, of course, applies only to eligibility for the GRTX registration option; the Office is not purporting to define a word-count-based threshold to govern copyrightability determinations for literary works generally.

[5] Petition at 13–14; *see also* NWU et al. Comment on Mandatory Deposit of Electronic Books and Sound Recordings Available Only Online at 3–4, 8–10, 17–19 (Aug. 18, 2016), *https://www.regulations.gov/contentStreamer?documentId=COLC-2016-0005-0009&attachmentNumber=1&contentType=pdf.*

[6] Authors Guild et al. Comment at 8–9 (Nov. 17, 2017), *https://www.regulations.gov/contentStreamer?documentId=COLC-2017-0009-0108&attachmentNumber=1&contentType=pdf.*

[7] *See id.*

[8] 83 FR 65612 (December 21, 2018).

[9] 17 U.S.C. 101.

[10] NWU/NPPA Comment at 2.

[11] 37 CFR 202.1(a).

[12] 83 FR at 65,614.

[13] Copyright Alliance Comment at 3; Authors Guild Comment at 3–4; SFWA at 3; Joseph Savage Comment at 2.

[14] Copyright Alliance Comment at 3; Authors Guild Comment at 3–4. Neither SFWA nor Joseph Savage proposed a specific lower limit.

The Copyright Alliance, the Authors Guild, and SFWA also requested that the Office increase the proposed 17,500-word upper limit.[15] The Copyright Alliance suggested a ceiling of at least 20,000 words, while the Authors Guild and SFWA proposed 40,000 words. The Authors Guild asserted that the 17,500 threshold is arbitrary and noted that freelance articles written for online publications are sometimes greater than 20,000 words. SFWA disagreed with the Office's decision to exclude novellas, arguing that they are ''distinct from novels in both length and content,'' and noting that they are ''frequently published in the same venues and in the same manner as . . . other forms of short fiction.'' [16]

The Office understands that defining a category of ''short'' literary works is inherently imprecise and that some online works of more than 17,500 words may share common features with shorter works. But the commenters advocating the inclusion of novellas and other longer-form works did not demonstrate a particular need for group registration of such works. They offered nothing to contradict the Office's conclusion that, in contrast to blog entries, social media posts, and the like, novellas and similar lengthy works typically are not created or updated on a rapid and continuing basis.[17] Moreover, contrary to the Author's Guild's suggestion, the 17,500-word limit was not chosen arbitrarily. As discussed in the NPRM, it is based on classifications that appear to be widely established in the marketplace, as indicated by their use in connection with three well known literary awards.[18] Therefore, the final rule retains the 17,500-word upper limit.

One commenter, Joseph Savage, requested that the Office clarify whether the GRTX option extends to written interactions an author may have with other parties in connection with an online work—for example, postings in a comments section in response to a work on a social media platform.[19] To the extent this comment is asking whether an applicant may include comments authored by other persons within an application, the answer is no, as the rule requires that all works in the group be created by the same individual or (as discussed below) by the same joint authors. An author could, however, include his or own comments as separate works within a group, provided they satisfy the eligibility criteria.

2. Number of Works That May be Included in the Group

The NPRM proposed that an applicant be allowed to include up to 50 literary works in each submission. Several commenters requested modification of this requirement. Marcos Arias suggested that the limit be lowered to 10 works per application, arguing that a 50-work limit would lead to lengthy processing times and would not significantly improve efficiency.[20] Other commenters sought to increase the proposed limit. SFWA suggested that a limit of 100 works would be more likely to represent the output of an average professional writer/blogger, based on an estimate of one post per day.[21] The Copyright Alliance and the Authors Guild similarly argued that the limit should be designed to accommodate writers who publish on a daily basis.[22] NWU/NPPA suggested a limit of up to 500 works to accommodate authors who frequently publish works on multiple platforms.[23]

The Office understands commenters' desire to increase the number of works allowable within a single GRTX application to accommodate daily bloggers and other authors who create and publish a high volume of works. For the reasons discussed in the NPRM, however, the Office continues to believe that a limit of 50 works strikes an appropriate balance between authors' interests and the Office's administrative capabilities. The final rule therefore retains this limitation. The Office reiterates, however, that there is no limit to the number of applications that may be submitted. We are hopeful that that option will mitigate much of this concern.[24]

3. Title Information

The NPRM provided that an applicant must provide a title for each work in the group and a title for the group as a whole. No commenters objected to these requirements, and therefore they are retained in the final rule. The NPRM also included a requirement that the applicant append the term ''GRTX'' to the beginning of the group title, so that the Office could differentiate these applications from others filed on the Standard Application. Because, as discussed below, the Office is implementing a new electronic application specifically for GRTX, this requirement is no longer necessary and is not included in the final rule. The final rule does, however, add a requirement that the application specify the total number of short online literary works that are included in the group.

4. Author and Claimant

Under the proposed rule, to be eligible for the GRTX option, the author must be named as the copyright claimant on the application, even if a different party actually owns the copyright in each work. The Copyright Alliance and AAP both questioned this requirement.[25] While they acknowledged that this practice will advance the efficient examination of each application by allowing the Office to focus on each work's copyrightability, they expressed concern that it may make for an inaccurate public record of current ownership.[26] The Office takes these concerns seriously but believes they are outweighed in this instance by the need to provide an efficient examination process. Where a copyright claimant is not the author of the work, the Copyright Act requires the application to include a statement of how claimant obtained ownership of the copyright.[27] Examiners reviewing claims of this type would be required to verify that the application contained a legally sufficient statement to this effect—a process that could involve correspondence to resolve discrepancies. Moreover, as noted in the NPRM, requiring the author to be named as the claimant is consistent with the longstanding principle that an author may always be named as the copyright claimant, even if she does not own any of the exclusive rights when the claim is submitted.[28]

Furthermore, with respect to the concern over potential inaccuracies in the public record, it should be noted that if someone other than the author has acquired all the rights in the works, a copyright registration is not necessarily the best way to add that information to the public record. In most cases, registration simply provides a ''snapshot'' of who owned the

[15] Copyright Alliance Comment at 3; Authors Guild Comment at 3–4; SFWA Comment at 2.

[16] SFWA Comment at 2.

[17] *See* 83 FR 65,614 (''[I]t seems unlikely that even a prolific author would be able to write, edit, and publish 50 'long form' works within a three-month period.'').

[18] *See* 83 FR 65,614.

[19] Joseph Savage Comment.

[20] Marcos Arias Comment at 1.

[21] SFWA Comment at 3.

[22] Copyright Alliance Comment at 5 (proposing 90 works); Authors Guild Comment at 3 (proposing 100 works).

[23] NWU/NPPA Comment at 4.

[24] *See* SFWA Comment at 3 (''We understand that more than one application can be submitted, and if the fee is reasonable, that would to some extent address this concern.'').

[25] Copyright Alliance Comment at 5; AAP Comment at 2–3.

[26] Copyright Alliance Comment at 5–6; AAP Comment at 2–3.

[27] 17 U.S.C. 409(5).

[28] *See* 83 FR at 65,615 (citing *Compendium of U.S. Copyright Office Practices* sec. 619.7).

copyright as of the effective date of registration. Instead, a change in ownership can be added to the public record by recording the document that transferred the copyright with the Office.

The proposed rule also provided that the works submitted under the GRTX group option must be created by the same individual, thus excluding joint works from eligibility. SFWA contended that this requirement would be a problem for collaborations between two or more authors.[29] It requested that joint authors be allowed to use GRTX, as long as the collaborators are listed in the copyright notice for each work.[30]

The Office understands that there may be circumstances under which joint authors produce the types of short online literary works that may benefit from the GRTX option. Therefore, the final rule expands eligibility for the option to joint authors of literary works, in addition to individual authors. Under this option, all literary works within an application must be jointly authored, and the joint authors must be identical for each literary work. For example, a group consisting of ten literary works jointly authored by the same two individuals, and one additional literary work authored by those persons and a third co-author, would not be eligible. The Office intends to strictly enforce this requirement to ensure an efficient registration process. GRTX applications for joint works that do not comply will be refused without correspondence. To facilitate compliance, the Office will prepare public informational materials warning of this consequence. It also should be noted that any claim in individual or joint authorship under this option must be limited to ''text'' and cannot include other forms of authorship that can be claimed on a Standard Application for a literary work.

Finally, the proposed rule excluded works made for hire. As explained in the NPRM, the GRTX option ''is intended to benefit individual writers who publish their works on the internet, but do not have the time or resources to register their works with the Office. This is less of a concern for corporate authors or authors who are hired to create a work for another party.'' [31] Commenters generally accepted this rationale, but the Copyright Alliance and AAP encouraged the Office to consider expanding the GRTX option to include certain smaller business entities who may also face resource limitations.[32]

The Office appreciates the needs of smaller entities who face similar economic challenges in registration as individual creators. However, the Office does not currently have a mechanism to differentiate those entities from larger corporate authors for purposes of registration. While the Office is open to considering possible avenues through which it could extend the GRTX option to certain corporate authors in the future, it does not have the tools necessary to do so at this time. The final rule accordingly retains the exclusion of works for hire.

5. Publication Information

Under the proposed rule, eligible works were required to be published as part of a website or online platform (such as an online newspaper, social media website, or social networking platform), and all had to be published within a three-month calendar period. The NPRM explained that a work would satisfy this requirement if it was first published online or simultaneously published online and in physical form. By contrast, a work would not be eligible for GRTX if it was published solely in physical form or if it was first published in physical form and then subsequently published online.[33]

The Copyright Alliance and the Authors Guild argued that authors should be allowed to register their works under this option regardless of whether they are published or unpublished.[34] The Copyright Alliance noted that many authors struggle with the complex legal distinctions between published an unpublished works.[35] The Authors Guild asserted that the distinction serves no apparent need and exacerbates the potential for confusion. These and other organizations requested that the Office provide additional guidance on what constitutes publication in the online environment.[36]

Commenters also argued that the facts relevant to publication may be unknown to certain authors. The Authors Guild, the Copyright Alliance, and NWU/NPPA commented that authors may have no control over whether a publisher distributes their works online or in physical form and that such authors may not know if their works were first published online, first published in physical form, or simultaneously published online and in print.[37] NWU/NPPA accordingly requested that the Office remove the word ''first'' from the references to online publication.[38] The Authors Guild requested that ''simultaneous'' publication be defined to mean ''published within 30 days.'' [39]

The Office understands that determinations regarding the fact and timing of publication may present difficult legal questions, especially in the online context. However, the statute requires that the registration application include, for published works, the date and nation of the work's first publication.[40] In light of this requirement, as well as the technical constraints of the Office's current registration system, the Office believes that the inclusion of both categories of works in the GRTX option would undermine the efficiency of the examination process, and therefore the final rule retains the publication requirement.[41] The Office notes, however, that under its registration practices, the Office ''will accept the applicant's representation that website content is published or unpublished, unless that statement is implausible or is contradicted by information provided elsewhere in the registration materials or in the Office's records or by information that is known to the registration specialist.'' [42] Further, the Office is currently exploring issues regarding publication more generally in an effort to provide greater guidance to registration applicants.[43]

Commenters further argued that the rule should not be limited to works published online but should also provide for group registration of works

[29] SFWA Comment at 3.

[30] SFWA Comment at 3.

[31] 83 FR at 65,614.

[32] Copyright Alliance Comment at 5; AAP Comment at 2.

[33] AAP requested clarification on whether other qualifying online works would be eligible for this option ''if they reside on platforms behind a paywall.'' AAP Comment at 3. The fact that a work is located behind a paywall would not disqualify it from eligibility, provided it is ''published as part of a website or online platform.'' Indeed, the final rule expressly includes ''online newspapers,'' which commonly display articles behind paywalls.

[34] Copyright Alliance Comment at 4–5; Authors Guild Comment at 4–5.

[35] Copyright Alliance Comment at 4–5.

[36] Copyright Alliance Comment at 4–5; Authors Guild Comment at 4–5; SFWA Comment at 3; AAP Comment at 3.

[37] Authors Guild Comment at 4–5; Copyright Alliance Comment at 4–5; NWU/NPA Comment at 5–6.

[38] NWU/NPA Comment at 5–6.

[39] Authors Guild Comment at 4–5.

[40] 17 U.S.C. 409(8).

[41] The proposed rule required applicants to list the earliest date that the works were published. In light of additional functionality in the new GRTX application that was not available in the Standard Application, the final rule adds a requirement that the applicant also list the latest date that the works were published.

[42] U.S. Copyright Office, Compendium of U.S. Copyright Office Practices 1008.3 (F) (3d ed. 2017) (''Compendium (Third)'').

[43] *See* Online Publication, 84 FR 66,328 (Dec. 4, 2019).

published in physical form.[44] NWU/NPPA specifically noted that the petition requested, in addition to a group option for works in electronic format, an option to register ''multiple written works by the same creator first published on multiple dates, regardless of whether they were published as contributions to periodicals.'' [45] The primary focus of the petition and supporting facts, however, was the need for an accommodation for works published in electronic format,[46] and the GRTX option was tailored to address that demonstrated area of need. The final rule therefore remains limited to works published online.

B. Application Requirements

Under the rule as initially proposed, applicants would have been required to submit their claims using the online Standard Application designated for a ''Literary Work.'' Since the close of the comment period, however, the Office has worked with the Library of Congress's Office of the Chief Information Officer, and a new online application is being developed specifically for GRTX that applicants will be able to access and submit through the electronic registration system (''eCO''). The final rule accordingly has been updated to require applicants to submit claims using that application. The Office expects to prepare an online tutorial to provide guidance on using the new application and will include help text within the application itself. The Office also intends to update the sections of the *Compendium of U.S. Copyright Office Practices* that discuss the Office's procedures for group registration to address this new option.

The new application is expected to be implemented into the eCO system by August 2020. The Office has provided for the final rule to take effect that month and is publishing the rule now to give authors of eligible works sufficient advance notice of this new option, so that they may gather their data in anticipation of submitting applications. Nevertheless, the availability of the GRTX application is ultimately dependent on the completion of system development and may be affected by unanticipated delays in that process. The Office will issue a public announcement when implementation is complete and this option is available to applicants.

The proposed rule included language that would allow the Office to waive the electronic filing requirement upon written request in exceptional circumstances.[47] This provision has been retained in the final rule. One commenter requested that the Office allow applicants to use paper forms without obtaining a waiver, suggesting that that option may be more efficient for some applicants.[48] The Office concludes, however, that a general requirement of electronic filing best promotes the efficient use of examination resources, and that the waiver option adequately accommodates applicants unable to meet that requirement. As noted in the NPRM, the Office expects such cases to be rare given that creators of works eligible for this option typically will be capable of using the electronic registration system.[49]

The proposed rule also required that the applicant submit a sequentially numbered list containing a title/file name for each work in the group, and that the list satisfy certain technical and formatting requirements.[50] Some commenters urged the Office to provide detailed instructional materials to ensure that applicants are able to satisfy these and other provisions.[51] The Office intends to provide such guidance in the online materials noted above.

C. Deposit Requirements

Under the proposed rule, applicants must submit one complete copy of each work in the group, the copies must be uploaded to the electronic registration system in a specified file format, and all of the files must be submitted in the same format. No commenters took issue with these requirements, which are reflected in the final rule.

The proposed rule also required copies to be submitted in an ''orderly'' manner, meaning that each work was to be uploaded in a separate digital file. The Authors Guild found this requirement ''unduly laborious and unnecessary,'' arguing that applicants should be allowed to submit their works in a single document with each work starting on a new page, or, alternatively, to provide a single upload using file compression.[52] In light of this comment, and based on the Office's experience administering other recently adopted group registration options, the Office agrees that the regulatory language should be amended to provide for submission of works in a single upload. The final rule still requires that each work in the group be contained in a separate digital file, but it provides that they should be uploaded together in a .ZIP file. The final rule retains the requirement that the file name for each work match the corresponding title entered on the application.[53]

D. Filing Fee

The NPRM provided that the filing fee for the GRTX option would be $55, the fee applicable to claims submitted on the Standard Application. It further noted that the Office had recently proposed to increase the Standard Application fee to $75 and that if that proposal were adopted, the new fee would apply to GRTX claims.[54] Subsequently, the Office submitted a final proposed schedule and analysis of fees to Congress in which it reduced the proposed increase to $65.[55] Based on the comments received in the fee study proceeding, and in light of the Office's inability under the current registration system to charge different prices for different types of works submitted on the Standard Application, the Office reiterated its recommendation that the GRTX fee be the same as the Standard Application fee.[56]

Following the 120-day statutory period for congressional review,[57] the Office promulgated a final rule implementing the proposed fee schedule.[58] The rule noted the Office's expectation that GRTX registrations ''would require a workflow similar to claims submitted on the Standard Application'' and that commenters in the fee study proceeding generally supported linking the two fees.[59] Nevertheless, to avoid potential confusion, the Office did not adopt the GRTX fee as part of that rule, noting that it instead would adopt the fee when it issued a final rule implementing the GRTX option.[60]

Although the Office is now providing a standalone application for GRTX

[44] Authors Guild Comment at 6; NWU/NPA Comment at 6–7.

[45] NWU/NPA Comment at 6–7.

[46] See Petition at 13–14.

[47] 83 FR at 65,615.

[48] Marcus Arias Comment at 1.

[49] 83 FR at 65,615.

[50] 83 FR at 65,615.

[51] *See* Authors Guild Comment at 6–7; Copyright Alliance Comment at 3.

[52] Authors Guild Comment at 6.

[53] *See* 83 FR at 65,616.

[54] 83 FR at 65,616.

[55] U.S. Copyright Office, *Proposed Schedule and Analysis of Copyright Fees to Go into Effect in Spring 2020* 21 (2019) (''Fee Study''), *available at https://www.copyright.gov/rulemaking/feestudy2018/proposed-fee-schedule.pdf.*

[56] Fee Study at 29.

[57] *See* 17 U.S.C. 708(b)(5).

[58] Copyright Office Fees, 85 FR 9374 (Feb. 19, 2020).

[59] *Id.* at 9380–81.

[60] *Id.* The Office is following the same approach in implementing its proposed new registration option for a group of works on an album of music. *See* Group Registration of Works on an Album of Music, 84 FR 22,762 (May 20, 2019).

submissions, it continues to believe it is appropriate to charge the same fee as is charged for Standard Application filings. While the initial proposal was made in part due to an inability to adopt differential pricing for Standard Application claims, the Office believes that it is reasonable to set the GRTX fee, at least initially, at the same fee, given the similarities in expected workflow associated with examining these claims. The final rule therefore establishes a $65 fee. Given, however, that the Office now has greater flexibility to adjust fees specifically for this option, it will gather additional data to determine if this amount should be adjusted once this option is implemented, including aligning this fee to other group options such as that relevant to contributions to a periodical.

E. The Scope of a Group Registration

The NPRM provided that claims in the selection, coordination, or arrangement of the group as a whole will not be permitted on the application, and the group will not be considered a compilation or a collective work for purposes of sections 101, 103(b), or 504(c)(1) of the Copyright Act. No commenters took issue with this aspect of the NPRM.

F. Correspondence and Refusals

The NPRM stated that the Office may refuse the entire claim if it is defective on certain grounds, including, among other reasons, if the applicant submits a paper form; the applicant submits more than 50 works; a work falls outside the word-count parameters; the applicant asserts a claim in ''text'' and another form of authorship; works in the group were published more than three months apart; or the names provided in the author and claimant fields do not match. The Authors Guild and the Copyright Alliance advocated a more lenient review policy, urging the Office to correspond with applicants to correct errors of this type.[61] The Office recognizes that rejecting applications for technical noncompliance can present burdens for applicants, some of whom may conclude that the cost of submitting a new application is not worth it. At the same time, the Office must ensure that its examination resources are used in a manner that maintains the efficiency of group registration. The Office therefore reserves the right to refuse any application that does not comply with the requirements set forth in the final rule, or modify the claim to become compliant without communicating with the applicant.

As noted, however, the Office intends to issue additional instructional materials to assist applicants in determining their eligibility for this option and in completing the application. More generally, the Office will continue to explore tools to assist applicants as it moves toward implementation of a next-generation electronic registration system. The Office is hopeful that these resources will provide useful guidance to authors interested in exercising this option and will minimize the need for correspondence.

G. Supplementary Registrations

A supplementary registration is a special type of registration that may be used ''to correct an error in a copyright registration or to amplify the information given in a registration.'' [62] The Office has created multiple versions of a form that may be used to correct or amplify information in registrations made under specified group registration options, but the Office has not yet created a version for a registration of a group of short online literary works. Therefore, the final rule clarifies that applicants should contact the Office of Registration Policy & Practice to obtain instructions before seeking a supplementary registration involving these types of claims.

This update constitutes a change to a ''rule[] of agency . . . procedure[] or practice.'' [63] It does not ''alter the rights or interests of parties,'' but merely ''alter[s] the manner in which the parties present themselves or their viewpoints to the agency.'' [64] It therefore is not subject to the notice and comment requirements of the Administrative Procedure Act.

List of Subjects

37 CFR Part 201

Copyright, General provisions.

37 CFR Part 202

Copyright, Preregistration and registration of claims to copyright.

For the reasons set forth in the preamble, the Copyright Office amends 37 CFR parts 201 and 202 as follows:

PART 201—GENERAL PROVISIONS

■ 1. The authority citation for part 201 continues to read as follows:

Authority: 17 U.S.C. 702.

■ 2. Amend § 201.3 in table 1 to paragraph (c) by redesignating paragraphs (c)(10) through (27) as paragraphs (c)(11) through (28), respectively, and adding new paragraph (c)(10).

The addition reads as follows:

§ 201.3 Fees for registration, recordation, and related services, special services, and services performed by the Licensing Division.

* * * * *

(c) * * *

TABLE 1 TO PARAGRAPH (c)

* * * * *	
(10) Registration of a claim in a group of short online literary works	65
* * * * *	

PART 202—PREREGISTRATION AND REGISTRATION OF CLAIMS TO COPYRIGHT

■ 3. The authority citation for part 202 continues to read as follows:

Authority: 17 U.S.C. 408(f), 702.

■ 4. Amend § 202.4 as follows:

■ a. Add paragraph (j).

■ b. In paragraph (n), in the first sentence, remove ''paragraphs'' and add in its place ''paragraph'' and in the second sentence, remove ''paragraphs (c), (g), (h), (i), or (k)'' and add in their place ''paragraph (c), (g), (h), (i), (j), or (k)''.

The addition reads as follows:

§ 202.4 Group Registration.

* * * * *

(j) *Group registration of short online literary works.* Pursuant to the authority granted by 17 U.S.C. 408(c)(2), the Register of Copyrights has determined that a group of literary works may be registered in Class TX with one application, the required deposit, and the filing fee required by § 201.3(c) if the following conditions are met:

(1) The group may include up to 50 short online literary works, and the application must specify the total number of short online literary works that are included in the group. For purposes of this section, a *short online literary work* is a work consisting of text that contains at least 50 words and no more than 17,500 words, such as a poem, short story, article, essay, column, blog entry, or social media post. The work must be published as part of a website or online platform, including online newspapers, social media websites, and social networking platforms. The group may not include

[61] Authors Guild Comment at 6–7; Copyright Alliance Comment at 2–3.

[62] 17 U.S.C. 408(d).

[63] 5 U.S.C. 553(b)(A).

[64] *JEM Broad. Co.* v. *F.C.C.,* 22 F.3d 320, 326 (D.C. Cir. 1994).

computer programs, audiobooks, podcasts, or emails. Claims in any form of authorship other than ''text'' or claims in the selection, coordination, or arrangement of the group as a whole will not be permitted on the application.

(2) All of the works must be published within a three-calendar-month period, and the application must identify the earliest and latest date that the works were published.

(3) All the works must be created by the same individual, or jointly by the same individuals, and each creator must be named as the copyright claimant or claimants for each work in the group.

(4) The works must not be works made for hire.

(5) The applicant must provide a title for each work and a title for the group as a whole.

(6) The applicant must complete and submit the online application designated for a group of short online literary works. The application may be submitted by any of the parties listed in § 202.3(c)(1).

(7) The applicant must submit one complete copy of each work. The works must be assembled in an orderly form with each work in a separate digital file. The file name for each work must match the title as submitted on the application. All of the works must be submitted in one of the electronic formats approved by the Office, and must be uploaded to the electronic registration system in a .ZIP file. The file size for each uploaded .ZIP file must not exceed 500 megabytes.

(8) The applicant must submit a sequentially numbered list containing a title/file name for each work in the group. The list must also include the publication date and word count for each work. The numbered list must be contained in an electronic file in Excel format (.xls), Portable Document Format (PDF), or other electronic format approved by the Office, and the file name for the list must contain the title of the group and the case number assigned to the application by the electronic registration system (*e.g.,* ''Title Of Group Case Number 16283927239.xls'').

(9) In an exceptional case, the Copyright Office may waive the online filing requirement set forth in paragraph (j)(6) of this section or may grant special relief from the deposit requirement under § 202.20(d), subject to such conditions as the Associate Register of Copyrights and Director of the Office of Registration Policy and Practice may impose on the applicant.

* * * * *

§ 202.6 [Amended]

■ 5. Amend § 202.6 by adding ''or for a group of short online literary works registered under § 202.4(j),'' after ''§ 202.4(c),'' in paragraph (e)(2).

Dated: May 26, 2020.

Maria Strong,

Acting Register of Copyrights and Director of the U.S. Copyright Office.

Approved by:

Carla D. Hayden,

Librarian of Congress.

[FR Doc. 2020–12041 Filed 6–19–20; 8:45 am]

BILLING CODE 1410–30–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 282

[EPA–R06–UST–2018–0704; FRL–10009–03–Region 6]

Texas: Final Approval of State Underground Storage Tank Program Revisions and Incorporation by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Pursuant to the Resource Conservation and Recovery Act (RCRA or Act), the Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the State of Texas's Underground Storage Tank (UST) program submitted by the State. EPA has determined that these revisions satisfy all requirements needed for program approval. This action also codifies EPA's approval of Texas's State program and incorporates by reference those provisions of the State regulations that we have determined meet the requirements for approval. The provisions will be subject to EPA's inspection and enforcement authorities under sections 9005 and 9006 of RCRA Subtitle I and other applicable statutory and regulatory provisions.

DATES: This rule is effective August 21, 2020, unless EPA receives adverse comment by July 22, 2020. If EPA receives adverse comment, it will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register, as of August 21, 2020, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

ADDRESSES: Submit your comments by one of the following methods:

1. *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the on-line instructions for submitting comments.

2. *Email: lincoln.audray@epa.gov.*

Instructions: Direct your comments to Docket ID No. EPA–R06–UST–2018–0704. EPA's policy is that all comments received will be included in the public docket without change and may be available online at *https://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *https://www.regulations.gov,* or email. The Federal *https://www.regulations.gov* website is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *https://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment. If the EPA cannot read your comment due to technical difficulties, and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

The index to the docket for this action is available electronically at *www.regulations.gov.*

You can view and copy the documents that form the basis for this codification and associated publicly available docket materials are available either through *www.regulations.gov* or at the Environmental Protection Agency, Region 6, 1201 Elm Street, Suite #500, Dallas, Texas 75270. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID–19. We recommend that you telephone Audray Lincoln, Environmental Protection Specialist, at (214) 665–2239, before visiting the Region 6 office. Interested persons wanting to examine these documents should make an appointment with the office at least two weeks in advance.

FOR FURTHER INFORMATION CONTACT: Audray Lincoln, (214) 665–2239, *lincoln.audray@epa.gov.* Out of an abundance of caution for members of the public and our staff, the EPA Region 6 office will be closed to the public to reduce the risk of transmitting COVID–19. We encourage the public to submit comments via *https://www.regulations.gov,* as there will be a delay in processing mail and no courier or hand deliveries will be accepted. Please call or email the contact listed above if you need alternative access to material indexed but not provided in the docket.

SUPPLEMENTARY INFORMATION:

I. Approval of Revisions to Texas's Underground Storage Tank Program

A. Why are revisions to state programs necessary?

States which have received final approval from the EPA under RCRA section 9004(b) of RCRA, 42 U.S.C. 6991c(b), must maintain an underground storage tank program that is equivalent to, consistent with, and no less stringent than the Federal underground storage tank program. When EPA makes revisions to the regulations that govern the UST program, States must revise their programs to comply with the updated regulations and submit these revisions to the EPA for approval. Changes to State UST programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to the EPA's regulations in 40 Code of Federal Regulations (CFR) part 280. States can also initiate changes on their own to their underground storage tank program and these changes must then be approved by EPA.

B. What decisions has the EPA made in this rule?

On October 15, 2018, in accordance with 40 CFR 281.51(a), Texas submitted a complete program revision application seeking approval for its UST program revisions corresponding to the EPA final rule published on July 15, 2015 (80 FR 41566) which finalized revisions to the 1988 UST regulation and to the 1988 State program approval (SPA) regulation. As required by 40 CFR 281.20, the State submitted the following: A transmittal letter from the Governor requesting approval, a description of the program and operating procedures, a demonstration of the State's procedures to ensure adequate enforcement, a Memorandum of Agreement outlining the roles and responsibilities of the EPA and the implementing agency, a statement of certification from the Attorney General, and copies of all relevant State statutes and regulations.

We have reviewed the application and have determined that the revisions to Texas's UST program are no less stringent than the corresponding Federal requirements in subpart C of 40 CFR part 281 and the Texas program provides for adequate enforcement of compliance (40 CFR 281.11(b)). Therefore, the EPA grants Texas final approval to operate its UST program with the changes described in the program revision application, and as outlined below in Section I.G of this document. The Texas Commission on Environmental Quality (TCEQ) is the lead implementing agency for the UST program in Texas, except in Indian Country.

C. What is the effect of this approval decision?

This action does not impose additional requirements on the regulated community because the regulations being approved by this rule are already effective in the State of Texas, and they are not changed by this action. This action merely approves the existing State regulations as meeting the Federal requirements and renders them federally enforceable.

D. Why is EPA using a direct final rule?

The EPA is publishing this direct final rule without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment. Texas did not receive any comments during its comment period when the rules and regulations being considered today were proposed at the State level.

E. What happens if the EPA receives comments that oppose this action?

Along with this direct final, the EPA is publishing a separate document in the ''Proposed Rules'' section of this **Federal Register** that serves as the proposal to approve the State's UST program revision, providing opportunity for public comment. If EPA receives comments that oppose this approval, EPA will withdraw the direct final rule by publishing a document in the **Federal Register** before the rule becomes effective. The EPA will base any further decision on the approval of the State program changes on the proposal to approve after considering all comments received during the comment period. EPA will then address all public comments in a later final rule. You will not have another opportunity to comment. If you want to comment on this approval, you must do so at this time.

F. For what has Texas previously been approved?

On April 17, 1995, EPA finalized a rule approving the UST program submitted by Texas to be implemented by TCEQ in lieu of the Federal program.[1] On March 18, 1996, EPA codified the approved Texas program that is subject to EPA's inspection and enforcement authorities under RCRA sections 9005 and 9006, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions.[2]

G. What changes are we approving with this action?

In order to be approved, the program must provide for adequate enforcement of compliance as described in 40 CFR 40 CFR 281.11 and part 281, Subpart D. The TCEQ has broad statutory authority to regulate the installation, operation, maintenance, closure of USTs, and UST releases under Texas Water Code (TWC), as amended, effective October 2018, Title 2, Water Administration: Subtitle A, Executive Agencies, Chapter 5, Texas Commission on Environmental Quality and Chapter 7, Enforcement; Subtitle D, Water Quality Control, Chapter 26, Water Quality Control.

Specific authorities to regulate the installation, operation, maintenance, closure of USTs, and UST releases are found under Texas Administrative Code (TAC), Title 30 Environmental Quality, Part I Texas Commission on Environmental Quality, Chapter 334 Underground and Aboveground Storage Tanks, as amended effective through May 31, 2018. The aforementioned regulations satisfy the requirements of 40 CFR 281.40 and 281.41.[3]

The TCEQ Office of Compliance and Enforcement requires that respondents provide notice and opportunity for public comment on all proposed settlements of civil enforcement actions, except where immediate emergency action is necessary to adequately protect human health, safety, and the environment. The TCEQ investigates and provides responses to citizen complaints about violations. Requirements for public participation can be found in the Texas Government Code Chapter 552, the Texas Water Code at Chapters 5 and 7, and TAC Title

[1] 60 FR 14372 (March 17, 1995).

[2] 61 FR 1223 (January 18, 1996).

[3] Please see the TSD located in the docket for this rulemaking for a more in depth explanation of how the State's program satisfies the RCRA and its corresponding regulations.

30 Part I, Texas Commission on Environmental Quality, Chapter 334 at section 334.82. Texas has met the public participation requirements found in 40 CFR 281.42.

To qualify for final approval, a State's program must be ''no less stringent'' than the Federal program in all elements of the revised EPA final rule published on July 15, 2015 (80 FR 41566).[4] EPA added new operation and maintenance requirements and addressed UST systems deferred in the 1988 UST regulation. The changes also added secondary containment requirements for new and replaced tank and piping, operator training requirements, periodic operation and maintenance requirements for UST systems, requirement to ensure UST system compatibility before storing certain biofuel blends. It removed past deferrals for emergency generator tanks, field constructed tanks and airport hydrant systems.

The TCEQ made updates to their regulations to ensure that they were no less stringent than the Federal regulations which were revised on July 15, 2015 (80 FR 41566). 40 CFR 281.30 through 281.39 contain the ''no less stringent than'' criteria that a State must meet in order to have its UST program approved. In the State's application for approval of its UST program, the Texas Attorney General certified that it meets the requirements listed in 40 CFR 281.30 through 281.39. EPA has relied on this certification in addition to the analysis submitted by the State in making our determination. For further information on EPA's analysis of the State's application, see the chart in the Technical Support Document (TSD) contained in the docket for this rulemaking. The corresponding State regulations are as follows:

40 CFR 281.30 lists the Federal requirements for new UST system design, construction, installation, and notification with which a State must comply in order to be found to be no less stringent than Federal requirements. 30 TAC 334.1 Applicability, 334.2 Definitions, 334.5 General Prohibitions for Underground Storage Tanks (USTs) and UST Systems, 334.7 Registration for Underground Storage Tanks (USTs) and UST Systems, 334.8 Certification for Underground Storage Tanks (USTs) and UST Systems, 334.10 Reporting and Recordkeeping, 334.44 Implementation Schedules, 334.45 Technical Standards for New Underground Storage Tank Systems, 334.46 Installation Standards for New Underground Storage Tank Systems, 334.49 Corrosion Protection, 334.50 Release Detection, 334.51 Spill and Overfill Prevention and Control, and 334.71 Applicability and Deadlines require that USTs be designed, constructed, and installed in a manner that will prevent releases for their operating life due to manufacturing defects, structural failure, or corrosion and be provided with equipment to prevent spills and tank overfills when new tanks are installed or existing tanks are upgraded, unless the tank does not receive more than 25 gallons at one time. These sections also require UST system owners and operators to notify the implementing agency of any new UST systems, including instances where one assumes ownership of an existing UST.

40 CFR 281.31 requires that most existing UST systems meet the requirements of 281.30, are upgraded to prevent releases for their operating life due to corrosion, spills, or overfills, or are permanently closed. 30 TAC 334.1(b) and 334.71(a) Applicability, 334.44. Implementation Schedules, 334.47 Technical Standards for Existing Underground Storage Tank Systems, 334.49 Corrosion Protection, 334.50 Release Detection, and 334.52 Underground Storage Tank System Repairs and Relining contain the appropriate requirements that UST systems be upgraded to prevent releases during their operating life due to corrosion, spills, or overfills.

40 CFR 281.32 contains the general operating requirements that must be met in order for the State's submission to be considered no less stringent than the Federal requirements. 30 TAC 334.7 Registration for Underground Storage Tanks (USTs) and UST Systems, 334.10 Reporting and Recordkeeping, 334.42 General Standards, 334.45 Technical Standards for New Underground Storage Tank Systems, 334.48 General Operating and Management Requirements, 334.49 Corrosion Protection, 334.50 Release Detection, 334.51 Spill and Overfill Prevention and Control, and TAC 334.52 Underground Storage Tank System Repairs and Relining contain the necessary general operating requirements required by 40 CFR 281.32.

40 CFR 281.33 contains the requirements for release detection that must be met in order for the State's submission to be considered no less stringent than Federal requirements. 30 TAC 334.1 Purpose and Availability, 334.48 General Operating and Management Requirements, 334.50 Release Detection, and 334.71 Applicability and Deadlines contain the necessary requirements for release detection as required by 40 CFR 281.33.

40 CFR 281.34 contains the requirements for release reporting, investigation, and confirmation that must be met in order for the State's submission to be considered no less stringent than Federal requirements. 30 TAC 334.72 Reporting of Suspected Releases, 334.73 Investigation Due to Off-Site Impacts, 334.74 Release Investigation and Confirmation Steps, and 334.75 Reporting and Cleanup of Surface Spills and Overfills contain the necessary requirements as required by 40 CFR 281.34 for release reporting, investigation, and confirmation.

40 CFR 281.35 contains the requirements for release response and corrective action that must be met in order for the State's submission to be considered no less stringent than Federal requirements. 30 TAC 334.76 Initial Response to Releases, 334.77 Initial Abatement Measures and Site Check, 334.78 Site Assessment, 334.79 Removal of Non-Aqueous Phase Liquids, 334.80 Investigation for Soil and Groundwater Cleanup, 334.81 Corrective Action Plan, and 334.82 Public Participation contain the required provisions as listed in 40 CFR 281.35 for release response and corrective action.

40 CFR 281.36 contains the requirements for out of service UST systems and closures that must be met in order for the State's submission to be considered no less stringent than Federal requirements. 30 TAC 334.1 Purpose and Applicability, 334.50 Release Detection, 334.54 Temporary Removal from Service, 334.55 Permanent Removal from Service, 334.56 Change to Exempt or Excluded Status, and 334.71 Applicability and Deadlines contain the necessary requirements as listed in 40 CFR 281.36 for out of service UST systems and closures.

40 CFR 281.37 contains the requirements for financial responsibility for UST systems containing petroleum that must be met in order for the State's submission to be considered no less stringent than Federal requirements. 30 TAC 37.371 Local Government Financial Test, 37.381 Local Government Guarantee, and Chapter 37, Subchapter I, Financial Assurance for Petroleum Underground Storage Tanks (37.801 through 37.895) contain the necessary requirements as listed in 40 CFR 281.37 for financial responsibility for UST systems.

40 CFR 281.38 contains the requirements for lender liability that must be met in order for the State's submission to be considered no less

[4] See 40 CFR 281.11(b).

stringent than Federal requirements. 30 TAC 334.15 Limits on Liability of Lender contains the requirements for lender liability as listed in 40 CFR 281.38.

40 CFR 281.39 contains the requirements for operator training that must be met in order for the State's submission to be considered no less stringent than Federal requirements. 30 TAC Chapter 334 Subchapter N (334.601 through 334.606) Operator Training contains the requirements for operator training as required by 40 CFR 281.39.

H. Where are the revised rules different from the Federal rules?

Broader in Scope Provisions

The following statutory and regulatory provisions are considered broader than the Federal program:

Texas includes in their statutes references to the broader in scope aboveground storage tank program. The following provisions are broader in scope because they contain references to Aboveground Storage Tanks (ASTs) or apply only to ASTs: Texas Water Code, Title 2, Subtitle D, Chapter 26: Water Quality Control, Sections 26.341(b)(1), 26.342(9), (12)(A), (14), (15), 26.344, 26.3441, 26.345, 26.346, 26.349, 26.351, 26.3511, 26.3514 through 26.3516. 26.354 through 26.356, and 26.358.

The following provisions from Texas Water Code, Title 2, Subtitle D, Chapter 26: Water Quality Control are broader in scope than the Federal program for the reasons stated:

These items are associated with the State-only clean up and remediation funds—Sections 26.342(2), (4), (16), and (18), 26.3512, 26.3571, 26.3573, 26.35731, and 26.361;

The provision at 26.342(16–a) is associated with the State-only broader in scope contaminated soil program;

The provisions at 26.3574 and 26.35745 are associated with fees and reporting for State-only fees;

The provisions at 26.364 through 26.367 are associated with the State-only registration of contractors who perform or supervise corrective action; and

The provisions at 26.451, 26.452 and 26.456 describe State-only occupational licensing and registration for occupations not covered under the Federal program.

The Texas regulatory provisions definition section at 30 TAC 334.2 contains a definition (at 334.2(4)) and references to Aboveground Storage Tanks (ASTs) that are broader in scope than the Federal program.

At Section 334.9 Texas requires a tank seller to disclose to a purchaser certain obligations with respect to State notification and other regulatory information.

At Sections 334.15 and 334.18 there are references to ASTs that are broader in scope than the Federal program.

State fees are generally broader in scope. Texas includes state-specific fee requirements at 30 TAC 334.19 Fee on Delivery of Petroleum Product, Subchapter B. Underground Storage Tank Fees (TAC 334.21 through 334.23).

Texas includes a State-only Reimbursement Program at 30 TAC Chapter 334, Subchapter H. Reimbursement Program (TAC 334.301 through 334.322) and Subchapter M. Reimbursable Cost Specifications for the Petroleum Storage Tank Reimbursement Program. These are State-only programs with no Federal counterparts and are broader in coverage.

Texas includes State-only licensing and registration of occupations that are not included in the Federal program at 30 TAC Chapter 334 Subchapter I. Underground Storage Tank On-site Supervisor Licensing and Contract Registration (TAC 334.401, 334.407, and 334.424).

Where an approved State program has a greater scope of coverage than required by Federal law, the additional coverage is not part of the federally-approved program. 40 CFR 281.12(a)(3)(ii).

More Stringent Provisions

The following regulatory provisions are considered more stringent than the Federal rules and are included in the state's federally approved program:

Texas requires that professional engineers and geoscientists be licensed by the State (30 TAC 334.10(a)(10)).

Texas requires owners and operators to maintain records for five years (30 TAC 334.51(c)(2) and 334.48(g)(3)(A)&(B). This is longer than the three years required by the federal rules at 40 CFR 280.35(c), therefore the Texas requirement is more stringent.

Texas requires that all corrective action services be performed by or be coordinated by a person or entity registered as a corrective action specialist (30 TAC 334.451(b)).

Texas does not allow exceptions to the secondary containment requirements for piping that are allowed by the Federal program (at 40 CFR280.252(a)); therefore, the State is more stringent with respect to this requirement (30 TAC 334.45(d)(1)(E)).

I. How does this action affect Indian Country (18 U.S.C. 1151) in Texas?

Texas is not authorized to carry out its Program in Indian Country (18 U.S.C. 1151) within the State. This authority remains with EPA. Therefore, this action has no effect in Indian Country. *See* 40 CFR 281.12(a)(2).

II. Codification

A. What is codification?

Codification is the process of placing a State's statutes and regulations that comprise the State's approved UST program into the CFR. Section 9004(b) of RCRA, as amended, allows the EPA to approve State UST programs to operate in lieu of the Federal program. The EPA codifies its authorization of State programs in 40 CFR part 282 and incorporates by reference State regulations that the EPA will enforce under sections 9005 and 9006 of RCRA and any other applicable statutory provisions. The incorporation by reference of State authorized programs in the CFR should substantially enhance the public's ability to discern the current status of the approved State program and State requirements that can be Federally enforced. This effort provides clear notice to the public of the scope of the approved program in each State.

B. What is the history of codification of Texas' UST program?

The EPA incorporated by reference Texas' then approved UST program effective March 18, 1996 (61 FR 1223; January 18, 1996). In this document, the EPA is revising 40 CFR 282.93 to include the approval revision actions.

C. What codification decisions have we made in this rule?

In this rule, we are finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, we are finalizing the incorporation by reference of the Texas rules described in the amendments to 40 CFR part 282 set forth below. The EPA has made, and will continue to make, these documents generally available through *www.regulations.gov* and in hard copy at the EPA Region 6 office (see the **ADDRESSES** section of this preamble for more information).

The purpose of this **Federal Register** document is to codify Texas's approved UST program. The codification reflects the State program that would be in effect at the time the EPA's approved revisions to the Texas UST program addressed in this direct final rule become final. The document incorporates by reference Texas's UST regulations and clarifies which of these provisions are included in the approved and federally enforceable program. By

codifying the approved Texas program and by amending the Code of Federal Regulations (CFR), the public will more easily be able to discern the status of the federally-approved requirements of the Texas program.

The EPA is incorporating by reference the Texas approved UST program in 40 CFR 282.93. Section 282.93(d)(1)(i)(A) incorporates by reference for enforcement purposes the State's regulations. Section 282.93 also references the Attorney General's Statement, Demonstration of Adequate Enforcement Procedures, the Program Description, and the Memorandum of Agreement, which are approved as part of the UST program under Subtitle I of RCRA.

D. What is the effect of Texas's codification on enforcement?

The EPA retains the authority under sections 9003(h), 9005 and 9006 of Subtitle I of RCRA, 42 U.S.C. 6991b(h), 6991d and 6991e, and other applicable statutory and regulatory provisions to undertake corrective action, inspections and enforcement actions and to issue orders in approved States. With respect to these actions, EPA will rely on Federal sanctions, Federal inspection authorities, and Federal procedures rather than the State authorized analogs to these provisions. Therefore, the EPA is not incorporating by reference such particular, approved Texas procedural and enforcement authorities. Section 282.93(d)(1)(ii) of 40 CFR lists those approved Texas authorities that would fall into this category.

E. What State provisions are not part of the codification?

The public also needs to be aware that some provisions of the State's UST program are not part of the federally approved State program. Such provisions are not part of the RCRA Subtitle I program because they are ''broader in coverage'' than Subtitle I of RCRA. 40 CFR 281.12(a)(3)(ii) states that where an approved State program has provisions that are broader in coverage than the Federal program, those provisions are not a part of the federally approved program. As a result, State provisions which are ''broader in coverage'' than the Federal program are not incorporated by reference for purposes of enforcement in part 282. Section 282.93(d)(1)(iii) of the codification simply lists for reference and clarity the Texas statutory and regulatory provisions which are ''broader in coverage'' than the Federal program and which are not, therefore, part of the approved program being codified today. Provisions that are ''broader in coverage'' cannot be enforced by EPA; the State, however, will continue to implement and enforce such provisions under State law.

III. Statutory and Executive Order Reviews

This action only applies to Texas's UST Program requirements pursuant to RCRA Section 9004 and imposes no requirements other than those imposed by State law. It complies with applicable EOs and statutory provisions as follows:

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

The Office of Management and Budget (OMB) has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011). This action approves and codifies State requirements for the purpose of RCRA section 9004 and imposes no additional requirements beyond those imposed by State law. Therefore, this action is not subject to review by OMB.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not an Executive Order 13771 (82 FR 9339, February 3, 2017) regulatory action because actions such as this final approval of Texas's revised underground storage tank program under RCRA are exempted under Executive Order 12866. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

C. Unfunded Mandates Reform Act and Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Because this action approves and codifies pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538). For the same reason, this action also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

D. Executive Order 13132: Federalism

This action 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, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves and codifies State requirements as part of the State RCRA underground storage tank program without altering the relationship or the distribution of power and responsibilities established by RCRA.

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

This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks.

F. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a ''significant regulatory action'' as defined under Executive Order 12866.

G. National Technology Transfer and Advancement Act

Under RCRA section 9004(b), EPA grants a State's application for approval as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State approval application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

H. Executive Order 12988: Civil Justice Reform

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct.

I. Executive Order 12630: Governmental Actions and Interference With Constitutionally Protected Property Rights

EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order.

J. Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). ''Burden'' is defined at 5 CFR 1320.3(b).

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

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. Because this rule approves pre-existing State rules which are at least equivalent to, and no less stringent than existing Federal requirements, and imposes no additional requirements beyond those imposed by State law, and there are no anticipated significant adverse human health or environmental effects, the rule is not subject to Executive Order 12898.

L. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801–808, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). However, this action will be effective August 21, 2020 because it is a direct final rule.

List of Subjects in 40 CFR Part 282

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous substances, Incorporation by reference, Insurance, Intergovernmental relations, Oil pollution, Penalties, Petroleum, Reporting and recordkeeping requirements, Surety bonds, Water pollution control, Water supply.

Dated: May 5, 2020.

Kenley McQueen,

Regional Administrator, EPA Region 6.

For the reasons set forth in the preamble, EPA is amending 40 CFR part 282 as follows:

PART 282—APPROVED UNDERGROUND STORAGE TANK PROGRAMS

■ 1. The authority citation for part 282 continues to read as follows:

Authority: 42 U.S.C. 6912, 6991c, 6991d, and 6991e.

■ 2. Revise § 282.93 to read as follows:

§ 282.93 Texas State-Administered Program.

(a) *History of the approval of Texas's program.* The State of Texas is approved to administer and enforce an underground storage tank program in lieu of the Federal program under Subtitle I of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6991 *et seq.* The State's program, as administered by the Texas Department of Environmental Quality, was approved by EPA pursuant to 42 U.S.C. 6991c and Part 281 of this Chapter. EPA published the notice of final determination approving the Texas underground storage tank base program effective on April 17, 1995. A subsequent program revision application was approved effective on August 21, 2020.

(b) *Enforcement authority.* Texas has primary responsibility for administering and enforcing its federally approved underground storage tank program. However, EPA retains the authority to exercise its corrective action, inspection and enforcement authorities under sections 9003(h), 9005 and 9006 of Subtitle I of RCRA, 42 U.S.C. 6991b(h),6991d and 6991e, as well as under any other applicable statutory and regulatory provisions.

(c) *Retaining program approval.* To retain program approval, Texas must revise its approved program to adopt new changes to the Federal Subtitle I program which make it more stringent, in accordance with section 9004 of RCRA, 42 U.S.C. 6991c, and 40 CFR part 281, subpart E. If Texas obtains approval for the revised requirements pursuant to section 9004 of RCRA, 42 U.S.C. 6991c, the newly approved statutory and regulatory provisions will be added to this subpart and notice of any change will be published in the **Federal Register**.

(d) *Final program approval.* Texas has final approval for the following elements of its program application originally submitted to EPA and approved effective April 17, 1995, and the program revision application approved by EPA effective on August 21, 2020:

(1) *State statutes and regulations*—(i) *Incorporation by reference.* The provisions cited in this paragraph are incorporated by reference as part of the underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.* The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies of Texas UST regulations that are incorporated by reference in this paragraph from Thomson Reuters, 610 Opperman Drive, Eagan, MN 55123; Phone: 1–888–728–7677; website: *http://legalsolutions.thomsonreuters.com* or the Texas Secretary of State office website at *https://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=30&pt=1&ch=334.* You may inspect all approved material at the EPA Region 6, 1201 Elm Street, Suite #500, Dallas, Texas 75270 (phone number (214) 665–2239) or the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fedreg.legal@nara.gov,* or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

(A) ''EPA-Approved Texas Regulatory Requirements Applicable to the Underground Storage Tank Program, October 2019''. Those provisions are listed in Appendix A to Part 282.

(B) [Reserved]

(ii) *Legal basis.* EPA evaluated the following statutes and regulations which provide the legal basis for the State's implementation of the underground storage tank program, but they are not being incorporated by reference and do not replace Federal authorities:

(A) The statutory provisions include:

(*1*) Texas Water Code, as amended, effective October 2018. Title 2, Water Administration, Subtitle A, Executive Agencies:

(*i*) Chapter 5. Texas Commission on Environmental Quality, Subchapter B. Organization of the Texas Natural Resource Conservation Commission, Section 5.012, Subchapter D. General Powers and Duties of the Commission, Sections 5.103, and 5.105; Subchapter E. Administrative Provision for Commission, Sections 5.173, 5.176, 5.1765, and 5.177; Subchapter L. Emergency and Temporary Orders, Sections 5.510, 5.511, 5.515, and 5.516;

(*ii*) Chapter 7. Enforcement, Subchapter A, General Provisions, Sections 7.002 and 7.006; Subchapter B. Corrective Action and Injunctive Relief, Section 7.032; Subchapter C. Administrative Penalties, Sections 7.053 and 7.075; Subchapter D. Civil Penalties, Sections 7.101, 7.102, 7.103, 7.105, 7.106, 7.107, 7.108, and 7.110; Subchapter E. Criminal Offenses and Penalties, Sections 7.149 and 7.156.

(*2*) Texas Water Code, as amended, effective October 2018. Title 2, Water Administration, Subtitle D, Water Quality Control: Chapter 26. Water Quality Control, Subchapter B, General Powers and Duties, Sections 26.011, 26.013, 26.014, 26.015, 26.0151, 26.017, 26.019, 26.020, 26.021, 26.022, 26.039, and 26.042; Subchapter D. Prohibition Against Pollution; Enforcement, Sections 26.341 (except 26.341(b)(1), 26.342 (except 26.342(2), (4), (5), (16), (16–a), (18), and references to aboveground storage tanks at (9), (12), (14), (15), 26.343 (except 26.343(a)(1)), 26.344 (except reference to aboveground storage tanks), 26.3441, 26.345 (except reference to aboveground storage tanks), 26.346 (except reference to aboveground storage tanks), 26.3465, 26.3467, 26.347, 26.348, 26.349 (except reference to aboveground storage tanks), 26.350, 26.351 and 26.3511 (except references to aboveground storage tanks), 25.3512 (except reference to petroleum storage tank remediation account), 26.3513, 26.3514 through 26.3516 (except references to aboveground storage tanks), 26.352, 26.354 through 26.356 (except references to aboveground storage tanks), 26.357, 26.3572, 26.35735, 26.359, 26.362 and 26.363.

(B) The regulatory provisions include:

(*1*) Texas Administrative Code, Title 30, Part I. Texas Commission on Environmental Quality, Chapter 334 Underground and Aboveground Storage Tanks, effective May 31, 2018, Section 334.14 Memorandum of Understanding between the Attorney General of Texas and the Texas Natural Resource Conservation Commission, 334.82 Public Participation, and 334.83 Enforcement.

(*2*) [Reserved]

(iii) *Provisions not incorporated by reference.* The following specifically identified sections and rules applicable to the Texas underground storage tank program that are broader in coverage than the Federal program, are not part of the approved program, and are not incorporated by reference herein for enforcement purposes:

(A) Texas Water Code, as amended, effective October 2018, Title 2, Water Administration, Subtitle D, Water Quality Control: Chapter 26 Water Quality Control, Sections 26.341(b)(1), 26.342(2), 26.342(4), 26.342(9) as it applies to aboveground storage tanks, 26.342(12) as it applies to aboveground storage tanks, 26.342(14) and 26.342(15) as they apply to aboveground storage tanks, 26.342(16), 26.342(16–a), 26.342(18), 26.343(a)(1), 26.344 as it applies to aboveground storage tanks, 26.3441, 26.345 and 26.346 as they apply to aboveground storage tanks, 26.349 as it applies to aboveground storage tanks, 26.351 and 26.3511 as they apply to aboveground storage tanks, 26.3512 as it applies to petroleum storage tank remediation account, 26.3514 through 26.3516 as they apply to aboveground storage tanks, 26.354 through 26.356 as they apply to aboveground storage tanks, 26.3571, 26.3573, 26.35731, 26.3574, 26.35745, 26.358, 26.361, 26.364 through 26.367; Subchapter K. Occupational Licensing and Registration, Sections 26.451, 26.452 and 26.456.

(B) Texas Administrative Code, Title 30, Part I. Texas Commission on Environmental Quality, Chapter 334 Underground and Aboveground Storage Tanks, effective May 31, 2018: Sections 334.2 ''Definitions'' as applied to aboveground storage tanks (ASTs), 334.9 ''Seller's Disclosure'', 334.19 ''Fee on Delivery of Petroleum Product, 334.21 ''Fee Assessment'' through 334.23 ''Disposition of Fees, Interest, and Penalties'', 334.121 ''Purpose and Applicability for Aboveground Storage Tanks (ASTs)'' through 334.132 ''Other General Provisions for Aboveground Storage Tanks (ASTs)'', 334.201 ''Purpose, Applicability, and Deadlines'' through 334.208 ''Model Institutional Controls'', 334.301 ''Applicability of this Subchapter'' through 334.322 ''Subchapter H Definitions'', 334.401 ''License and Registration Required'', 334.407 ''Other Requirements for an Underground Storage Tank Contractor'', 334.424 ''Other Requirements for an On-site Supervisor'' and 334.560 ''Reimbursable Cost Specifications''.

(2) *Statement of legal authority.* The Attorney General's Statements, signed by the Attorney General of Texas on January 11, 1994 and October 22, 2018, though not incorporated by reference, are referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(3) *Demonstration of procedures for adequate enforcement.* The ''Demonstration of Procedures for Adequate Enforcement'' submitted as part of the original application on April 28, 1994 and as part of the program revision application for approval on October 15, 2018 though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(4) *Program description.* The program description and any other material submitted as part of the original application on April 28, 1994 and as part of the program revision application on October 15, 2018, though not incorporated by reference, are referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 6 and the Texas Department of Environmental Quality, signed by the EPA Regional Administrator on July 29, 2019, though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

■ 3. Appendix A to part 282 is amended by revising the entry for Texas to read as follows:

Appendix A to Part 282—State Requirements Incorporated by Reference in Part 282 of the Code of Federal Regulations

* * * * *

Texas

(a) The regulatory provisions include:

1. *Texas Administrative Code, Title 30, Part I. Texas Commission on Environmental Quality, Chapter 37 Financial Assurance, as amended effective through May 31, 2018:*

Subchapter I. Financial Assurance for Petroleum Underground Storage Tank Systems

Section 37.801 Applicability
Section 37.802 Definitions
Section 37.815 Amount and Scope of Required Financial Assurance
Section 37.820 Allowable Mechanisms and Combinations of Mechanisms
Section 37.825 Financial Test of Self-Insurance
Section 37.830 Guarantee
Section 37.835 Insurance and Risk Retention Group Coverage
Section 37.840 Surety Bond
Section 37.845 Letter of Credit
Section 37.850 Trust Fund
Section 37.855 Standby Trust Fund

Section 37.860 Substitution of Financial Assurance Mechanisms by Owner or Operator
Section 37.865 Cancellation or Non-Renewal by a Provider of Financial Assurance
Section 37.867 Duty to Empty Tanks After Termination of Financial Assurance
Section 37.870 Reporting, Registration, and Certification
Section 37.875 Financial Assurance Recordkeeping
Section 37.880 Drawing on Financial Assurance Mechanisms
Section 37.885 Release from the Requirements
Section 37.890 Bankruptcy or Other Incapacity of Owner or Operator or Provider of Financial Assurance
Section 37.895 Replenishment of Guarantees, Letters of Credit or Surety Bonds

2. Texas Administrative Code, Title 30, Part I. Texas Commission on Environmental Quality, Chapter 334 Underground and Aboveground Storage Tanks; effective May 31, 2018:

Subchapter A. General Provisions:
Section 334.1 ''Purpose and Applicability''
Section 334.2 ''Definitions'' (except as they apply to aboveground storage tanks (ASTs))
Section 334.3 ''Exemptions for Underground Storage Tanks (USTs) and UST Systems''
Section 334.4 ''Exclusions for Underground Storage Tanks (USTs) and UST Systems''
Section 334.5 ''General Prohibitions for Underground Storage Tanks (USTs) and UST Systems''
Section 334.6 ''Construction Notification for Underground Storage Tanks (USTs) and UST Systems''
Section 334.7 ''Registration for Underground Storage Tanks (USTs) and UST Systems''
Section 334.8 ''Certification for Underground Storage Tanks (USTs) and UST Systems''
Section 334.10 ''Reporting and Recordkeeping''
Section 334.12 ''Other General Provisions''
Section 334.15 ''Limits on Liability of Lender'' (except as it applies to aboveground storage tanks (ASTs))
Section 334.16 ''Limits on Liability of Corporate Fiduciary''
Section 334.18 ''Limits on Liability of Taxing Unit'' (except as it applies to aboveground storage tanks (ASTs))

Subchapter C. Technical Standards:
Section 334.41 ''Applicability''
Section 334.42 ''General Standards''
Section 334.43 ''Variances and Alternative Procedures''
Section 334.44 ''Implementation Schedules''
Section 334.45 ''Technical Standards for New Underground Storage Tank Systems''
Section 334.46 ''Installation Standards for New Underground Storage Tank Systems''
Section 334.47 ''Technical Standards for Existing Underground Storage Tank Systems''
Section 334.48 ''General Operating and Management Requirements''
Section 334.49 ''Corrosion Protection''
Section 334.50 ''Release Detection''
Section 334.51 ''Spill and Overfill Prevention and Control''
Section 334.52 ''Underground Storage Tank System Repairs and Relining''
Section 334.53 ''Reuse of Used Tanks''
Section 334.54 ''Temporary Removal from Service''
Section 334. 55 ''Permanent Removal from Service''
Section 334.56 ''Change to Exempt or Excluded Status''

Subchapter D. Release Reporting and Corrective Action:
Section 334.71 ''Applicability and Deadlines''
Section 334.72 ''Reporting of Suspected Releases''
Section 334.73 ''Investigation Due to Off-Site Impacts''
Section 334.74 ''Release Investigation and Confirmation Steps''
Section 334.75 ''Reporting and Cleanup of Surface Spills and Overfills''
Section 334.76 ''Initial Response to Releases''
Section 334.77 ''Initial Abatement Measures and Site Check''
Section 334.78 ''Site Assessment''
Section 334.79 ''Removal of Non-Aqueous Phase Liquids (NAPLs)''
Section 334.80 ''Investigation of Soil and Groundwater Cleanup''
Section 334.81 ''Corrective Action Plan''
Section 334.84 ''Corrective Action by the Agency''
Section 334.85 ''Management of Wastes''

Subchapter J. Leaking Petroleum Storage Tank Corrective Action Specialist Registration and Project Manager Licensing:
Section 334.451 ''Applicability of Subchapter J''
Section 334.454 ''Exception for Emergency Abatement Actions''
Section 334.455 ''Notice to Owner or Operator''

Subchapter N. Operator Training:
Section 334.601 ''Purpose and Applicability''
Section 334.602 ''Designation and Training of Classes of Operators''
Section 334.603 ''Acceptable Operator Training and Certification Processes''
Section 334.604 ''Operator Training Deadlines''
Section 334.605 ''Operator Training Frequency''
Section 334.606 ''Documentation of Operator Training''

(b) Copies of the Texas UST regulations that are incorporated by reference are available from Thomson Reuters, 610 Opperman Drive, Eagan, MN 55123; Phone: 1–888–728–7677; website: *http://legalsolutions.thomsonreuters.com;* or the Texas Secretary of State office website at *https://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=30&pt=1&ch=334.*

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[EPA–HQ–TRI–2020–0142; FRL–10008–09]

RIN 2070–AK63

Implementing Statutory Addition of Certain Per- and Polyfluoroalkyl Substances; Toxic Chemical Release Reporting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is adding 172 per- and polyfluoroalkyl substances (PFAS) to the list of toxic chemicals subject to reporting under section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) and section 6607 of the Pollution Prevention Act (PPA). EPA is also setting a manufacture, processing, and otherwise use reporting threshold of 100 pounds for each PFAS being added to the list. These actions are being taken to comply with section 7321 of the National Defense Authorization Act for Fiscal Year 2020 enacted on December 20, 2019. As this action is being taken to conform the regulations to a Congressional legislative mandate, notice and comment rulemaking is unnecessary, and this rule is effective immediately.

DATES: This rule is effective June 22, 2020.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Daniel R. Bushman, Toxics Release Inventory Program Division, Mailcode 7410M, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 566–0743; email address: *bushman.daniel@epa.gov.*

For general information contact: The Emergency Planning and Community Right-to-Know Hotline; telephone numbers: toll free at (800) 424–9346 (select menu option 3) or (703) 348–5070 in the Washington, DC Area and International; or go to *https://www.epa.gov/home/epa-hotlines.*

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 otherwise use any of the PFAS listed in this 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:

- Facilities included in the following NAICS manufacturing codes (corresponding to Standard Industrial Classification (SIC) codes 20 through 39): 311*, 312*, 313*, 314*, 315*, 316, 321, 322, 323*, 324, 325*, 326*, 327, 331, 332, 333, 334*, 335*, 336, 337*, 339*, 111998*, 211130*, 212324*, 212325*, 212393*, 212399*, 488390*, 511110, 511120, 511130, 511140*, 511191, 511199, 512230*, 512250*, 519130*, 541713*, 541715* or 811490*. *Exceptions and/or limitations exist for these NAICS codes.
- Facilities included in the following NAICS codes (corresponding to SIC codes other than SIC codes 20 through 39): 212111, 212112, 212113 (corresponds to SIC code 12, Coal Mining (except 1241)); or 212221, 212222, 212230, 212299 (corresponds to SIC code 10, Metal Mining (except 1011, 1081, and 1094)); or 221111, 221112, 221113, 221118, 221121, 221122, 221330 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce) (corresponds to SIC codes 4911, 4931, and 4939, Electric Utilities); or 424690, 425110, 425120 (limited to facilities previously classified in SIC code 5169, Chemicals and Allied Products, Not Elsewhere Classified); or 424710 (corresponds to SIC code 5171, Petroleum Bulk Terminals and Plants); or 562112 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis (previously classified under SIC code 7389, Business Services, NEC)); or 562211, 562212, 562213, 562219, 562920 (limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. 6921 *et seq.*) (corresponds to SIC code 4953, Refuse Systems).
- Federal facilities.

A more detailed description of the types of facilities covered by the NAICS codes subject to reporting under EPCRA section 313 can be found at: *https://www.epa.gov/toxics-release-inventory-tri-program/tri-covered-industry-sectors.* To determine whether your facility would be affected by this action, you should carefully examine the applicability criteria in part 372, subpart B of title 40 of the Code of Federal Regulations. Federal facilities are required to report under Executive Order 13834 (*https://www.govinfo.gov/content/pkg/FR-2018-05-22/pdf/2018-11101.pdf*) as explained in the Implementing Instructions from the Council on Environmental Quality (*https://www.sustainability.gov/pdfs/eo13834_instructions.pdf*). If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What action is the Agency taking?

EPA is adding 172 PFAS to the EPCRA section 313 list of toxic chemicals (more commonly known as the Toxics Release Inventory (TRI)). EPA is also setting a manufacture, processing, and otherwise use reporting threshold of 100 pounds for each PFAS being added to the list.

II. Background

On December 20, 2019 the National Defense Authorization Act for Fiscal Year 2020 (NDAA) was signed into law (Pub. L. 116–92, *https://www.congress.gov/public-laws/116th-congress*). Among other provisions, section 7321 of the NDAA adds certain PFAS to the EPCRA section 313 list of reportable toxic chemicals as of January 1, 2020. Specifically, the NDAA identifies 14 chemicals by name and/or Chemical Abstract Service Registry Number (CASRN) in section 7321(b) and identifies additional PFAS or class of PFAS that must be added based on the following criteria:

- It is listed as an active chemical substance in the February 2019 update to the inventory under TSCA section 8(b)(1) (15 U.S.C. 2607(b)(1)); and
- On the date of enactment of the NDAA, is subject to the provisions of 40 CFR 721.9582 or 40 CFR 721.10536.

EPA has reviewed the above-listed criteria and found 170 chemicals that meet the requirements of this part of the NDAA and whose identity is not confidential business information (CBI). Twelve of these are among the 14 PFAS specifically listed in the NDAA; with the addition of the other two, there are a total of 172 PFAS subject to this law whose identity is not CBI. Under section 7321 of the NDAA, EPA must review CBI claims before adding any PFAS to the list whose identity is subject to a claim of protection from disclosure under 5 U.S.C. 552(a). Under the NDAA EPA must:

- Review a claim of protection from disclosure; and
- Require that person to reassert and substantiate or resubstantiate that claim in accordance with TSCA section 14(f) (15 U.S.C. 2613(f)).

In addition, if EPA determines that the chemical identity of a PFAS or class PFAS qualifies for protection from disclosure, EPA must include the PFAS or class of PFAS, on the toxics release inventory in a manner that does not disclose the protected information.

The names and CASRNs for some of the chemicals listed under 40 CFR 721.9582 and/or 40 CFR 721.10536 are subject to a claim of protection from disclosure. Therefore, the chemicals that are subject to a claim of protection from disclosure will not be added to the EPCRA section 313 toxic chemical list until EPA completes the process provided by section 7321(e) of the NDAA. Updates regarding this process will be provided via the Addition of Certain PFAS to the TRI by the National Defense Authorization Act web page: *https://www.epa.gov/toxics-release-inventory-tri-program/addition-certain-pfas-tri-national-defense-authorization-act.* Therefore, 172 PFAS will be added at this time. Note that not every substance subject to §§ 721.9582 and 721.10536 was added to the TRI chemical list, only those substances that met the listing criteria in the NDAA.

As established by the NDAA, the addition of these PFAS is to be effective January 1 of the calendar year following the date of enactment of the NDAA. Accordingly, these 172 non-CBI PFAS are reportable for the 2020 reporting year (*i.e.,* reports due July 1, 2021). EPA is issuing this final rule revising the EPCRA section 313 list of reportable chemicals in 40 CFR 372.65 to include the 172 non-CBI PFAS added by the NDAA to the EPCRA section 313 list of reportable chemicals in 40 CFR 372.65. In addition, the NDAA established a manufacture, processing, and otherwise use reporting threshold of 100 pounds for each of the listed PFAS chemicals listed under the NDAA. The NDAA also requires that no later than 5 years from the date of enactment of the NDAA that EPA must:

- Determine whether revision of the threshold is warranted; and
- If EPA determines a revision to the threshold is warranted, initiate a revision under EPCRA section 313(f)(2) (42 U.S.C. 11023(f)(2)).

Therefore, EPA is amending the regulatory text by adding the 172 PFAS to 40 CFR 372.65 with reporting thresholds of 100 pounds identified in 40 CFR 372.29.

III. Good Cause Exception

Under 5 U.S.C. 553(b)(3)(A), the notice-and-comment requirements of the Federal Administrative Procedure Act (5 U.S.C. 551–706) do not apply where the Agency ''for good cause finds . . . that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' Because this action is being taken to comply with an Act of Congress where Congress added these chemicals to the TRI and lowered the reporting thresholds for these chemicals, and thus EPA has no discretion as to the outcome of this rule, EPA hereby finds that notice and comment on this action are unnecessary. The action merely fulfills a mandate from Congress by aligning the CFR with the self-effectuating changes provided by the NDAA. This action is effective immediately upon publication in the **Federal Register**. Under 5 U.S.C. 553(d)(3), 30-day advance notice of a rule is not required where the Agency provides otherwise for good cause. EPA finds that good cause for an immediate effective date exists in this case because, as explained above, this rule merely amends the regulations in 40 CFR part 372 to reflect the action taken by Congress.

IV. Statutory and Executive Order Reviews

Additional information about these statutes and Executive orders can be found at *http://www2.epa.gov/laws-regulations/laws-and-executive-orders.*

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

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011).

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not a regulatory action under Executive Order 13771 (82 FR 9339, February 3, 2017) because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

The Office of Management and Budget (OMB) has approved the information collection activities contained in this rule under the PRA, 44 U.S.C. 3501 *et seq.,* and has assigned OMB control number 2070–0212. This was an emergency ICR since the collection of this information was mandated by an act of Congress effective 1/1/2020. EPA will follow up this emergency ICR with a revision to the existing ICR that covers reporting under EPCRA section 313. You can find a copy of the emergency ICR in the docket for this rule, estimated impacts are presented here.

Respondents/affected entities: Facilities that submit annual reports under section 313 of EPCRA and section 6607 of PPA.

Respondent's obligation to respond: Mandatory (EPCRA section 313).

Estimated number of respondents: 500.

Frequency of response: Annual.

Total estimated burden: 17,852 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $1 million (per year), includes $0 annualized capital or operation & maintenance costs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

D. Regulatory Flexibility Act (RFA)

This rule is not subject to the RFA, 5 U.S.C. 601 *et seq.,* which generally requires an agency to prepare a regulatory flexibility analysis for any rule that is estimated to have a significant economic impact on a substantial number of small entities. This rule is not subject to notice and comment requirements under the APA or any other statute because although the rule is subject to the APA, the Agency has invoked the ''good cause'' exemption under 5 U.S.C. 553(b) (see Unit III.).

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action will impose no enforceable duty on any state, local or tribal governments or the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). It will not have substantial direct effects on the states, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

This action does not have tribal implications as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This rule will not impose substantial direct compliance costs on Indian Tribal Governments. Thus, Executive Order 13175 does not apply to this action.

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

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997), as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of Executive Order 13045 has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

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

This action is not a ''significant energy action'' as defined in Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not likely to have a significant adverse effect on the supply, distribution or use of energy.

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards that would require Agency consideration under NTTAA section 12(d), 15 U.S.C. 272 note.

K. 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), because it does not establish an environmental health or safety standard. This action involves additions to reporting requirements that will not affect the level of protection provided to human health or the environment.

V. Congressional Review Act (CRA)

This action is subject to the CRA, 5 U.S.C. 801 *et seq.,* and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. The CRA allows the issuing agency to make a rule

effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice-and-comment rulemaking procedures are impracticable, unnecessary or contrary to the public interest (5 U.S.C. 808(2)). The EPA has made a good cause finding for this rule as discussed in Unit III., including the basis for that finding. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 372

Environmental protection, Community right-to-know, Reporting and recordkeeping requirements, Toxic chemicals.

Dated: May 18, 2020.

Alexandra Dapolito Dunn,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

Therefore, 40 CFR part 372 is amended as follows:

PART 372—[AMENDED]

■ 1. The authority citation for part 372 continues to read as follows:

Authority: 42 U.S.C. 11023 and 11048.

§ 372.22 [Amended]

■ 2. Amend § 372.22(c) by removing the text ''§ 372.25, § 372.27, or § 372.28'' and adding in its place ''§ 372.25, § 372.27, § 372.28, or § 372.29''.

§ 372.25 [Amended]

■ 3. Amend § 372.25 as follows:

■ a. In the introductory text, remove the text ''Except as provided in §§ 372.27 and 372.28'' and add in its place ''Except as provided in § 372.27, § 372.28, and § 372.29''.

■ b. In paragraphs (f), (g), and (h), remove the text ''§ 372.25, § 372.27, or § 372.28'' add in its place ''this section or § 372.27, § 372.28, or § 372.29''.

■ 4. Add § 372.29 to subpart B to read as follows:

§ 372.29 Thresholds for per- and polyfluoroalkyl substances.

Notwithstanding § 372.25, for the chemicals set forth in § 372.65(d) and (e) the manufacturing, processing, and otherwise use thresholds are 100 pounds.

§ 372.30 [Amended]

■ 5. Amend § 372.30 as follows:

■ a. In paragraph (a), remove the text ''in § 372.25, § 372.27, or § 372.28'' and add in its place ''in § 372.25, § 372.27, § 372.28, or § 372.29''.

■ b. In paragraphs (b)(1), (b)(3) introductory text, and (b)(3)(i) and (iv), remove the text ''§ 372.25, § 372.27, or § 372.28'' and add in its place ''§ 372.25, § 372.27, § 372.28, or § 372.29.''

§ 372.38 [Amended]

■ 6. Amend § 372.38(b), (c), (d), (f), (g), and (h) by removing the text ''§ 372.25, § 372.27, or § 372.28'' and adding in its place ''§ 372.25, § 372.27, § 372.28, or § 372.29.''

■ 7. Amend § 372.65 as follows:

■ a. By revising the introductory text; and

■ b. By adding paragraphs (d) and (e).

The revision and additions read as follows:

§ 372.65 Chemicals and chemical categories to which this part applies.

The requirements of this part apply to the chemicals and chemical categories listed in this section. This section contains five listings. Paragraph (a) of this section is an alphabetical order listing of those chemicals that have an associated Chemical Abstracts Service (CAS) Registry number. Paragraph (b) of this section contains a CAS number order list of the same chemicals listed in paragraph (a) of this section. Paragraph (c) of this section contains the chemical categories for which reporting is required. These chemical categories are listed in alphabetical order and do not have CAS numbers. Paragraph (d) of this section is an alphabetical order listing of the per- and polyfluoroalkyl substances and their associated CAS Registry number. Paragraph (e) of this section contains a CAS number order list of the same chemicals listed in paragraph (d) of this section. Each listing identifies the effective date for reporting under § 372.30.

* * * * *

(d) *Per- and polyfluoroalkyl substances alphabetical listing.*

TABLE 4 TO PARAGRAPH (d)

Chemical name	CAS No.	Effective date
Alcohols, C8-14, γ-ω-perfluoro	68391–08–2	1/1/20
Alkenes, C8-14 α-, δ-ω-perfluoro	97659–47–7	1/1/20
Alkyl iodides, C4-20, γ-ω-perfluoro	68188–12–5	1/1/20
Ammonium perfluorooctanoate	3825–26–1	1/1/20
1,4-Benzenedicarboxylic acid, dimethyl ester, reaction products with bis(2-hydroxyethyl)terephthalate, ethylene glycol, α-fluoro-ω-(2-hydroxyethyl)poly(difluoromethylene), hexakis(methoxymethyl)melamine and polyethylene glycol	68515–62–8	1/1/20
Butanoic acid, 4-[[3-(dimethylamino)propyl]amino]-4-oxo-, 2(or 3)-[(γ-ω-perfluoro-C6-20-alkyl)thio] derivs.	68187–25–7	1/1/20
2-[Butyl[(heptadecafluorooctyl)sulfonyl]amino]ethyl acrylate	383–07–3	1/1/20
Chromium(III) perfluorooctanoate	68141–02–6	1/1/20
Cyclohexanesulfonic acid, decafluoro(pentafluoroethyl)-, potassium salt	67584–42–3	1/1/20
Cyclohexanesulfonic acid, decafluoro(trifluoromethyl)-, potassium salt	68156–07–0	1/1/20
Cyclohexanesulfonic acid, nonafluorobis(trifluoromethyl)-, potassium salt	68156–01–4	1/1/20
Cyclohexanesulfonic acid, undecafluoro-, potassium salt	3107–18–4	1/1/20
Decane, 1,1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8-heptadecafluoro-10-iodo-	2043–53–0	1/1/20
1-Decanesulfonic acid, 1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heneicosafluoro-, ammonium salt	67906–42–7	1/1/20
1-Decanesulfonyl chloride, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluoro-	27619–90–5	1/1/20
1-Decanol, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluoro-	678–39–7	1/1/20
Disulfides, bis(γ-ω-perfluoro-C6-20-alkyl)	118400–71–8	1/1/20
Dodecane, 1,1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10-heneicosafluoro-12-iodo-	2043–54–1	1/1/20
1-Dodecanesulfonyl chloride, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,12-heneicosafluoro-	27619–91–6	1/1/20
1-Dodecanol, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,12-heneicosafluoro-	865–86–1	1/1/20
1-Eicosanol, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,13,13,14,14,15,15,16,16,17,17,18,18,19,19,20,20,20-heptatriacontafluoro-	65104–65–6	1/1/20
Ethanaminium, N,N-diethyl-N-methyl-2-[(2-methyl-1-oxo-2-propenyl)oxy]-, methyl sulfate, polymer with 2-ethylhexyl 2-methyl-2-propenoate, α-fluoro-ω-[2-[(2-methyl-1-oxo-2-propenyl)oxy]ethyl]poly(difluoromethylene), 2-hydroxyethyl 2-methyl-2-propenoate and N-(hydroxymethyl)-2-propenamide	65636–35–3	1/1/20

TABLE 4 TO PARAGRAPH (d)—Continued

Chemical name	CAS No.	Effective date
Ethanaminium, N,N,N-triethyl-, salt with 1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-heptadecafluoro-1-octanesulfonic acid (1:1)	56773–42–3	1/1/20
Ethaneperoxoic acid, reaction products with 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluorodecyl thiocyanate and 3,3,4,4,5,5,6,6,7,7,8,8,8-tridecafluorooctyl thiocyanate	182176–52–9	1/1/20
Ethanol, 2,2′-iminobis-, compd. with α-fluoro-ω-[2-(phosphonooxy)ethyl]poly(difluoromethylene) (1:1)	65530–74–7	1/1/20
Ethanol, 2,2′-iminobis-, compd. with α-fluoro-ω-[2-(phosphonooxy)ethyl]poly(difluoromethylene) (2:1)	65530–63–4	1/1/20
Ethanol, 2,2′-iminobis-, compd. with α,α′-[phosphinicobis(oxy-2,1-ethanediyl)]bis[ω-fluoropoly(difluoromethylene)] (1:1)	65530–64–5	1/1/20
N-Ethyl-N-(2-hydroxyethyl)perfluorooctanesulfonamide	1691–99–2	1/1/20
2-[Ethyl[(heptadecafluorooctyl)sulfonyl]amino]ethyl acrylate	423–82–5	1/1/20
2-[Ethyl[(heptadecafluorooctyl)sulfonyl]amino]ethyl methacrylate	376–14–7	1/1/20
Fatty acids, C6-18, perfluoro, ammonium salts	72623–77–9	1/1/20
Fatty acids, C7-13, perfluoro, ammonium salts	72968–38–8	1/1/20
Fatty acids, linseed-oil, γ-ω-perfluoro-C8-14-alkyl esters	178535–23–4	1/1/20
Glycine, N-ethyl-N-[(heptadecafluorooctyl)sulfonyl]-, potassium salt	2991–51–7	1/1/20
Glycine, N-[(heptadecafluorooctyl)sulfonyl]-N-propyl-, potassium salt	55910–10–6	1/1/20
Glycine, N-ethyl-N-[(pentadecafluoroheptyl)sulfonyl]-, potassium salt	67584–62–7	1/1/20
Glycine, N-ethyl-N-[(tridecafluorohexyl)sulfonyl]-, potassium salt	67584–53–6	1/1/20
Glycine, N-ethyl-N-[(undecafluoropentyl)sulfonyl]-, potassium salt	67584–52–5	1/1/20
3-[[(Heptadecafluorooctyl)sulfonyl]amino]-N,N,N-trimethyl-1-propanaminium iodide	1652–63–7	1/1/20
2-[[(Heptadecafluorooctyl)sulfonyl]methylamino]ethyl acrylate	25268–77–3	1/1/20
1-Heptanesulfonamide, 1,1,2,2,3,3,4,4,5,5,6,6,7,7,7-pentadecafluoro-N-(2-hydroxyethyl)-N-methyl-	68555–76–0	1/1/20
1-Heptanesulfonamide, N-ethyl-1,1,2,2,3,3,4,4,5,5,6,6,7,7,7-pentadecafluoro-	68957–62–0	1/1/20
1-Heptanesulfonic acid, 1,1,2,2,3,3,4,4,5,5,6,6,7,7,7-pentadecafluoro-, ammonium salt	68259–07–4	1/1/20
1-Heptanesulfonic acid, 1,1,2,2,3,3,4,4,5,5,6,6,7,7,7-pentadecafluoro-, compd. with 2,2′-iminobis[ethanol] (1:1)	70225–15–9	1/1/20
1-Heptanesulfonic acid, 1,1,2,2,3,3,4,4,5,5,6,6,7,7,7-pentadecafluoro-, potassium salt	60270–55–5	1/1/20
1-Heptanesulfonyl fluoride, 1,1,2,2,3,3,4,4,5,5,6,6,7,7,7-pentadecafluoro-	335–71–7	1/1/20
Hexadecane, 1,1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,13,13,14,14-nonacosafluoro-16-iodo-	65510–55–6	1/1/20
1-Hexadecanol, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,13,13,14,14,15,15,16,16,16-nonacosafluoro-	60699–51–6	1/1/20
Hexafluoropropylene oxide dimer acid	13252–13–6	1/1/20
Hexafluoropropylene oxide dimer acid ammonium salt	62037–80–3	1/1/20
Hexane, 1,6-diisocyanato-, homopolymer, γ-ω-perfluoro-C6-20-alc.-blocked	135228–60–3	1/1/20
1-Hexanesulfonamide, 1,1,2,2,3,3,4,4,5,5,6,6,6-tridecafluoro-N-(2-hydroxyethyl)-N-methyl-	68555–75–9	1/1/20
1-Hexanesulfonic acid, 1,1,2,2,3,3,4,4,5,5,6,6,6-tridecafluoro-, ammonium salt	68259–08–5	1/1/20
1-Hexanesulfonic acid, 1,1,2,2,3,3,4,4,5,5,6,6,6-tridecafluoro-, potassium salt	3871–99–6	1/1/20
1-Hexanesulfonic acid, 1,1,2,2,3,3,4,4,5,5,6,6,6-tridecafluoro-, compd. with 2,2′-iminobis[ethanol] (1:1)	70225–16–0	1/1/20
Lithium (perfluorooctane)sulfonate	29457–72–5	1/1/20
Methyl perfluorooctanoate	376–27–2	1/1/20
1-Nonanesulfonic acid, 1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8,9,9,9-nonadecafluoro-, ammonium salt	17202–41–4	1/1/20
Octadecanoic acid, pentatriacontafluoro-	16517–11–6	1/1/20
1-Octadecanol, 3,3,4,4,5,5,6,6,7,7, 8,8,9,9,10,10,11,11,12,12,13,13,14,14,15,15, 16,16,17,17,18,18,18-tritriacontafluoro-	65104–67–8	1/1/20
1-Octanesulfonamide, 1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-heptadecafluoro-N-methyl-	31506–32–8	1/1/20
1-Octanesulfonamide, 1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-heptadecafluoro-N-(2-hydroxyethyl)-N-methyl-	24448–09–7	1/1/20
1-Octanesulfonamide, N-butyl-1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-heptadecafluoro-N-(2-hydroxyethyl)-	2263–09–4	1/1/20
1-Octanesulfonamide, N-ethyl-1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-heptadecafluoro-N-[3-(trimethoxysilyl)propyl]-	61660–12–6	1/1/20
1-Octanesulfonamide, N-[3-(dimethyloxidoamino)propyl]-1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-heptadecafluoro-, potassium salt	178094–69–4	1/1/20
1-Octanesulfonamide, N-ethyl-1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-heptadecafluoro-N-[2-(phosphonooxy)ethyl]-, diammonium salt	67969–69–1	1/1/20
1-Octanesulfonic acid, 1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-heptadecafluoro-, ammonium salt	29081–56–9	1/1/20
1-Octanesulfonic acid, 1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-heptadecafluoro-, compd. with 2,2′-iminobis[ethanol] (1:1)	70225–14–8	1/1/20
Octanoyl fluoride, pentadecafluoro-	335–66–0	1/1/20
1-Pentanesulfonamide, 1,1,2,2,3,3,4,4,5,5,5-undecafluoro-N-(2-hydroxyethyl)-N-methyl-	68555–74–8	1/1/20
1-Pentanesulfonic acid, 1,1,2,2,3,3,4,4,5,5,5-undecafluoro-, potassium salt	3872–25–1	1/1/20
1-Pentanesulfonic acid, 1,1,2,2,3,3,4,4,5,5,5-undecafluoro-, ammonium salt	68259–09–6	1/1/20
1-Pentanesulfonic acid, 1,1,2,2,3,3,4,4,5,5,5-undecafluoro-, compd. with 2,2′-iminobis[ethanol] (1:1)	70225–17–1	1/1/20
Pentanoic acid, 4,4-bis[(γ-ω-perfluoro-C8-20-alkyl)thio] derivs.	71608–60–1	1/1/20
Perfluorodecanoic acid	335–76–2	1/1/20
Perfluorododecanoic acid	307–55–1	1/1/20
Perfluorohexanesulfonic acid	355–46–4	1/1/20
Perfluorononanoic acid	375–95–1	1/1/20
Perfluorooctane sulfonic acid	1763–23–1	1/1/20
Perfluorooctanoic acid	335–67–1	1/1/20
Perfluorooctyl Ethylene	21652–58–4	1/1/20
Perfluorooctylsulfonyl fluoride	307–35–7	1/1/20
Perfluoropalmitic acid	67905–19–5	1/1/20
Perfluorotetradecanoic acid	376–06–7	1/1/20
Phosphinic acid, bis(perfluoro-C6-12-alkyl) derivs.	68412–69–1	1/1/20
Phosphonic acid, perfluoro-C6-12-alkyl derivs.	68412–68–0	1/1/20

TABLE 4 TO PARAGRAPH (d)—Continued

Chemical name	CAS No.	Effective date
Phosphoric acid, γ-ω-perfluoro-C8-16-alkyl esters, compds. with diethanolamine	74499–44–8	1/1/20
Poly(difluoromethylene), α-[2-(acetyloxy)-3-[(carboxymethyl)dimethylammonio]propyl]-ω-fluoro-, inner salt	123171–68–6	1/1/20
Poly(difluoromethylene), α-[2-[(2-carboxyethyl)thio]ethyl]-ω-fluoro-	65530–83–8	1/1/20
Poly(difluoromethylene), α-[2-[(2-carboxyethyl)thio]ethyl]-ω-fluoro-, lithium salt	65530–69–0	1/1/20
Poly(difluoromethylene), α-fluoro-ω-(2-hydroxyethyl)-, dihydrogen 2-hydroxy-1,2,3-propanetricarboxylate	65605–56–3	1/1/20
Poly(difluoromethylene), α-fluoro-ω-(2-hydroxyethyl)-, hydrogen 2-hydroxy-1,2,3-propanetricarboxylate	65605–57–4	1/1/20
Poly(difluoromethylene), α-fluoro-ω-(2-hydroxyethyl)-, 2-hydroxy-1,2,3-propanetricarboxylate (3:1)	65530–59–8	1/1/20
Poly(difluoromethylene), α-fluoro-ω-[2-[(2-methyl-1-oxo-2-propenyl)oxy]ethyl]-	65530–66–7	1/1/20
Poly(difluoromethylene), α-fluoro-ω-[2-[(1-oxo-2-propenyl)oxy]ethyl]-, homopolymer	65605–73–4	1/1/20
Poly(difluoromethylene), α-fluoro-ω-[2-[(1-oxooctadecyl)oxy]ethyl]-	65530–65–6	1/1/20
Poly(difluoromethylene), α-fluoro-ω-[2-(phosphonooxy)ethyl]-	65530–61–2	1/1/20
Poly(difluoromethylene), α-fluoro-ω-[2-(phosphonooxy)ethyl]-, ammonium salt	95144–12–0	1/1/20
Poly(difluoromethylene), α-fluoro-ω-[2-(phosphonooxy)ethyl]-, diammonium salt	65530–72–5	1/1/20
Poly(difluoromethylene), α-fluoro-ω-[2-(phosphonooxy)ethyl]-, monoammonium salt	65530–71–4	1/1/20
Poly(difluoromethylene), α-fluoro-ω-[2-sulphoethyl)-	80010–37–3	1/1/20
Poly(difluoromethylene), α,α′-[phosphinicobis(oxy-2,1-ethanediyl)]bis[ω-fluoro-	65530–62–3	1/1/20
Poly(difluoromethylene), α,α′-[phosphinicobis(oxy-2,1-ethanediyl)]bis[ω-fluoro-, ammonium salt	65530–70–3	1/1/20
Poly(oxy-1,2-ethanediyl), α-[2-[ethyl[(tridecafluorohexyl)sulfonyl]amino]ethyl]-ω-hydroxy-	56372–23–7	1/1/20
Poly(oxy-1,2-ethanediyl), α-[2-[ethyl[(heptadecafluorooctyl)sulfonyl]amino]ethyl]-ω-hydroxy-	29117–08–6	1/1/20
Poly(oxy-1,2-ethanediyl), α-[2-[ethyl[(pentadecafluoroheptyl)sulfonyl]amino]ethyl]-ω-methoxy-	68958–60–1	1/1/20
Poly(oxy-1,2-ethanediyl), α-[2-[ethyl[(heptadecafluorooctyl)sulfonyl]amino]ethyl]-ω-methoxy-	68958–61–2	1/1/20
Poly(oxy-1,2-ethanediyl), α-[2-[ethyl[(undecafluoropentyl)sulfonyl]amino]ethyl]-ω-hydroxy-	68298–80–6	1/1/20
Poly(oxy-1,2-ethanediyl), α-[2-[ethyl[(pentadecafluoroheptyl)sulfonyl]amino]ethyl]-ω-hydroxy-	68298–81–7	1/1/20
Poly(oxy-1,2-ethanediyl), α-hydro-ω-hydroxy-, ether with α-fluoro-ω-(2-hydroxyethyl)poly(difluoromethylene) (1:1)	65545–80–4	1/1/20
Poly(oxy-1,2-ethanediyl), α-methyl-ω-hydroxy-, 2-hydroxy-3-[(γ-ω-perfluoro-C6-20-alkyl)thio]propyl ethers	70983–59–4	1/1/20
Poly[oxy(methyl-1,2-ethanediyl)], α-[2-[ethyl[(heptadecafluorooctyl)sulfonyl]amino]ethyl]-ω-hydroxy-	37338–48–0	1/1/20
Poly[oxy(methyl-1,2-ethanediyl)], α-[2-[ethyl[(pentadecafluoroheptyl)sulfonyl]amino]ethyl]-ω-hydroxy-	68259–39–2	1/1/20
Poly[oxy(methyl-1,2-ethanediyl)], α-[2-[ethyl[(tridecafluorohexyl)sulfonyl]amino]ethyl]-ω-hydroxy-	68259–38–1	1/1/20
Poly[oxy(methyl-1,2-ethanediyl)], α-[2-[ethyl[(undecafluoropentyl)sulfonyl]amino]ethyl]-ω-hydroxy-	68310–17–8	1/1/20
Potassium perfluorooctanesulfonate	2795–39–3	1/1/20
1-Propanaminium, 3-amino-N-(carboxymethyl)-N,N-dimethyl-, N-[2-[(γ-ω-perfluoro-C4-20-alkyl)thio]acetyl] derivs., inner salts	1078715–61–3	1/1/20
1-Propanaminium, 3-[[(heptadecafluorooctyl)sulfonyl]amino]-N,N,N-trimethyl-, chloride	38006–74–5	1/1/20
1-Propanaminium, 2-hydroxy-N,N,N-trimethyl-, 3-[(γ-ω-perfluoro-C6-20-alkyl)thio] derivs., chlorides	70983–60–7	1/1/20
1-Propanaminium, N,N,N-trimethyl-3-[[(tridecafluorohexyl)sulfonyl]amino]-, chloride	52166–82–2	1/1/20
1-Propanaminium, N,N,N-trimethyl-3-[[(pentadecafluoroheptyl)sulfonyl]amino]-, iodide	67584–58–1	1/1/20
1-Propanaminium, N,N,N-trimethyl-3-[[(pentadecafluoroheptyl)sulfonyl]amino]-, chloride	68555–81–7	1/1/20
1-Propanaminium, N,N,N-trimethyl-3-[[(tridecafluorohexyl)sulfonyl]amino]-, iodide	68957–58–4	1/1/20
1-Propanaminium, N,N,N-trimethyl-3-[[(undecafluoropentyl)sulfonyl]amino]-, chloride	68957–55–1	1/1/20
1-Propanaminium, N,N,N-trimethyl-3-[[(undecafluoropentyl)sulfonyl]amino]-, iodide	68957–57–3	1/1/20
Propanedioic acid, mono(γ-ω-perfluoro-C8-12-alkyl) derivs., bis[4-(ethenyloxy)butyl] esters	238420–80–9	1/1/20
Propanedioic acid, mono(γ-ω-perfluoro-C8-12-alkyl) derivs., di-me esters	238420–68–3	1/1/20
1,3-Propanediol, 2,2-bis[[(γ-ω-perfluoro-C10-20-alkyl)thio]methyl] derivs., phosphates, ammonium salts	148240–89–5	1/1/20
1,3-Propanediol, 2,2-bis[[(γ-ω-perfluoro-C4-10-alkyl)thio]methyl] derivs., phosphates, ammonium salts	148240–85–1	1/1/20
1,3-Propanediol, 2,2-bis[[(γ-ω-perfluoro-C6-12-alkyl)thio]methyl] derivs., phosphates, ammonium salts	148240–87–3	1/1/20
1,3-Propanediol, 2,2-bis[[(γ-ω-perfluoro-C6-12-alkyl)thio]methyl] derivs., polymers with 2,2-bis[[(γ-ω-perfluoro-C10-20-alkyl)thio]methyl]-1,3-propanediol, 1,6-diisocyanato-2,2,4(or 2,4,4)-trimethylhexane, 2-heptyl-3,4-bis(9-isocyanatononyl)-1-pentylcyclohexane and 2,2′-(methylimino)bis[ethanol]	1078142–10–5	1/1/20
1-Propanesulfonic acid, 2-methyl-, 2-[[1-oxo-3-[(γ-ω-perfluoro-C4-16-alkyl)thio]propyl]amino] derivs., sodium salts	68187–47–3	1/1/20
2-Propenoic acid, butyl ester, telomer with 2-[[(heptadecafluorooctyl)sulfonyl]methylamino]ethyl 2-propenoate, 2-[methyl[(nonafluorobutyl)sulfonyl]amino]ethyl 2-propenoate, α-(2-methyl-1-oxo-2-propenyl)-ω-hydroxypoly(oxy-1,4-butanediyl), α-(2-methyl-1-oxo-2-propenyl)-ω-[(2-methyl-1-oxo-2-propenyl)oxy]poly(oxy-1,4-butanediyl), 2-[methyl[(pentadecafluoroheptyl)sulfonyl]amino]ethyl 2-propenoate, 2-[methyl[(tridecafluorohexyl)sulfonyl]amino]ethyl 2-propenoate, 2-[methyl[(undecafluoropentyl)sulfonyl]amino]ethyl 2-propenoate and 1-octanethiol	68227–96–3	1/1/20
2-Propenoic acid, 2-[butyl[(heptadecafluorooctyl)sulfonyl]amino]ethyl ester, telomer with 2-[butyl[(pentadecafluoroheptyl)sulfonyl]amino]ethyl 2-propenoate, methyloxirane polymer with oxirane di-2-propenoate, methyloxirane polymer with oxirane mono-2-propenoate and 1-octanethiol	68298–62–4	1/1/20
2-Propenoic acid, esters, 2-methyl-, dodecyl ester, polymer with α-fluoro-ω-[2-[(2-methyl-1-oxo-2-propen-1-yl)oxy]ethyl]poly(difluoromethylene)	65605–58–5	1/1/20
2-Propenoic acid, 2-[ethyl[(pentadecafluoroheptyl)sulfonyl]amino]ethyl ester	59071–10–2	1/1/20
2-Propenoic acid, 2-[[(heptadecafluorooctyl)sulfonyl]methylamino]ethyl ester, polymer with 2-[methyl[(nonafluorobutyl)sulfonyl]amino]ethyl 2-propenoate, 2-[methyl[(pentadecafluoroheptyl)sulfonyl]amino]ethyl 2-propenoate, 2-[methyl[(tridecafluorohexyl)sulfonyl]amino]ethyl 2-propenoate, 2-[methyl[(undecafluoropentyl)sulfonyl]amino]ethyl 2-propenoate and α-(1-oxo-2-propenyl)-ω-methoxypoly(oxy-1,2-ethanediyl)	68867–60–7	1/1/20
2-Propenoic acid, 2-methyl-, 2-(dimethylamino)ethyl ester, polymers with Bu acrylate, γ-ω-perfluoro-C8-14-alkyl acrylate and polyethylene glycol monomethacrylate, 2,2′-azobis[2,4-dimethylpentanenitrile]-initiated	150135–57–2	1/1/20

TABLE 4 TO PARAGRAPH (d)—Continued

Chemical name	CAS No.	Effective date
2-Propenoic acid, 2-methyl-, 2-(dimethylamino)ethyl ester, polymers with γ-ω-perfluoro-C10-16-alkyl acrylate and vinyl acetate, acetates	196316–34–4	1/1/20
2-Propenoic acid, 2-methyl-, dodecyl ester, polymer with α-fluoro-ω-[2-[(2-methyl-1-oxo-2-propen-1-yl)oxy]ethyl]poly(difluoromethylene) and N-(hydroxymethyl)-2-propenamide	65605–59–6	1/1/20
2-Propenoic acid, 2-methyl-, 2-ethylhexyl ester, polymer with α-fluoro-ω-[2-[(2-methyl-1-oxo-2-propen-1-yl)oxy]ethyl]poly(difluoromethylene), 2-hydroxyethyl 2-methyl-2-propenoate and N-(hydroxymethyl)-2-propenamide	68239–43–0	1/1/20
2-Propenoic acid, 2-methyl-, 2-[ethyl[(heptadecafluorooctyl)sulfonyl]amino]ethyl ester, polymer with 2-[ethyl[(nonafluorobutyl)sulfonyl]amino]ethyl 2-methyl-2-propenoate, 2-[ethyl[(pentadecafluoroheptyl)sulfonyl]amino]ethyl 2-methyl-2-propenoate, 2-[ethyl[(tridecafluorohexyl)sulfonyl]amino]ethyl 2-methyl-2-propenoate, 2-[ethyl[(undecafluoropentyl)sulfonyl]amino]ethyl 2-methyl-2-propenoate and octadecyl 2-methyl-2-propenoate	68555–91–9	1/1/20
2-Propenoic acid, 2-methyl-, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,12-heneicosafluorododecyl ester	2144–54–9	1/1/20
2-Propenoic acid, 2-methyl-, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluorodecyl ester	1996–88–9	1/1/20
2-Propenoic acid, 2-methyl-, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,13,13,14,14,15,15,16,16,16-nonacosafluorohexadecyl ester	4980–53–4	1/1/20
2-Propenoic acid, 2-methyl-, octadecyl ester, polymer with 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,12-heneicosafluorododecyl 2-propenoate, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluorodecyl 2-propenoate and 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,13,13,14,14,14-pentacosafluorotetradecyl 2-propenoate	142636–88–2	1/1/20
2-Propenoic acid, 2-[methyl[(pentadecafluoroheptyl)sulfonyl]amino]ethyl ester	68084–62–8	1/1/20
2-Propenoic acid, 2-methyl-, 3,3,4,4,5,5,6,6,7,7,8,8,9,9, 10,10,11,11,12,12,13,13,14,14,14-pentacosafluorotetradecyl ester	6014–75–1	1/1/20
2-Propenoic acid, 2-methyl-, polymer with butyl 2-methyl-2-propenoate, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluorodecyl 2-propenoate, 2-hydroxyethyl 2-methyl-2-propenoate and methyl 2-methyl-2-propenoate	200513–42–4	1/1/20
2-Propenoic acid, 2-[methyl[(tridecafluorohexyl)sulfonyl]amino]ethyl ester	67584–57–0	1/1/20
2-Propenoic acid, 2-[methyl[(undecafluoropentyl)sulfonyl]amino]ethyl ester	67584–56–9	1/1/20
Pyridinium, 1-(3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluorodecyl)-, salt with 4-methylbenzenesulfonic acid (1:1)	61798–68–3	1/1/20
Silane, (3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluorodecyl)trimethoxy-	83048–65–1	1/1/20
Silane, trichloro(3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluorodecyl)-	78560–44–8	1/1/20
Silicic acid (H_4SiO_4), disodium salt, reaction products with chlorotrimethylsilane and 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluoro-1-decanol	125476–71–3	1/1/20
Siloxanes and Silicones, (3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluorodecyl)oxy Me, hydroxy Me, Me octyl, ethers with polyethylene glycol mono-Me ether	143372–54–7	1/1/20
Sodium perfluorooctanoate	335–95–5	1/1/20
Sulfluramid	4151–50–2	1/1/20
Sulfonic acids, C6-12-alkane, γ-ω-perfluoro, ammonium salts	180582–79–0	1/1/20
Tetradecane, 1,1,1,2,2,3,3,4,4,5, 5,6,6,7,7,8,8,9,9,10,10,11,11,12,12-pentacosafluoro-14-iodo-	30046–31–2	1/1/20
1-Tetradecanesulfonyl chloride, 3,3,4,4,5,5,6, 6,7,7,8,8,9,9,10,10,11,11,12,12,13,13,14,14,14-pentacosafluoro-	68758–57–6	1/1/20
1-Tetradecanol, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,13,13,14,14,14-pentacosafluoro-	39239–77–5	1/1/20
1,1,2,2-Tetrahydroperfluorodecyl acrylate	27905–45–9	1/1/20
1,1,2,2-Tetrahydroperfluorododecyl acrylate	17741–60–5	1/1/20
1,1,2,2-Tetrahydroperfluorohexadecyl acrylate	34362–49–7	1/1/20
1,1,2,2-Tetrahydroperfluorotetradecyl acrylate	34395–24–9	1/1/20
Thiocyanic acid, γ-ω-perfluoro-C4-20-alkyl esters	97553–95–2	1/1/20
Thiols, C4-10, γ-ω-perfluoro	68140–18–1	1/1/20
Thiols, C4-20, γ-ω-perfluoro, telomers with acrylamide and acrylic acid, sodium salts	1078712–88–5	1/1/20
Thiols, C6-12, γ-ω-perfluoro	68140–20–5	1/1/20
Thiols, C8-20, γ-ω-perfluoro, telomers with acrylamide	70969–47–0	1/1/20
Thiols, C10-20, γ-ω-perfluoro	68140–21–6	1/1/20

(e) *Per- and polyfluoroalkyl substances CAS number listing.*

TABLE 5 TO PARAGRAPH (e)

CAS No.	Chemical name	Effective date
307–35–7	Perfluorooctylsulfonyl fluoride	1/1/20
307–55–1	Perfluorododecanoic acid	1/1/20
335–66–0	Octanoyl fluoride, pentadecafluoro-	1/1/20
335–67–1	Perfluorooctanoic acid	1/1/20
335–71–7	1-Heptanesulfonyl fluoride, 1,1,2,2,3,3,4,4,5,5,6,6,7,7,7-pentadecafluoro-	1/1/20
335–76–2	Perfluorodecanoic acid	1/1/20
335–95–5	Sodium perfluorooctanoate	1/1/20
355–46–4	Perfluorohexanesulfonic acid	1/1/20

TABLE 5 TO PARAGRAPH (e)—Continued

CAS No.	Chemical name	Effective date
375–95–1	Perfluorononanoic acid	1/1/20
376–06–7	Perfluorotetradecanoic acid	1/1/20
376–14–7	2-[Ethyl[(heptadecafluorooctyl)sulfonyl]amino]ethyl methacrylate	1/1/20
376–27–2	Methyl perfluorooctanoate	1/1/20
383–07–3	2-[Butyl[(heptadecafluorooctyl)sulfonyl]amino]ethyl acrylate	1/1/20
423–82–5	2-[Ethyl[(heptadecafluorooctyl)sulfonyl]amino]ethyl acrylate	1/1/20
678–39–7	1-Decanol, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluoro-	1/1/20
865–86–1	1-Dodecanol, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,12-heneicosafluoro-	1/1/20
1652–63–7	3-[[(Heptadecafluorooctyl)sulfonyl]amino]-N,N,N-trimethyl-1-propanaminium iodide	1/1/20
1691–99–2	N-Ethyl-N-(2-hydroxyethyl)perfluorooctanesulfonamide	1/1/20
1763–23–1	Perfluorooctane sulfonic acid	1/1/20
1996–88–9	2-Propenoic acid, 2-methyl-, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluorodecyl ester	1/1/20
2043–53–0	Decane, 1,1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8-heptadecafluoro-10-iodo-	1/1/20
2043–54–1	Dodecane, 1,1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10-heneicosafluoro-12-iodo-	1/1/20
2144–54–9	2-Propenoic acid, 2-methyl-, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,12-heneicosafluorododecyl ester	1/1/20
2263–09–4	1-Octanesulfonamide, N-butyl-1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-heptadecafluoro-N-(2-hydroxyethyl)-	1/1/20
2795–39–3	Potassium perfluorooctanesulfonate	1/1/20
2991–51–7	Glycine, N-ethyl-N-[(heptadecafluorooctyl)sulfonyl]-, potassium salt	1/1/20
3107–18–4	Cyclohexanesulfonic acid, undecafluoro-, potassium salt	1/1/20
3825–26–1	Ammonium perfluorooctanoate	1/1/20
3871–99–6	1-Hexanesulfonic acid, 1,1,2,2,3,3,4,4,5,5,6,6,6-tridecafluoro-, potassium salt	1/1/20
3872–25–1	1-Pentanesulfonic acid, 1,1,2,2,3,3,4,4,5,5,5-undecafluoro-, potassium salt	1/1/20
4151–50–2	Sulfluramid	1/1/20
4980–53–4	2-Propenoic acid, 2-methyl-, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,13,13,14,14,15,15,16,16,16-nonacosafluorohexadecyl ester	1/1/20
6014–75–1	2-Propenoic acid, 2-methyl-, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,13,13,14,14,14-pentacosafluorotetradecyl ester.	1/1/20
13252–13–6	Hexafluoropropylene oxide dimer acid	1/1/20
16517–11–6	Octadecanoic acid, pentatriacontafluoro-	1/1/20
17202–41–4	1-Nonanesulfonic acid, 1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8,9,9,9-nonadecafluoro-, ammonium salt	1/1/20
17741–60–5	1,1,2,2-Tetrahydroperfluorododecyl acrylate	1/1/20
21652–58–4	Perfluorooctyl Ethylene	1/1/20
24448–09–7	1-Octanesulfonamide, 1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-heptadecafluoro-N-(2-hydroxyethyl)-N-methyl-	1/1/20
25268–77–3	2-[[(Heptadecafluorooctyl)sulfonyl]methylamino]ethyl acrylate	1/1/20
27619–90–5	1-Decanesulfonyl chloride, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluoro-	1/1/20
27619–91–6	1-Dodecanesulfonyl chloride, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,12-heneicosafluoro-	1/1/20
27905–45–9	1,1,2,2-Tetrahydroperfluorodecyl acrylate	1/1/20
29081–56–9	1-Octanesulfonic acid, 1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-heptadecafluoro-, ammonium salt	1/1/20
29117–08–6	Poly(oxy-1,2-ethanediyl), α-[2-[ethyl[(heptadecafluorooctyl) sulfonyl]amino]ethyl]-ω-hydroxy-	1/1/20
29457–72–5	Lithium (perfluorooctane)sulfonate	1/1/20
30046–31–2	Tetradecane, 1,1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12-pentacosafluoro-14-iodo-	1/1/20
31506–32–8	1-Octanesulfonamide, 1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8,8- heptadecafluoro-N-methyl-	1/1/20
34362–49–7	1,1,2,2-Tetrahydroperfluorohexadecyl acrylate	1/1/20
34395–24–9	1,1,2,2-Tetrahydroperfluorotetradecyl acrylate	1/1/20
37338–48–0	Poly[oxy(methyl-1,2-ethanediyl)], α-[2-[ethyl[(heptadecafluorooctyl) sulfonyl]amino]ethyl]-ω-hydroxy-	1/1/20
38006–74–5	1-Propanaminium, 3-[[(heptadecafluorooctyl) sulfonyl]amino]-N,N,N- trimethyl-, chloride	1/1/20
39239–77–5	1-Tetradecanol, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,13,13,14,14,14-pentacosafluoro-	1/1/20
52166–82–2	1-Propanaminium, N,N,N-trimethyl-3-[[(tridecafluorohexyl) sulfonyl]amino]-, chloride	1/1/20
55910–10–6	Glycine, N-[(heptadecafluorooctyl) sulfonyl]-N-propyl-, potassium salt	1/1/20
56372–23–7	Poly(oxy-1,2-ethanediyl), α-[2-[ethyl[(tridecafluorohexyl) sulfonyl]amino]ethyl]-ω-hydroxy-	1/1/20
56773–42–3	Ethanaminium, N,N,N-triethyl-, salt with 1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8,8- heptadecafluoro-1-octanesulfonic acid (1:1).	1/1/20
59071–10–2	2-Propenoic acid, 2-[ethyl[(pentadecafluoroheptyl) sulfonyl]amino]ethyl ester	1/1/20
60270–55–5	1-Heptanesulfonic acid, 1,1,2,2,3,3,4,4,5,5,6,6,7,7,7-pentadecafluoro-, potassium salt	1/1/20
60699–51–6	1-Hexadecanol, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,13,13,14,14,15,15,16,16,16-nonacosafluoro-	1/1/20
61660–12–6	1-Octanesulfonamide, N-ethyl-1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-heptadecafluoro-N-[3-(trimethoxysilyl)propyl]-	1/1/20
61798–68–3	Pyridinium, 1-(3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluorodecyl)-, salt with 4-methylbenzenesulfonic acid (1:1).	1/1/20
62037–80–3	Hexafluoropropylene oxide dimer acid ammonium salt	1/1/20
65104–65–6	1-Eicosanol, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,13,13,14,14,15,15,16,16,17,17,18,18,19,19,20,20,20-heptatriacontafluoro-.	1/1/20
65104–67–8	1-Octadecanol, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,13,13,14,14,15,15,16,16,17,17,18,18,18-tritriacontafluoro-.	1/1/20
65510–55–6	Hexadecane, 1,1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,13,13,14,14-nonacosafluoro-16-iodo-	1/1/20
65530–59–8	Poly(difluoromethylene), α-fluoro-ω-(2-hydroxyethyl)-, 2-hydroxy-1,2,3-propanetricarboxylate (3:1)	1/1/20

TABLE 5 TO PARAGRAPH (e)—Continued

CAS No.	Chemical name	Effective date
65530–61–2	Poly(difluoromethylene), α-fluoro-ω-[2-(phosphonooxy)ethyl]-	1/1/20
65530–62–3	Poly(difluoromethylene), α,α′-[phosphinicobis(oxy-2,1-ethanediyl)]bis[ω-fluoro-	1/1/20
65530–63–4	Ethanol, 2,2′-iminobis-, compd. with α-fluoro-ω-[2-(phosphonooxy)ethyl]poly(difluoromethylene) (2:1)	1/1/20
65530–64–5	Ethanol, 2,2′-iminobis-, compd. with α,α′-[phosphinicobis(oxy-2,1-ethanediyl)]bis[ω-fluoropoly(difluoromethylene)] (1:1).	1/1/20
65530–65–6	Poly(difluoromethylene), α-fluoro-ω-[2-[(1-oxooctadecyl)oxy]ethyl]-	1/1/20
65530–66–7	Poly(difluoromethylene), α-fluoro-ω-[2-[(2-methyl-1-oxo-2-propenyl)oxy]ethyl]-	1/1/20
65530–69–0	Poly(difluoromethylene), α-[2-[(2-carboxyethyl)thio]ethyl]-ω-fluoro-, lithium salt	1/1/20
65530–70–3	Poly(difluoromethylene), α,α′-[phosphinicobis(oxy-2,1-ethanediyl)]bis[ω-fluoro-, ammonium salt	1/1/20
65530–71–4	Poly(difluoromethylene), α-fluoro-ω-[2-(phosphonooxy)ethyl]-, monoammonium salt	1/1/20
65530–72–5	Poly(difluoromethylene), α-fluoro-ω-[2-(phosphonooxy)ethyl]-, diammonium salt	1/1/20
65530–74–7	Ethanol, 2,2′-iminobis-, compd. with α-fluoro-ω-[2-(phosphonooxy)ethyl]poly(difluoromethylene) (1:1)	1/1/20
65530–83–8	Poly(difluoromethylene), α-[2-[(2-carboxyethyl)thio]ethyl]-ω-fluoro-	1/1/20
65545–80–4	Poly(oxy-1,2-ethanediyl), α-hydro-ω-hydroxy-, ether with α-fluoro-ω-(2-hydroxyethyl)poly(difluoromethylene) (1:1).	1/1/20
65605–56–3	Poly(difluoromethylene), α-fluoro-ω-(2-hydroxyethyl)-, dihydrogen 2-hydroxy-1,2,3-propanetricarboxylate	1/1/20
65605–57–4	Poly(difluoromethylene), α-fluoro-ω-(2-hydroxyethyl)-, hydrogen 2-hydroxy-1,2,3-propanetricarboxylate	1/1/20
65605–58–5	2-Propenoic acid, esters, 2-methyl-, dodecyl ester, polymer with α-fluoro-ω-[2-[(2-methyl-1-oxo-2-propen-1-yl)oxy]ethyl]poly(difluoromethylene).	1/1/20
65605–59–6	2-Propenoic acid, 2-methyl-, dodecyl ester, polymer with α-fluoro-ω-[2-[(2-methyl-1-oxo-2-propen-1-yl)oxy]ethyl]poly(difluoromethylene) and N-(hydroxymethyl)-2-propenamide.	1/1/20
65605–73–4	Poly(difluoromethylene), α-fluoro-ω-[2-[(1-oxo-2-propenyl)oxy]ethyl]-, homopolymer	1/1/20
65636–35–3	Ethanaminium, N,N-diethyl-N-methyl-2-[(2-methyl-1-oxo-2-propenyl)oxy]-, methyl sulfate, polymer with 2-ethylhexyl 2-methyl-2-propenoate, α-fluoro-ω-[2-[(2-methyl-1-oxo-2-propenyl)oxy]ethyl]poly(difluoromethylene), 2-hydroxyethyl 2-methyl-2-propenoate and N-(hydroxymethyl)-2-propenamide.	1/1/20
67584–42–3	Cyclohexanesulfonic acid, decafluoro(pentafluoroethyl)-, potassium salt	1/1/20
67584–52–5	Glycine, N-ethyl-N-[(undecafluoropentyl)sulfonyl]-, potassium salt	1/1/20
67584–53–6	Glycine, N-ethyl-N-[(tridecafluorohexyl)sulfonyl]-, potassium salt	1/1/20
67584–56–9	2-Propenoic acid, 2-[methyl[(undecafluoropentyl)sulfonyl]amino]ethyl ester	1/1/20
67584–57–0	2-Propenoic acid, 2-[methyl[(tridecafluorohexyl)sulfonyl]amino]ethyl ester	1/1/20
67584–58–1	1-Propanaminium, N,N,N-trimethyl-3-[[(pentadecafluoroheptyl)sulfonyl]amino]-, iodide	1/1/20
67584–62–7	Glycine, N-ethyl-N-[(pentadecafluoroheptyl)sulfonyl]-, potassium salt	1/1/20
67905–19–5	Perfluoropalmitic acid	1/1/20
67906–42–7	1-Decanesulfonic acid, 1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heneicosafluoro-, ammonium salt	1/1/20
67969–69–1	1-Octanesulfonamide, N-ethyl-1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-heptadecafluoro-N-[2-(phosphonooxy)ethyl]-, diammonium salt.	1/1/20
68084–62–8	2-Propenoic acid, 2-[methyl[(pentadecafluoroheptyl)sulfonyl]amino]ethyl ester	1/1/20
68140–18–1	Thiols, C4–10, γ-ω-perfluoro	1/1/20
68140–20–5	Thiols, C6–12, γ-ω-perfluoro	1/1/20
68140–21–6	Thiols, C10–20, γ-ω-perfluoro	1/1/20
68141–02–6	Chromium(III) perfluorooctanoate	1/1/20
68156–01–4	Cyclohexanesulfonic acid, nonafluorobis(trifluoromethyl)-, potassium salt	1/1/20
68156–07–0	Cyclohexanesulfonic acid, decafluoro(trifluoromethyl)-, potassium salt	1/1/20
68187–25–7	Butanoic acid, 4-[[3-(dimethylamino)propyl]amino]-4-oxo-, 2(or 3)-[(γ-ω-perfluoro-C6–20-alkyl)thio] derivs.	1/1/20
68187–47–3	1-Propanesulfonic acid, 2-methyl-, 2-[[1-oxo-3-[(γ-ω-perfluoro-C4–16-alkyl)thio]propyl]amino] derivs., sodium salts.	1/1/20
68188–12–5	Alkyl iodides, C4–20, γ-ω-perfluoro	1/1/20
68227–96–3	2-Propenoic acid, butyl ester, telomer with 2-[[(heptadecafluorooctyl)sulfonyl]methylamino]ethyl 2-propenoate, 2-[methyl[(nonafluorobutyl)sulfonyl]amino]ethyl 2-propenoate, α-(2-methyl-1-oxo-2-propenyl)-ω-hydroxypoly(oxy-1,4-butanediyl), α-(2-methyl-1-oxo-2-propenyl)-ω-[(2-methyl-1-oxo-2-propenyl)oxy]poly(oxy-1,4-butanediyl), 2-[methyl[(pentadecafluoroheptyl)sulfonyl]amino]ethyl 2-propenoate, 2-[methyl[(tridecafluorohexyl)sulfonyl]amino]ethyl 2-propenoate, 2-[methyl[(undecafluoropentyl)sulfonyl]amino]ethyl 2-propenoate and 1-octanethiol.	1/1/20
68239–43–0	2-Propenoic acid, 2-methyl-, 2-ethylhexyl ester, polymer with α-fluoro-ω-[2-[(2-methyl-1-oxo-2-propen-1-yl)oxy]ethyl]poly(difluoromethylene), 2-hydroxyethyl 2-methyl-2-propenoate and N-(hydroxymethyl)-2-propenamide.	1/1/20
68259–07–4	1-Heptanesulfonic acid, 1,1,2,2,3,3,4,4,5,5,6,6,7,7,7-pentadecafluoro-, ammonium salt	1/1/20
68259–08–5	1-Hexanesulfonic acid, 1,1,2,2,3,3,4,4,5,5,6,6,6-tridecafluoro-, ammonium salt	1/1/20
68259–09–6	1-Pentanesulfonic acid, 1,1,2,2,3,3,4,4,5,5,5-undecafluoro-, ammonium salt	1/1/20
68259–38–1	Poly[oxy(methyl-1,2-ethanediyl)], α-[2-[ethyl[(tridecafluorohexyl)sulfonyl]amino]ethyl]-ω-hydroxy-	1/1/20
68259–39–2	Poly[oxy(methyl-1,2-ethanediyl)], α-[2-[ethyl[(pentadecafluoroheptyl)sulfonyl]amino]ethyl]-ω-hydroxy-	1/1/20
68298–62–4	2-Propenoic acid, 2-[butyl[(heptadecafluorooctyl)sulfonyl]amino]ethyl ester, telomer with 2-[butyl[(pentadecafluoroheptyl)sulfonyl]amino]ethyl 2-propenoate, methyloxirane polymer with oxirane di-2-propenoate, methyloxirane polymer with oxirane mono-2-propenoate and 1-octanethiol.	1/1/20
68298–80–6	Poly(oxy-1,2-ethanediyl), α-[2-[ethyl[(undecafluoropentyl)sulfonyl]amino]ethyl]-ω-hydroxy-	1/1/20
68298–81–7	Poly(oxy-1,2-ethanediyl), α-[2-[ethyl[(pentadecafluoroheptyl)sulfonyl]amino]ethyl]-ω-hydroxy-	1/1/20
68310–17–8	Poly[oxy(methyl-1,2-ethanediyl)], α-[2-[ethyl[(undecafluoropentyl)sulfonyl]amino]ethyl]-ω-hydroxy-	1/1/20
68391–08–2	Alcohols, C8–14, γ-ω-perfluoro	1/1/20
68412–68–0	Phosphonic acid, perfluoro-C6–12-alkyl derivs.	1/1/20
68412–69–1	Phosphinic acid, bis(perfluoro-C6–12-alkyl) derivs.	1/1/20

TABLE 5 TO PARAGRAPH (e)—Continued

CAS No.	Chemical name	Effective date
68515–62–8	1,4-Benzenedicarboxylic acid, dimethyl ester, reaction products with bis(2-hydroxyethyl)terephthalate, ethylene glycol, α-fluoro-ω-(2-hydroxyethyl)poly(difluoromethylene), hexakis(methoxymethyl)melamine and polyethylene glycol.	1/1/20
68555–74–8	1-Pentanesulfonamide, 1,1,2,2,3,3,4,4,5,5,5-undecafluoro-N-(2-hydroxyethyl)-N-methyl-	1/1/20
68555–75–9	1-Hexanesulfonamide, 1,1,2,2,3,3,4,4,5,5,6,6,6-tridecafluoro-N-(2-hydroxyethyl)-N-methyl-	1/1/20
68555–76–0	1-Heptanesulfonamide, 1,1,2,2,3,3,4,4,5,5,6,6,7,7,7-pentadecafluoro-N-(2-hydroxyethyl)-N-methyl-	1/1/20
68555–81–7	1-Propanaminium, N,N,N-trimethyl-3-[[(pentadecafluoroheptyl)sulfonyl]amino]-, chloride	1/1/20
68555–91–9	2-Propenoic acid, 2-methyl-, 2-[ethyl[(heptadecafluorooctyl)sulfonyl]amino]ethyl ester, polymer with 2-[ethyl[(nonafluorobutyl)sulfonyl]amino]ethyl 2-methyl-2-propenoate, 2-[ethyl[(pentadecafluoroheptyl)sulfonyl]amino]ethyl 2-methyl-2-propenoate, 2-[ethyl[(tridecafluorohexyl)sulfonyl]amino]ethyl 2-methyl-2-propenoate, 2-[ethyl[(undecafluoropentyl)sulfonyl]amino]ethyl 2-methyl-2-propenoate and octadecyl 2-methyl-2-propenoate.	1/1/20
68758–57–6	1-Tetradecanesulfonyl chloride, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,13,13,14,14,14-pentacosafluoro-.	1/1/20
68867–60–7	2-Propenoic acid, 2-[[(heptadecafluorooctyl)sulfonyl]methylamino]ethyl ester, polymer with 2-[methyl[(nonafluorobutyl)sulfonyl]amino]ethyl 2-propenoate, 2-[methyl[(pentadecafluoroheptyl)sulfonyl]amino]ethyl 2-propenoate, 2-[methyl[(tridecafluorohexyl)sulfonyl]amino]ethyl 2-propenoate, 2-[methyl[(undecafluoropentyl)sulfonyl]amino]ethyl 2-propenoate and α-(1-oxo-2-propenyl)-ω-methoxypoly(oxy-1,2-ethanediyl).	1/1/20
68957–55–1	1-Propanaminium, N,N,N-trimethyl-3-[[(undecafluoropentyl)sulfonyl]amino]-, chloride	1/1/20
68957–57–3	1-Propanaminium, N,N,N-trimethyl-3-[[(undecafluoropentyl)sulfonyl]amino]-, iodide	1/1/20
68957–58–4	1-Propanaminium, N,N,N-trimethyl-3-[[(tridecafluorohexyl)sulfonyl]amino]-, iodide	1/1/20
68957–62–0	1-Heptanesulfonamide, N-ethyl-1,1,2,2,3,3,4,4,5,5,6,6,7,7,7-pentadecafluoro-	1/1/20
68958–60–1	Poly(oxy-1,2-ethanediyl), α-[2-[ethyl[(pentadecafluoroheptyl)sulfonyl]amino]ethyl]-ω-methoxy-	1/1/20
68958–61–2	Poly(oxy-1,2-ethanediyl), α-[2-[ethyl[(heptadecafluorooctyl)sulfonyl]amino]ethyl]-ω-methoxy-	1/1/20
70225–14–8	1-Octanesulfonic acid, 1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-heptadecafluoro-, compd. with 2,2′-iminobis[ethanol] (1:1).	1/1/20
70225–15–9	1-Heptanesulfonic acid, 1,1,2,2,3,3,4,4,5,5,6,6,7,7,7-pentadecafluoro-, compd. with 2,2′-iminobis[ethanol] (1:1).	1/1/20
70225–16–0	1-Hexanesulfonic acid, 1,1,2,2,3,3,4,4,5,5,6,6,6-tridecafluoro-, compd. with 2,2′-iminobis[ethanol] (1:1)	1/1/20
70225–17–1	1-Pentanesulfonic acid, 1,1,2,2,3,3,4,4,5,5,5-undecafluoro-, compd. with 2,2′-iminobis[ethanol] (1:1)	1/1/20
70969–47–0	Thiols, C8–20, γ-ω-perfluoro, telomers with acrylamide	1/1/20
70983–59–4	Poly(oxy-1,2-ethanediyl), α-methyl-ω-hydroxy-, 2-hydroxy-3-[(γ-ω-perfluoro-C6–20-alkyl)thio]propyl ethers	1/1/20
70983–60–7	1-Propanaminium, 2-hydroxy-N,N,N-trimethyl-, 3-[(γ-ω-perfluoro-C6–20-alkyl)thio] derivs., chlorides	1/1/20
71608–60–1	Pentanoic acid, 4,4-bis[(γ-ω-perfluoro-C8–20-alkyl)thio] derivs.	1/1/20
72623–77–9	Fatty acids, C6–18, perfluoro, ammonium salts	1/1/20
72968–38–8	Fatty acids, C7–13, perfluoro, ammonium salts	1/1/20
74499–44–8	Phosphoric acid, γ-ω-perfluoro-C8–16-alkyl esters, compds. with diethanolamine	1/1/20
78560–44–8	Silane, trichloro(3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluorodecyl)-	1/1/20
80010–37–3	Poly(difluoromethylene), α-fluoro-ω-[2-sulphoethyl)-	1/1/20
83048–65–1	Silane, (3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluorodecyl)trimethoxy-	1/1/20
95144–12–0	Poly(difluoromethylene), α-fluoro-ω-[2-(phosphonooxy)ethyl]-, ammonium salt	1/1/20
97553–95–2	Thiocyanic acid, γ-ω-perfluoro-C4–20-alkyl esters	1/1/20
97659–47–7	Alkenes, C8–14 α-, δ-ω-perfluoro	1/1/20
118400–71–8	Disulfides, bis(γ-ω-perfluoro-C6–20-alkyl)	1/1/20
123171–68–6	Poly(difluoromethylene), α-[2-(acetyloxy)-3-[(carboxymethyl)dimethylammonio]propyl]-ω-fluoro-, inner salt	1/1/20
125476–71–3	Silicic acid (H_4SiO_4), disodium salt, reaction products with chlorotrimethylsilane and 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluoro-1-decanol.	1/1/20
135228–60–3	Hexane, 1,6-diisocyanato-, homopolymer, γ-ω-perfluoro-C6–20-alc.-blocked	1/1/20
142636–88–2	2-Propenoic acid, 2-methyl-, octadecyl ester, polymer with 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,12-heneicosafluorododecyl 2-propenoate, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluorodecyl 2-propenoate and 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,13,13,14,14,14-pentacosafluorotetradecyl 2-propenoate.	1/1/20
143372–54–7	Siloxanes and Silicones, (3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluorodecyl)oxy Me, hydroxy Me, Me octyl, ethers with polyethylene glycol mono-Me ether.	1/1/20
148240–85–1	1,3-Propanediol, 2,2-bis[[(γ-ω-perfluoro-C4–10-alkyl)thio]methyl] derivs., phosphates, ammonium salts	1/1/20
148240–87–3	1,3-Propanediol, 2,2-bis[[(γ-ω-perfluoro-C6–12-alkyl)thio]methyl] derivs., phosphates, ammonium salts	1/1/20
148240–89–5	1,3-Propanediol, 2,2-bis[[(γ-ω-perfluoro-C10–20-alkyl)thio]methyl] derivs., phosphates, ammonium salts	1/1/20
150135–57–2	2-Propenoic acid, 2-methyl-, 2-(dimethylamino)ethyl ester, polymers with Bu acrylate, γ-ω-perfluoro-C8–14-alkyl acrylate and polyethylene glycol monomethacrylate, 2,2′-azobis[2,4-dimethylpentanenitrile]-initiated.	1/1/20
178094–69–4	1-Octanesulfonamide, N-[3-(dimethyloxidoamino)propyl]-1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-heptadecafluoro-, potassium salt.	1/1/20
178535–23–4	Fatty acids, linseed-oil, γ-ω-perfluoro-C8–14-alkyl esters	1/1/20
180582–79–0	Sulfonic acids, C6–12-alkane, γ-ω-perfluoro, ammonium salts	1/1/20
182176–52–9	Ethaneperoxoic acid, reaction products with 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluorodecyl thiocyanate and 3,3,4,4,5,5,6,6,7,7,8,8,8-tridecafluorooctyl thiocyanate.	1/1/20
196316–34–4	2-Propenoic acid, 2-methyl-, 2-(dimethylamino)ethyl ester, polymers with γ-ω-perfluoro-C10–16-alkyl acrylate and vinyl acetate, acetates.	1/1/20

TABLE 5 TO PARAGRAPH (e)—Continued

CAS No.	Chemical name	Effective date
200513–42–4	2-Propenoic acid, 2-methyl-, polymer with butyl 2-methyl-2-propenoate, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluorodecyl 2-propenoate, 2-hydroxyethyl 2-methyl-2-propenoate and methyl 2-methyl-2-propenoate.	1/1/20
238420–68–3	Propanedioic acid, mono(γ-ω-perfluoro-C8–12-alkyl) derivs., di-me esters	1/1/20
238420–80–9	Propanedioic acid, mono(γ-ω-perfluoro-C8–12-alkyl) derivs., bis[4-(ethenyloxy)butyl] esters	1/1/20
1078142–10–5	1,3-Propanediol, 2,2-bis[[(γ-ω-perfluoro-C6–12-alkyl)thio]methyl] derivs., polymers with 2,2-bis[[(γ-ω-perfluoro-C10–20-alkyl)thio]methyl]-1,3-propanediol, 1,6-diisocyanato-2,2,4(or 2,4,4)-trimethylhexane, 2-heptyl-3,4-bis(9-isocyanatononyl)-1-pentylcyclohexane and 2,2′-(methylimino)bis[ethanol].	1/1/20
1078712–88–5	Thiols, C4–20, γ-ω-perfluoro, telomers with acrylamide and acrylic acid, sodium salts	1/1/20
1078715–61–3	1-Propanaminium, 3-amino-N-(carboxymethyl)-N,N-dimethyl-, N-[2-[(γ-ω-perfluoro-C4–20-alkyl)thio]acetyl] derivs., inner salts.	1/1/20

[FR Doc. 2020–10990 Filed 6–19–20; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[MD Docket No. 19–105; MD Docket No. 20–105; FCC 20–64; FRS 16782]

Assessment and Collection of Regulatory Fees for Fiscal Year 2020

AGENCY: Federal Communications Commission.

ACTION: Final actions.

SUMMARY: In this document, the Federal Communications Commission (Commission) acts on several proposals that will impact FY 2020 regulatory fees.

DATES: These final actions are effective July 22, 2020.

FOR FURTHER INFORMATION CONTACT: Roland Helvajian, Office of Managing Director at (202) 418–0444.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order,* FCC 20–64, MD Docket No. 19–105, and MD Docket No. 20–105, adopted on May 12, 2019 and released on May 13, 2020. The full text of this document is available for public inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street SW, Washington, DC 20554, or by downloading the text from the Commission's website at *http://transition.fcc.gov/Daily_Releases/Daily_Business/2017/db0906/FCC-17-111A1.pdf.*

I. Administrative Matters

A. Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980 (RFA),[1] the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) relating to this *Report and Order.* The FRFA is located towards the end of this document.

B. Final Paperwork Reduction Act of 1995 Analysis

2. This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

C. Congressional Review Act

3. The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs that these rules are non-major under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this *Report & Order* to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

II. Introduction

4. In this *Report and Order,* we follow through on our proposal in the *FY 2019 Report and Order and Further Notice of Proposed Rulemaking (FNPRM)*[2] to level the playing field between domestic and foreign licensed space stations by assessing a regulatory fee on commercial space stations licensed by other administrations (non-U.S. licensed space stations) with United States market access, among other things. We also adjust the FTE allocation for the international bearer circuit (IBC) category, and we decline to grant a categorically lower regulatory fee for VHF stations to account for signal limitations.

III. Report and Order

1. In this *Report and Order,* we level the playing field among space stations by assessing a regulatory fee on non-U.S. licensed space stations with United States market access and including those non-U.S. licensed space stations in the current regulatory fee categories for geostationary (GSO) and non-geostationary (NGSO) space stations. We impose this fee regardless of whether the non-U.S. licensed space station operator obtains the market access through a declaratory ruling or through an earth station applicant as a point of communication. We also take the related action of adding four FTEs into the satellite regulatory fee category to account for the work that benefits these new fee payors. We further adjust the FTE allocation for the international bearer circuit (IBC) category from 6.9 FTEs to eight FTEs to reflect direct FTE work in the International Bureau that benefits the fee payors in the IBC regulatory fee category. Finally, we decline to categorically lower regulatory fees for VHF stations to account for signal limitations.

[1] *See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 104–121, Title II, 110 Stat. 847 (1996). The SBREFA was enacted as Title II of the Contract with America Advancement Act of 1996 (CWAAA).

[2] *Assessment and Collection of Regulatory Fees for Fiscal Year 2019,* Report and Order and Further Notice of Proposed Rulemaking, 34 FCC Rcd 8199 (2019) (*FY 2019 Report and Order* (84 FR 50890 (September 26, 2019) and *FY 2019 FNPRM* (84 FR 56734 (October 23, 2019))).

A. Assessing Regulatory Fees on Non-U.S. Licensed Space Stations With U.S. Market Access

2. The Commission currently assesses regulatory fees on GSO and NGSO space stations licensed by the Commission but does not assess regulatory fees on non-U.S. licensed space stations that have been granted market access to the United States.[3] The issue of assessing regulatory fees on non-U.S. licensed space stations with U.S. market access has been raised several times previously. In the *FY 1999 Report and Order,* the Commission declined to adopt such a fee.[4] In 2013 and again in 2014, the Commission sought comment on assessing regulatory fees on non-U.S. licensed space stations with U.S. market access,[5] but the Commission declined to adopt such a fee at the time because it might ''raise[ ] significant issues regarding our authority to assess such a fee as well as the policy implications if other countries decided to follow our example.'' [6] The following year, the Commission observed that excluding non-U.S. licensed satellite operators from fees amounted to a subsidy of such operators by U.S. licensed satellite operators.[7] The Commission thus concluded that the four FTEs working on market access petitions or other matters involving non-U.S. licensed space stations should be removed from the regulatory fee assessments for U.S. licensed space stations and considered indirect for regulatory fee purposes.[8]

3. The issue of assessing regulatory fees on non-U.S. licensed space stations with U.S. market access has been raised several times since Congress originally adopted the statutory schedule of regulatory fees originally in 1993.[9] In exercising our Congressional mandate to collect regulatory fees each fiscal year, we proceed with careful consideration and make changes in our process only after fully developing the record. This may mean, as it did here, that the Commission considers the adoption of a new fee category or a change in categories multiple times and only proceeds with making a change when it develops sufficient basis for making the change. This meticulous approach to making changes moreover serves the goal of ensuring that our actions in assessing regulatory fees are fair, administrable, and sustainable.[10]

4. In the *FY 2019 FNPRM,* the Commission again sought comment on assessing regulatory fees on non-U.S. licensed space stations with U.S. market access, noting that the International Bureau's policy, regulatory, international, user information, and enforcement activities all benefit non-U.S. licensed space stations that access the U.S. market.[11] Non-U.S. licensed space stations are monitored to ensure that their operators satisfy all conditions placed on their grant of U.S. market access, including space station implementation milestones and operational requirements, and are subject to enforcement action if the conditions are not met.[12] The Commission specifically sought comment on whether ''we should or must assess regulatory fees on non-U.S. licensed space stations serving the United States under section 9, given that non-U.S. licensed space stations appear to benefit from the Commission's regulatory activities in much the same manner as U.S. licensed space stations.'' [13] The Commission noted that its initial decision in 1999 was premised on the Commission's understanding at the time that its authority reached only space station ''licensees,'' *i.e.,* those licensed under Title III. We observed that section 9 of Communications Act, as amended by the RAY BAUM'S Act, does not mention ''licensees'' but only the ''number of units'' in each payor category—and that the ''unit'' used for assessing satellite space station regulatory fees is ''per operational station in geostationary orbit'' or ''per operational system in non-geostationary orbit,'' units that do not distinguish between the government issuing the license.[14] The Commission also sought comment on reallocating four International Bureau indirect FTEs as direct, if regulatory fees are adopted for non-U.S. licensed space stations.[15]

5. We conclude that we can and should adopt regulatory fees for non-U.S. licensed space stations with U.S. market access. On the question of whether we may assess regulatory fees on non-U.S. licensed space stations with U.S. market access, we start with the statutory text. The Act contemplates that we impose fees on regulatees that reflect the ''benefits provided to the payor of the fee by the Commission's activities.'' [16] The Act specifically contemplates the subset of regulatees that must be exempted from regulatory fees in a section entitled ''Parties to which fees are not applicable.'' [17]

[3] Under the Commission's rules, a satellite licensed by an administration other than the United States may seek to communicate with satellite earth stations in the United States through a process called market access. 47 CFR 25.137. Market access is either requested by the space station operator through a petition for declaratory ruling from the Commission that market access by the non-U.S. licensed space station is in the public interest, or through an application by a U.S. licensed earth station to communicate with the non-U.S. licensed space station. 47 CFR 25.137(a). In either case, the Commission does not license the space station, but the request for U.S. market access requires the submission and review of the same legal and technical information for the non-U.S. licensed space station as would be required in a license application for that space station. 47 CFR 25.137(b).

[4] *Assessment and Collection of Regulatory Fees for Fiscal Year 1999,* Report and Order, 14 FCC Rcd 9868, 9883, paragraph 39 (1999) (79 FR 37982, paragraphs 53–56 (July 3, 2014) (*FY 1999 Report and Order*).

[5] *Assessment and Collection of Regulatory Fees for Fiscal Year 2014,* Notice of Proposed Rulemaking, Second Further Notice of Proposed Rulemaking, and Order, 29 FCC Rcd 6417, 6433–34, paragraphs 47–50 (2014) (79 FR 37982, paragraphs 53–56 (July 3, 2014)) (*FY 2014 NPRM*); *Assessment and Collection of Regulatory Fees for Fiscal Year 2013,* Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 28 FCC Rcd 7790, 7809–810, paragraphs 47–49 (2013) (78 FR 34612, paragraphs 53–55 (June 10, 2013)) (*FY 2013 NPRM*).

[6] *Assessment and Collection for Regulatory Fees for Fiscal Year 2014,* Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd at 10781, paragraph 34 (79 FR 54190 (September 11, 2014)) (*FY 2014 Report and Order*).

[7] *Assessment and Collection of Regulatory Fees for Fiscal Year 2015,* Report and Order and Further Notice of Proposed Rulemaking, 30 FCC Rcd at 10278, paragraph 24 (2015) (80 FR 55775, paragraphs 24–26 (September 17, 2015)) (*FY 2015 Report and Order*).

[8] *FY 2015 Report and Order,* 30 FCC Rcd at 10278, paragraph 24.

[9] Section 6002(a) of the Omnibus Budget Reconciliation Act of 1993 (hereinafter, ''1993 Budget Act''). *See* Public Law 103–66, Title VI, 6002(a), 107 Stat. 397 (approved August 10, 1993). Congress made subsequent minor amendments to the schedule.

[10] *See FY 2012 NPRM at* 8464–65, paragraphs 14–16 (77 FR 29275 (May 17, 2012)). The concept of administrability includes the difficulty in collecting regulatory fees under a system that could have unpredictable dramatic shifts in assessed fees in certain categories from year to year.

[11] *FY 2019 Report and Order,* 34 FCC Rcd at 8212, paragraph 63.

[12] *Id.*

[13] *Id.* at 8213, paragraph 64.

[14] *Id.*

[15] *Id.* at 8214, paragraph 66.

[16] 47 U.S.C. 159(d).

[17] The statute exempts governmental and nonprofit entities, amateur radio operators, and noncommercial radio and television stations are exempt from regulatory fees under section 9(e)(1). 47 U.S.C. 159(e)(1); 47 CFR 1.1162. Moreover, we note that the exemption for noncommercial radio ad television stations, which Congress added to the statute in the RAY BAUM's Act, was a codification of an exemption that the Commission had previously established in its rules. *See* 47 CFR 1.1162(e) (1994); also compare current section 9(e) with the now-deleted section 9(h). The Commission adopted the exemption based on its interpretation of the legislative history and Congressional direction. *See Implementation of Section 9 of the Communications Act,* Notice of Proposed Rulemaking, 9 FCC Rcd 6957 at paragraphs 18 through 22 (59 FR 12570 (March 17, 1994)) (explaining noncommercial broadcast exemption based on legislative history and wording of the statute) (1994); *Implementation of Section 9 of the Communications Act,* Report and Order, 9 FCC Rcd. 533 at paragraphs 13, 20–21 (59 FR 30984 (June 16, 1994)) (1994). In addition, Congress also codified in the RAY BAUM's Act the Commission's *de minimis* rule through the adoption of new section 9(e)(2).

Continued

Notably, Congress did not include operators of non-U.S. licensed space stations with U.S. market access in that list, and thus did not require the Commission to exempt them from an assessment of regulatory fees. Moreover, the Commission's authority to waive regulatory fees is limited to specific instances and the Commission has consistently rejected consideration of waiving the regulatory fee for classes of regulatees.[18] Given the framework where the Commission has a mandate to collect fees from its regulatees, coupled with a limited list of exempt entities and narrow waiver authority, nothing in the text of the statute supports maintaining a blanket exception from regulatory fees for non-U.S. licensed space stations granted market access.

6. U.S. licensed operators agree, arguing that we have the authority to impose regulatory fees on non-U.S. licensed space station operators with market access because section 9 provides that the purpose of regulatory fees is to recover the costs of the Commission's activities taking ''into account factors that are reasonably related to the benefits provided to the payor of the fee by the Commission's activities.'' [19] Commenters contend that the use of the term ''number of units'' in the amended section 9(c)(1)(A), instead of ''licensee,'' broadens the language of the statute so that it appears to be applicable to both U.S. licensed and non-U.S. licensed space stations.[20] SpaceX contends that the Commission ''must consider increases and decreases only in the 'number of units' of operational GSO satellites and NGSO systems regardless of licensing administration.'' [21] Based on the plain language of statute—and the absence of any express limitation that we impose regulatory fees only on ''licensees'' or that we exempt non-U.S. licensed space stations with U.S. market access, we conclude that there is no statutory bar to adopting a new regulatory fee for non-U.S. licensed space stations with U.S. market access.

7. We dismiss the arguments of some commenters that focus on whether Congress intended to expand our authority by removing the word ''licensees'' in the amended section 9.[22] Telesat argues that ''[t]he number of 'units' says nothing about which entities are subject to the Commission's regulatory fee authority in the first instance.'' [23] Inmarsat contends that ''the plain language of RAY BAUM'S Act is not directed to the entities from which the Commission may collect fees, but the manner in which the Commission may adjust fees.'' [24] Such arguments, however, are a double-edged sword because the word ''licensees'' in that sentence was the only textual hook (under prior law) that such advocates had for arguing that the Commission's authority was limited to assessing fees on licensees. And so, although we tend to agree that this change *does not imply* a change in who could be assessed, we also find that the use of the word ''licensee'' *did not imply* that only licensees could be assessed. In other words, whether Congress intended to expand the reach of regulatory fees with this language is irrelevant. The question instead remains whether Congress precluded us from imposing regulatory fees on non-U.S. licensed space stations that clearly benefit from market access to the United States and the activities of the Commission—and nothing in the language of the Act suggests Congress intended to preclude such regulatees from the ambit of regulatory fees.

8. Absent any textual hook, commenters turn to the legislative history of section 9 [25] and argue that the Commission has taken this position previously.[26] Indeed, in the *FY 1999 Report and Order,* the Commission based its conclusion on legislative history from 1991.[27] We find that it is appropriate to re-evaluate this conclusion at this time.

9. The legislative history referred to in the *FY 1999 Report and Order* and the *FY 1995 Report and Order* is found in the House and Senate Reports, Committee on Energy and Commerce, 102 H. Rpt. 207, September 17, 1991, in which the Committee stated: ''The Committee intends that fees in this category be assessed on operators of U.S. facilities, consistent with FCC jurisdiction. Therefore, these fees will apply only to space stations directly licensed by the Commission under Title III of the Communications Act. Fees will not be applied to space stations operated by international organizations subject to the International Organizations Immunities Act, 22 U.S.C. Section 288 *et seq.*'' [28]

10. To understand these committee reports, it is helpful to recognize that in 1991 there was a very different marketplace and regulatory environment than now exists in 2020. In 1991, U.S. licensed space stations operated as either domestic satellites (domsats) [29] or international systems (separate satellite systems).[30] Satellite services in the United States, however, were mainly provided by INTELSAT and INMARSAT, which were treaty-based international governmental organizations. Both were the product of a unique set of initiatives undertaken by the United States and other countries to develop the global communications satellite systems. As a result, they both benefited from a framework of protections based in statute,[31] treaty,

See FY 2019 Report and Order, 34 FCC Rcd at 8206–07, paragraphs 46 through 47.

[18] 47 CFR 1.1166.

[19] U.S. Satellite Licensees Comments at 8 (quoting 47 U.S.C. 159(d)). These joint commenters are EchoStar Satellite Services, LLC (EchoStar), Hughes Network Systems, LLC (Hughes), Intelsat License LLC (Intelsat), and Space Exploration Technologies Corp. (SpaceX).

[20] U.S. Satellite Licensees Comments at 8–9; SpaceX Comments at 4–7; SpaceX Reply Comments at 6.

[21] SpaceX Comments at 5.

[22] OneWeb Comments at 4–7; Telesat Canada (Telesat) Comments at 3–4 & Reply Comments at 9–10; Myriota Comments at 5–6; Eutelsat Comments at 5; Kepler Communications (Kepler) Reply Comments at 2–3; Inmarsat Reply Comments at 2–3.

[23] Telesat Comments at 10.

[24] Inmarsat Reply Comments at 3.

[25] Telesat Comments at 2; Eutelsat Comments at 4–5; Inmarsat Reply Comments at 2–3.

[26] *FY 1999 Report and Order,* 14 FCC Rcd at 9883, paragraph 39; *Assessment and Collection of Regulatory Fees for Fiscal Year 1995,* Report and Order, 10 FCC Rcd 13512, 13550, paragraph 110 (1995) (60 FR 34004, paragraphs 16–18 (June 29, 1995)) (*FY 1995 Report and Order*).

[27] *FY 1999 Report and Order,* 14 FCC Rcd at 9883, paragraph 39; *FY 1995 Report and Order,* 10 FCC Rcd at 13550, paragraph 110.

[28] House and Senate Reports, Committee on Energy and Commerce, 102 H. Rpt. 207, at 33 (Sept. 17, 1991). The language of the 1991 House and Senate Report was incorporated by reference in the Conference Report accompanying the 1993 Budget Reconciliation Act, which included the regulatory fee program. *See* Conference Report H. Rept. No. 213, 103d Cong., 1st Sess. 499 (1993); *see also FY 1995 Report and Order at* 13550. The 1991 language related to a comparable bill that passed the House in 1991 but was not passed into law. *See PanAmSat Corp.* v. *FCC,* 198 F.3d 890, 895 (D.C. Cir. 1999). The Conference Report accompanying the 1993 Budget Reconciliation Act did not provide any statement on space station regulatory fees beyond incorporating by reference the language from 1991.

[29] *Domestic Communications Satellite Facilities,* 22 FCC 2d 86 (1970). The Commission's Transborder Policy did permit the use of domsats for certain international services based on criteria set forth in a letter dated July 23, 1981 from then Under Secretary of State James L. Buckley to then FCC Chairman Mark Fowler (Buckley Letter). The Buckley Letter stated that domsats could be used for public international telecommunications with nearby countries where: (1) INTELSAT could not provide the service; or (2) it would be clearly uneconomical or impractical to provide the planned service over the INTELSAT system. *See Transborder Satellite Video Services,* 88 FCC2d 258 (1981); *Satellite Business Systems,* 88 FCC2d 195 (1981).

[30] *Establishment of Satellite Systems Providing International Communications,* 101 FCC2d 1046 (1985), *recon. grtd,* 61 R.R. 2d 649 (1986), *further recon. grtd* 1 FCC Rcd 439 (1986). The term ''separate satellite system'' refers to U.S. licensed international systems that are owned and operated separately from the INTELSAT global satellite system.

[31] The Communications Satellite Act of 1962 declared it U.S. policy to join with other countries to create a commercial, global communications satellite system. Public Law 87–624, 87th Cong., 2d

and Commission policy that protected and preserved the status of each international governmental organization.

11. In this context, the phrase ''space stations operated by international organizations subject to the International Organizations Immunities Act, 22 U.S.C. Section 288 *et seq.*'' used in the 1991 legislative history referred to INTELSAT and INMARSAT, which at that time were international governmental organizations formed as a result of international treaties and with explicit support by the United States through statutory and regulatory mechanisms.[32] This conclusion is borne out by the focus in the same legislative history on licenses issued directly by the FCC (as opposed to indirect regulation of provision of INTELSAT and INMARSAT services through licenses issued to COMSAT) and on the International Organization Immunities Act, which provides certain exemptions, immunities, and privileges to international organizations and their employees, such as exemption from custom duties and internal-revenue taxes,[33] and which applied to both INTELSAT and INMARSAT as international governmental organizations. Further, it was not until 1997 that the Commission adopted a formal process for granting market access to non-U.S. licensed space stations.[34]

12. Today, there are many commercial non-U.S. licensed satellite companies offering service in the United States. The two International Government Organizations operating satellites at that time—INTELSAT and INMARSAT—are no longer International Governmental Organizations but instead are commercial enterprises. INTELSAT became a private company in 2001, Intelsat, Ltd., after 37 years as an International Governmental Organization.[35] Intelsat's corporate headquarters are in Luxembourg and the United States, and it currently has a fleet of more than 50 satellites.[36] INMARSAT, now Inmarsat, Inc., is headquartered in London, England, has offices in over 40 countries, and owns and operates 13 satellites.[37] Other commercial non-U.S. licensed satellite companies include Eutelsat Communications SA, a public corporation, which has 38 satellites, is headquartered in France,[38] and has satellites licensed by France and other countries, including the United States;[39] and Telesat, a private Canadian satellite company, with 16 satellites.[40] These companies, and others, have U.S. market access and compete with the U.S. licensed satellite companies such as commenters EchoStar Satellite Services (EchoStar) and Space Exploration Technologies (SpaceX). We find that the 1991 legislative history[41] purportedly limiting regulatory fees to U.S. licensed satellites is no longer relevant because in stating that ''[f]ees will not be applied to space stations operated by international organizations'' it was not exempting from regulatory fees commercial non-U.S. licensed satellites with general U.S. market access, which did not exist at that time, but two International Governmental Organizations that no longer exist. In other words, we find that the legislative history of the Act poses no bar to assessing regulatory fees on non-U.S. licensed space stations with U.S. market access. Operators of non-U.S. licensed space stations contend that Congress did in fact contemplate certain circumstances in which non-US licensed space stations could be used to provide service in the United States.[42] But at that time, Congress could not have been contemplating non-U.S. licensed space stations that provide commercial service in the United States on an ongoing, unrestricted basis under the same regulatory framework as their U.S. licensed counterparts.[43] The circumstances that the operators cite consisted of very limited provision of service in the U.S. through non-U.S. licensed space stations upon a showing that existing U.S. domestic satellite capacity was inadequate to satisfy specific service requirements.[44] Such case-by-case approval of use of a non-U.S. licensed satellite on a bilateral, government-to-government basis to provide limited services was much more rare, and of a very different nature, than the regulations that the Commission adopted years later to permit U.S. market access by non-U.S. licensed space stations.[45]

Sess. (Aug. 31, 1962), 76 Stat. 419. Similarly, the International Maritime Satellite Telecommunications Act of 1978 declared it U.S. policy to provide for U.S. participation in INMARSAT in order to develop a global maritime satellite system that will meet the maritime commercial and safety needs of the United States and foreign countries. Public Law 95–564, 92 Stat. 2392 (1978). The statutes provided that COMSAT would be the U.S. signatory to both INTELSAT and INMARSAT. COMSAT, itself, had its own unique status under treaties. All three entities were privatized by 2000/2001 in accordance with the requirements of the ORBIT Act. For a review of the privatization process for these entities, refer to the FCC's multiple ORBIT Act reports. *See, e.g., FCC Report to Congress as Required by the ORBIT Act,* 15 FCC Rcd 11288 (2000); *FCC Report to Congress as Required by the ORBIT Act,* 16 FCC Rcd 12810 (2001).

[32] *Communications Satellite Corp.* v. *FCC,* 836 F.2d 623 (1988) (providing a helpful description of the statutory and treaty-based genesis of INTELSAT, and the complicated regulatory framework whereby it provided international services to the U.S. domestic market); *Satellites that Form a Global Communications System in Geostationary Orbit,* Memorandum Opinion, Order and Authorization, 15 FCC Rcd 15460, *recon. denied,* 15 FCC Rcd 25234 (2000), *further proceedings,* 16 FCC Rcd 12280 (2001). As such, they had the unique circumstance that their global satellite systems were not licensed by any national licensing authority.

[33] 22 U.S.C. 288a (Privileges, exemptions, and immunities of international organizations).

[34] The adoption by the United States in 1997 of the WTO Agreement on Basic Telecommunications Services obligated the United States to open its satellite markets to foreign systems licensed by other WTO member countries. *Fourth Protocol to the General Agreement on Trade in Services (GATS)* (April 30, 1996), 36 I.L.M. 336 (1997) (entered into force Jan. 1, 1998). The Commission therefore adopted procedures to give satellite systems licensed by other countries access to the U.S. market. *Amendment of the Commission's Regulatory Policies to Allow Non–U.S. Licensed Space Stations to Provide Domestic and International Satellite Service in the United States,* Report and Order, 12 FCC Rcd 24094 (1997) (62 FR 64167 (December 4, 1997)) (*DISCO II*). Prior to the adoption *of DISCO II,* the Commission allowed very limited provision of service in the U.S. through non-U.S. licensed space stations only upon a showing that existing U.S. domestic satellite capacity was inadequate to satisfy specific service requirements. Letter from Bertram Rein, Deputy Assistant Secretary of Bureau of Economic and Business Affairs, U.S. Department of State, to Kenneth Williamson, Minister of Embassy of Canada (Nov. 7, 1972). *See also* Letter from Thomas Tycz, Chief, Satellite and Radiocommunication Division, F.C.C. International Bureau, to Teresa Baer, Attorney, Latham & Watkins (Feb. 13, 1996) (confirming verbal grant of special temporary authority for Hughes Communications Galaxy, Inc. to lease capacity from a Brazilian satellite to provide domestic U.S. service).

[35] *See http://www.intelsat.com/about-us/history/.*

[36] *See http://www.intelsat.com/global-network/satellites/overview/.*

[37] *See https://www.inmarsat.com/about-us/our-technology/our-satellites/.*

[38] *See https://www.eutelsat.com/en/group/our-history.html.*

[39] Eutelsat Comments at 1.

[40] *See https://www.telesat.com/services.*

[41] SpaceX observes that this legislative history is nearly 30 years old and ''extremely dated.'' SpaceX Reply Comments at 6–7.

[42] Letter from Joseph A. Godles, Attorney for Telesat Canada, *et al.,* to Marlene H. Dortch, Secretary, FCC (filed April 22, 2020) (*Godles April 22 Ex Parte*).

[43] *See DISCO II,* 12 FCC Rcd at 24098, paragraph 7 (stating that ''[a]s required by Title III of the Communications Act of 1934, as amended (Communications Act), we will examine all requests to determine whether grant of authority is consistent with the public interest, convenience and necessity.'' *See also* DISCO II, 12 FCC Rcd at 24098, paragraph 7, n.7 (citing 47 U.S.C. 301, *et seq.*).

[44] *See* footnote [49], *supra.*

[45] In 1993, the Commission considered and rejected the adoption of the type of market access provisions that the Commission would adopt several years later. *Amendment of the Commission's Rules to Establish Rules & Policies Pertaining to A Non-Voice, Non-Geostationary Mobile-Satellite Serv.,* Report and Order, 8 FCC Rcd. 8450, 8454 paragraph 13 (1993) (58 FR 68053 (December 23, 1993)) (adopting rules clarifying ''the basic tenets that [non-voice, non-geostationary orbit

Continued

13. Non-U.S. licensed space station operators contend that Congressional silence subsequent to the Commission's statements regarding the legislative history of section 9 presumes Congress's approval of the Commission's prior interpretation and argue that the ''acquiescence doctrine'' supports their position.[46] While this doctrine recognizes that Congressional silence may have some bearing on the interpretation of a statute, it neither requires that an agency's interpretation be cemented in stone if not overtaken by subsequent legislative action, nor forecloses an agency from changing its interpretation of a statute and how the legislative history should inform such interpretation,[47] no matter how longstanding, particularly when the prior interpretation is based on error.[48] Here we acknowledge a change in our interpretation of the legislative history underlying section 9 based on a fuller and more accurate analysis of the context of the legislative history at the time it was adopted.[49]

14. On the policy question of whether we should assess regulatory fees on non-U.S. licensed space stations with U.S. market access, we start with the fact that these non-U.S. licensed space stations benefit from the Commission's regulatory activities in much the same manner as U.S. licensees.[50] Operators of U.S. licensed space stations argue that non-U.S. licensed operators consume, and benefit from, Commission resources just as do U.S. licensees.[51] They estimate that nearly half of all satellite space station authorizations granted between 2014 and 2018 (30 of 62) were filed by non-U.S. operators[52] and that non-U.S. operators participate actively in Commission rulemaking proceedings and benefit from Commission monitoring and enforcement activities.[53]

15. Certain non-U.S. licensed space stations argue that they should not contribute regulatory fees because the Commission incurs no costs regulating them and that non-U.S. licensed space stations do not benefit from the FCC's regulatory activities, including international coordination and enforcement activities.[54] Inmarsat contends that non-U.S. licensed satellites do not benefit from FCC regulatory activities because oversight of their operations is accomplished by the country that licenses the satellite, not by the FCC.[55]

16. We find that the Commission devotes significant resources to processing the growing number of market access petitions of non-U.S. licensed satellites and that they benefit from much of the same oversight and regulation by the Commission as the U.S. licensed satellites. For example, processing a petition for market access requires evaluation of the same legal and technical information as required of U.S. licensed applicants. The operators of non-U.S. licensed space stations also benefit from the Commission's oversight efforts regarding all space and earth station operations in the U.S. market, since enforcement of Commission rules and policies in connection with all operators—whether licensed by the United States or otherwise—provides a fair and safe environment for all participants in the U.S. marketplace. Likewise, the Commission's adjudication, rulemaking, and international coordination efforts benefit all U.S. marketplace participants by evaluating and minimizing the risks of radiofrequency interference, increasing the number of participants in the U.S. satellite market, opening up additional frequency bands for use by satellite services, providing a level and uniform regime for mitigating the danger of orbital debris, and streamlining Commission rules that apply to all providers of satellite services in the United States, whether through U.S. licensed or non-U.S. licensed space stations.[56] The active

satellite service] transceivers operating in the United States *must communicate with or through U.S. authorized space stations only,* and that *such communications must be authorized as well by the space station licensee* or an authorized vendor'' and explicitly rejecting a proposal that the FCC ''devise a rule that will allow domestically authorized user transceivers to access foreign-licensed [non-voice, non-geostationary orbit satellite service] space station systems'' stating that ''[w]e do not believe that this type of arrangement should be dealt with by regulation.'') (emphasis added).

[46] *See Godles April. 22 Ex Parte* at 3.

[47] Courts do not uniformly embrace the proposition that Congressional silence denotes acquiescence. *See Chisholm* v. *FCC,* 538 F.2d 349, 361 (D.C. Cir. 1976) (''We begin by noting that attributing legal significance to Congressional inaction is a dangerous business''), *citing Power Reactor Development Co.* v. *International Union of Electrical, Radio and Machine Workers, AFL–CIO,* 367 U.S. 396, 408–10 (1961). The Supreme Court has said that Congressional failure to repudiate particular decisions ''frequently betokens unawareness, preoccupation, or paralysis'' rather than conscious choice, *Zuber* v. *Allen,* 396 U.S. 168, 185–86 n.21 (1969) and ''affords the most dubious foundation for drawing positive inferences,'' *United States* v. *Price,* 361 U.S. 304, 310–11 (1960) (Harlan, J.). *See also Jones* v. *Liberty Glass Co.,* 332 U.S. 524, 533 (1947) (''The doctrine of legislative acquiescence is at best only an auxiliary tool for use in interpreting ambiguous statutory provisions'').

[48] *Chisholm* v. *FCC,* 538 F.2d 349, 364 (D.C. Cir. 1976) (''We note initially that an administrative agency is permitted to change its interpretation of a statute, especially where the prior interpretation is based on error, no matter how longstanding.'') (internal citations omitted). Similarly, an agency may change its policies and standards, so long as it provides a reasoned explanation for change. *See, e.g., FCC vs. Fox Television Stations, Inc.,* 556 U.S. 502, 514–15 (2009); *National Labor Relations Board* v. *CNN America, Inc.,* 865 F.3d 740, 751 (D.C. Cir. 2017).

[49] We also note that when Congress recently re-visited section 9 as part of the RAY BAUM'S Act, it did not elect to amend the list of entities exempted from assessment of regulatory fees to include non-U.S. licensed space stations. Although non-U.S. licensed space station operators state that ''[n]othing in Ray Baum's Act, or in the associated legislative history, evidences any intent to alter the FCC's understanding that its authority to impose regulatory fees on space stations is limited to those licensed pursuant to Title III,'' *Godles April 22 Ex Parte* at 4, it could equally be said that Congress demonstrated no intent to endorse our prior interpretation or reiterate some intent to exempt non-U.S. licensed space stations in the legislative history of the RAY BAUM'S Act.

[50] *FY 2019 Report and Order,* 34 FCC Rcd at 8213, paragraph 64.

[51] *See, e.g.,* U.S. Satellite Licensees Comments at 1–2.

[52] In addition, they note that there are more market access requests than new satellite applications; in 2019 there were nine new market access requests, but only six new U.S. satellite license applications. U.S. Satellite Licensees Reply Comments at 2–3.

[53] U.S. Satellite Licensees Reply Comments at 2. Furthermore, SpaceX highlights that Eutelsat and Telesat are also involved in a proceeding to repurpose C-band satellite spectrum in which these non-U.S. operators and others have argued that they may not be denied access to portions of the 3700–4200 GHz band in the United States without significant compensation. SpaceX Reply Comments at 2–3.

[54] Eutelsat Comments at 2–3 (''Foreign-licensed satellite operators do not receive a Commission license or the benefits that come with it.''); Myriota Comments at 3 (''Foreign-licensed satellite system operators do not receive an FCC space station license or the significant benefits associated with it. . . .''); Eutelsat Comments at 3 (''While [compliance] oversight is ongoing, the administrative burden is both minimal and conducted for the benefit of United States space and earth station licensees.''); Myriota Comments at 3 (''Although [compliance] oversight is ongoing, however, the actual administrative cost of such monitoring is minimal and imposing a recurring regulatory fee to recover these *de minimis* costs would not be appropriate.''); Inmarsat Reply Comments at 4 (''[Non-U.S. licensed space stations] do not receive the benefit of United States-led coordination negotiations, relying instead on the country of licensure.'').

[55] Inmarsat Reply Comments at 4 (''Spacecraft maintenance, end-of-life, and orbital debris mitigation are supervised not by the United States, but by the administration issuing the license.'')

[56] *FY 2019 Report and Order,* 34 FCC Rcd at 8212–13, paragraph 63 (citing *Mitigation of Orbital Debris in the New Space Age,* IB Docket No. 18–313, Notice of Proposed Rulemaking and Order on Reconsideration, 33 FCC Rcd 11352 (2018) (84 FR 4742 (February 19, 2019)) (*Orbital Debris NPRM*); *Amendment of Parts 2 and 25 of the Commission's Rules to Facilitate the Use of Earth Stations in Motion Communicating with Non-Geostationary Orbit Space Stations in Frequency Bands Allocated to the Fixed-Satellite Service,* IB Docket No. 18–315, Notice of Proposed Rulemaking, 33 FCC Rcd 11416 (2018) (83 FR 67180 (December 28, 2018)) (*ESIM NPRM*); *Amendment of the Commission's Policies and Rules for Processing Applications in the Direct Broadcast Satellite Service,* IB Docket No. 06–160, Second Notice of Proposed Rulemaking, 33 FCC Rcd 11303 (2018) 84 FR 2126 (February 6, 2019); *Amendment of Parts 2 and 25 of the Commission's Rules to Facilitate the Use of Earth Stations in*

participation of operators of non-U.S. licensed space stations in these adjudications and rulemakings—either individually or through involvement in industry trade organizations—demonstrates that they recognize benefits from Commission action to their operations within the U.S. market, since they would not participate in such proceedings if they held no possibility of benefit to them.[57] Thus, the significant benefits to non-U.S. licensed satellites with market access support including them in regulatory fees.

17. In the *FY 2019 FNPRM,* we also sought comment on whether assessing non-U.S. licensed space stations would promote regulatory parity among space station operators.[58] U.S. licensees argue that the current fee system is inequitable and encourages companies to simply move overseas to evade fees and oversight.[59] Non-U.S. licensed satellite operators respond by contending that imposing regulatory fees on non-U.S. licensed satellites would place those entities at a competitive disadvantage.[60] Non-U.S. licensed satellite operators are already paying regulatory fees in their own jurisdictions and, they assert, our regulatory fees would be a duplicative fee.[61] Operators of non-U.S. licensed space stations also contend that imposing regulatory fees will negatively impact U.S. consumers because smaller foreign operators will bypass the U.S. market and the increased costs will be passed on to U.S. consumers.[62] Imposing such a fee, they argue, would jeopardize the United States' position in the global satellite market and other jurisdictions could also now impose similar charges on U.S. licensed satellites.[63]

18. We agree with the comments of U.S. licensed space station operators—who express more concern about fee inequity in the United States than the prospect of new or increased fees in other markets—that entities receiving U.S. market access, through either a space station or earth station authorization, should be subject to the same satellite regulatory fees as those assessed on U.S. licensed space station systems.[64] Indeed, we are not convinced by the parade of horribles cited by non-U.S. licensed satellite operators as they offer insufficient evidence to support their claims.

19. Non-U.S. licensed satellite operators also argue that an assessment of fees conflicts with international trade agreements under the WTO Agreement on Basic Telecommunications Services.[65] Eutelsat and Telesat contend that under the Commission's *DISCO II* decision, the Commission rejected the idea of issuing a separate license for non-U.S. licensed space stations.[66] In response, SpaceX asserts that spreading the regulatory costs evenly across U.S. and non-U.S. licensed space station operators instead of imposing the entire cost on U.S. space station licensees is fully consistent with the *DISCO II* decision.[67] We find that our actions are consistent with the *DISCO II* decision because we are treating non-U.S. licensed space station operators the same as U.S. licensed space station operators in assessing regulatory fees.

20. Non-U.S. licensed space station operators argue that it would be unfair now to assess regulatory fees on non-U.S. licensed space stations accessing the U.S. market because they have relied on a prior finding that regulatory fees for space stations were to be assessed on only those stations licensed by the United States and that they have made business plans based on this long-standing prior finding.[68] Licensees have no vested right to an unchanged regulatory framework.[69] This is as true for market access grantees as it is for licensees, since both are subject to the Commission's regulatory framework while providing service in the United States. Moreover, each year the Commission engages in a proceeding seeking comment on its proposed fees for the year and frequently makes adjustments to the regulatory scheme to reflect changes in fact and law. For the reasons stated herein, we have concluded that non-U.S. licensed space stations accessing the U.S. market should be subject to assessment of regulatory fees under section 9.[70]

21. Including non-U.S. licensed space stations in the Commission's assessment of regulatory fees is important to fulfilling Congress's mandate that the Commission recover the costs associated with its activities, since market access by non-U.S. licensed space stations has become a significant portion of the satellite services regulated by the Commission and exemption of non-U.S. licensed space stations places the burden of regulatory fees—which are designed to defray the costs of Commission regulatory activities (which we undertake to serve the overall interests of the public, including all parties engaged in the communications marketplace)—solely on the shoulders

Motion Communicating with Geostationary Orbit Space Stations in Frequency Bands Allocated to the Fixed Satellite Service, IB Docket No 17–95, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 9327 (2018) (84 FR 53630 (October 8, 2019) and 84 FR 5654 (February 22, 2019)); *Further Streamlining Part 25 Rules Governing Satellite Services,* IB Docket No. 18–314, Notice of Proposed Rulemaking, 33 FCC Rcd 11502 (2018) (84 FR 638 (January 31, 2019)) (*Part 25 Further Streamlining NPRM*); *Streamlining Licensing Procedures for Small Satellites,* IB Docket No. 18–86, Notice of Proposed Rulemaking 33 FCC Rcd 4152 (2018) (83 FR 24064 (May 24, 2018)); *Update to Parts 2 and 25 Concerning Non-Geostationary, Fixed-Satellite Service Systems and Related Matters,* IB Docket No. 16–408, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 7809 (2017) (82 FR 59972 (December 18, 2017) and 82 FR 52869 (November 15, 2017)); *Amendment of Parts 2 and 25 of the Commission's Rules to Facilitate the Use of Earth Stations in Motion Communicating with Geostationary Orbit Space Stations in Frequency Bands Allocated to the Fixed-Satellite Service,* IB Docket No. 17–95, Notice of Proposed Rulemaking, 32 FCC Rcd 4239 (2017) (82 FR 27652 (June 16, 2017)).

[57] Market access recipients filed comments in nearly all of the Commission's recent satellite rulemaking proceedings. *See, e.g.,* Comments of WorldVu Satellites Limited d/b/a OneWeb, SES Americom and Eutelsat in *Orbital Debris NPRM,* (filings made Apr. 5, 2019); *ESIM NPRM* (filings made Feb. 11, 2019) and *Part 25 Further Streamlining NPRM* (filings made Mar. 18, 2019).

[58] *FY 2019 Report and Order,* 34 FCC Rcd at 8212–13, paragraph 63.

[59] U.S. Satellite Licensees Comments at 2.

[60] WorldVu Satellites Limited d/b/a OneWeb (OneWeb) Comments at 1–4; Kepler Reply Comments at 4.

[61] Eutelsat Comments at 2, 7; Telesat Reply Comments at 3–4.

[62] OneWeb Comments at 7–8 & Reply Comments at 6; Myriota Comments at 3–4; Kepler Reply Comments at 4–5; Telesat Reply Comments at 4.

[63] OneWeb Comments at 7–8 & Reply Comments at 4–5; Myriota Comments at 3–4; Eutelsat Comments at 6–8; Telesat Reply Comments at 5; Inmarsat Reply Comments at 4; Kepler Reply Comments at 4.

[64] U.S. Satellite Licensees Comments at 6–7. SpaceX proposes that earth station operators that received U.S. market access prior to August 27, 2019, the release date of the *FY 2019 Report and Order,* would be exempt from such regulatory fees under this proposal. SpaceX Comments at 2–3.

[65] Telesat Comments at 12 & Reply Comments at 5; Kepler Reply Comments at 3; Inmarsat Reply Comments at 4–5. AT&T disagrees that this assessment of fees would be precluded by international agreements. AT&T Reply Comments at 5–6; OneWeb Reply Comments at 7–8.

[66] Eutelsat Comments at 2, 7, citing *DISCO II* at 24174, paragraph 188; Telesat Reply Comments at 6. OneWeb also argues that our proposal would violate *DISCO II* because it would put non-U.S. licensed satellite operators at a disadvantage. OneWeb Comments at 2. We disagree, as discussed above, because the U.S. licensed satellite operators competing against non-U.S. licensed operators, are disadvantaged due to the imposition of regulatory fees on the U.S. licensed operators.

[67] SpaceX Reply Comments at 8–9.

[68] *Godles April 22 Ex Parte* at 3.

[69] *Improving Public Safety Communications in the 800 Mhz Band,* 21 FCC Rcd 678, 682 (2006); *Motient Communications Inc.,* 19 FCC Rcd 13086, 13093 (2004), *citing Amendment of Part 1 of Commission's Rules—Competitive Bidding Procedures,* Order on Reconsideration of the Third Report and Order, Fifth Report and Order, and Fourth Further Notice of Proposed Rule Making, 15 FCC Rcd 15293, 15306 paragraph 22 (2000) (65 FR 52323 (August 29, 2000) and 65 FR 52401 (August 29, 2000)).

[70] Congress mandates that the Commission recover as an offsetting collection its fiscal year appropriation and prescribes the mechanism to do so. Congress has prescribed that regulatees bear the FTE burden associated with the Commission's work in respect to a given set of regulatees.

of U.S. licensees, either directly or indirectly.[71] We find that this is not sustainable, since the ability to gain the same benefits of Commission activities without being assessed regulatory fees presents an incentive for space station operators, even U.S.-based companies, to elect to be licensed by a foreign administration in order to still have access to the U.S. market, but without being assessed regulatory fees. In summary, we conclude that assessing the same regulatory fees on non-U.S. licensed space stations with market access as we assess on U.S. licensed space stations will better reflect the benefits received by these operators through the Commission's adjudicatory, enforcement, regulatory, and international coordination activities. Moreover, it will promote regulatory parity and fairness among space station operators by evenly distributing the regulatory cost recovery.

22. In the interest of equity and to eliminate regulatory arbitrage, we further conclude that regulatory fees for non-U.S. licensed space stations should be contributed regardless of the method by which the space station obtains U.S. market access. In addition to receiving U.S. market access directly through a petition for declaratory ruling, a non-U.S. licensed space station operator may also receive market access by being added as a point of communication in an earth station license application. In either case, the Commission's review of the space station market access request is the same. The earth station application may be filed by the non-U.S. licensed operator, one of its subsidiaries, or an independent third party. Currently, neither the earth station licensee nor the non-U.S. satellite operator with market access through that earth station pays a regulatory fee despite the benefits it receives and the additional Commission resources consumed by such market access. We find that it serves the public interest to assess regulatory fees in the same manner against all non-U.S. licensed satellite operators with U.S. market access, regardless of how that access is obtained.

23. We next address the mechanisms of assessment when non-U.S. satellite operators gain market access through earth stations. As of October 1, 2019, there are approximately 25 non-U.S. licensed space stations serving the U.S. market through earth station licensees. SpaceX proposes creating a new regulatory fee category for earth station authorizations that include a first-time market access grant for a satellite system to ''apply the same regulatory fee applicable to non-U.S. licensed systems granted market access at the space station level.'' [72] SpaceX asserts that doing so ''would eliminate an opportunity for regulatory arbitrage while ensuring that the Commission's regulatory fee structure equitably covers satellite systems granted access to the U.S. market regardless of the mechanism used to achieve that end.'' [73] We agree with SpaceX that assessing a regulatory fee to cover non-U.S. licensed space stations that gain market access through an earth station serves the public interest, although we assess the space station benefiting from the market access rather than the earth station operator(s). Doing so will place the responsibility with the space station operator directly benefiting from market access rather than one or multiple earth stations that may be communicating with many other satellites as well.

24. We will therefore require non-U.S. licensed space stations that enter into the U.S. market through earth station authorizations to be subject to regulatory fees similar to those space stations receiving U.S. market access directly through a petition for declaratory ruling.[74] Failure to pay a regulatory fee will subject the operator of the non-U.S. licensed space station to statutory penalties and the Commission's rules governing nonpayment.[75] In addition to other penalties, non-payment may result in removal of the delinquent non-U.S. space station as a point of communication for any associated earth station authorizations. Non-payment may also prevent such space station to obtain future U.S. market access or other regulatory benefits until such matters are resolved.[76] This action eliminates any regulatory arbitrage or gaming opportunity by eliminating any regulatory fee differences between receiving U.S. market access directly through a petition for declaratory ruling or indirectly, through an earth station license application.

25. In some cases, non-U.S. licensed space stations that do not access earth stations aboard aircraft (ESAA) terminals in the United States or its territorial waters have been identified as a point of communication for U.S. licensed ESAA terminals.[77] To the extent such license clearly limits U.S. licensed ESAA terminals' access to these non-U.S. licensed space stations to situations in which these terminals are in foreign territories and/or over international waters and the license does not otherwise allow the non-U.S. licensed space station access to the U.S. market, the non-U.S. licensed space station does not fall within the category of a non-U.S. licensed space station with access to the U.S. market for regulatory fee purposes. In addition, a non-U.S. licensed space station that communicates with a U.S. licensed earth station solely for tracking, telemetry and command (TT&C) purposes will not fall within the category of a non-U.S. licensed space station with access to the U.S. market for regulatory fee purposes.[78] The relevant earth station license, however, must clearly limit the non-U.S. licensed space station's access to TT&C communications only. If it does not include such a limitation, the relevant non-U.S. licensed space station will be

[71] The Commission's prior solution in 2015 of recategorizing four International Bureau FTEs as indirect to avoid assessing U.S. licensed space stations for work that directly benefited non-U.S. licensed space stations that did not pay regulatory fees still required U.S. licensees to bear the costs of the non-U.S. licensed space station operators participation in the regulatory environment; it simply broadened the base of U.S. licensees bearing those costs, since the costs were labeled as indirect, and therefore borne by all FCC entities that were assessed regulatory fees. *See FY 2015 Report and Order,* 30 FCC Rcd at 10278, paragraph 24.

[72] SpaceX Comments at 8. Kepler argues that it would be inequitable to assess the same regulatory fee on a foreign satellite operator with a single earth station. Kepler Reply Comments at 5. We note the same argument can be made regardless of whether the foreign operator communicating with only one earth station does so through a petition for declaratory ruling and an earth station license or solely through an earth station license.

[73] SpaceX Comments at 8.

[74] As a general matter, a single NGSO constellation that includes both U.S. and foreign-licensed satellites will be treated the same as any wholly U.S. or foreign-licensed constellation for regulatory fee purposes.

[75] Under sections 9A(c)(1) & (2) of the Act, the Commission is required to impose a late payment penalty of 25 percent of the unpaid regulatory fee debt and to assess interest on the unpaid regulatory fee (including the 25 percent penalty) until the debt is paid in full. The Commission is also required to pursue collection of all past due regulatory fees (including penalty and interest) using all collection remedies available to it under the Debt Collection Improvement Act of 1996. These remedies include offsetting regulatory fee debt against monies owed to the debtor by the Commission, and referral of the debt to the United States Treasury for further collection efforts, including centralized offset against monies other Federal agencies may owe the debtor. 31 U.S.C. 3701 *et seq.;* 31 CFR part 901; 47 CFR 1.1901. The failure to timely pay regulatory fees also subjects regulatees to the Commission's ''red light'' rule and revocation of authorizations. 47 CFR 1.1910 and 1.1164(f).

[76] *See* 47 U.S.C. 159A(c)(3) (dismissal of applications or filings); *id.* at 159A(c)(4) (revocations); 47 CFR 1.1164(f) (same).

[77] *See* Letter from Karis Hastings, Counsel to SES, to Marlene H. Dortch, Secretary, Federal Communications Commission, at 2 (May 5, 2020).

[78] *See* Letter from Pamela L. Meredith, Counsel to Kongsberg Satellite Services AS, to Marlene H. Dortch, Secretary, Federal Communications Commission, at 1–2 (May 5, 2020).

subject to regulatory fees. Accordingly, non-U.S. licensed space station operators may notify the Commission by July 15, 2020, as discussed below, to certify that their access is solely for TT&C and identify the relevant earth station licenses for any needed express condition that the relevant non-U.S. licensed space station is identified a point of communication for TT&C purposes only.[79] Otherwise, they will be assessed regulatory fees.

26. We understand that non-U.S. licensed satellite operators have not always been conscientious in the past about advising the Commission when they have ceased to provide service to the U.S. from a particular satellite. To provide a clear deadline for operators to correct the record and afford the International Bureau and the Office of Managing Director an opportunity to create a definitive list of market access grants from which to develop the final fee amounts, non-U.S. licensed space station operators with U.S. market access may notify the Commission by July 15, 2020 whether they want to relinquish that market access.[80] Operators that relinquish their U.S. market access will not be assessed regulatory fees this year. Accordingly, for FY 2020 we will require regulatory fees to be paid by those non-U.S. licensed space stations that have U.S. market access after July 15, 2020.[81] We instruct the International Bureau, when it receives a notice of surrender of market access by the operator of a non-U.S. licensed space station, to remove the space station as a point of communication in all earth station licenses, regardless of whether the earth station licensee itself requests removal of the non-U.S. licensed space station as a point of communication.[82] We do this so that a non-U.S. licensed space station operator would not be prejudiced by non-action of a third-party earth station licensee.

27. Accordingly, we will issue an invoice for the annual space station regulatory fee to the non-U.S. licensed space station operator of record listed on the Schedule S filed in connection with a grant of a petition for declaratory ruling to access the U.S. market, or with an earth station application to add the non-U.S. licensed space station as a point of communication, as of July 16, 2020.[83] To facilitate administration of regulatory fees, we require that all non-U.S. licensed space station operators with such market access to obtain an FCC Registration Number by August 1, 2020.[84] Further, we remind non-U.S. licensed space station operators who do not pay the regulatory fees in a timely fashion that they will be in violation of our regulatory fee rules and, while being subject to other regulatory fee enforcement consequences, may be unable to obtain future U.S. market access until such matters are resolved.[85] To reiterate, this fee will be assessed on any non-U.S. licensed space station that has been granted market access through existing earth stations licensees as of July 16, 2020.[86]

28. We also conclude that we should reallocate four International Bureau indirect FTEs as direct to account for our decision to assess regulatory fees on non-U.S. licensed space stations. The Commission previously recategorized four International Bureau FTEs as indirect to avoid assessing U.S. licensed space stations for work that directly involved non-U.S. licensed space stations that did not pay regulatory fees.[87] We find that it is appropriate to make this adjustment to account for our decision to assess regulatory fees on non-U.S. licensed space stations and the section 9 requirement that the Commission set regulatory fees to ''reflect the full-time equivalent number of employees within the bureaus and offices of the Commission adjusted to take into account factors that are reasonably related to the benefits provided to the payor of the fee by the Commission's activities.'' [88] We accordingly add four FTEs to the satellite regulatory fee category as direct FTEs to account for the work that was allocated as indirect previously. We note, however, that we add back these four FTEs only to correct the total number of direct FTEs in the International Bureau for regulatory fee purposes. The apportionment of fees among International Bureau regulatees is calculated based on the factors reasonably related to the benefits provided to the payors of the fee, as discussed below.

29. Finally, we find that subjecting non-U.S. licensed space stations with U.S. market access to the space station regulatory fees is an amendment as defined in section 9(d) of the Act.[89] Such an amendment must be submitted to Congress at least 90 days before it becomes effective pursuant to section 9A(b)(2).[90]

B. Apportionment of Fees Among International Bureau Regulatees

30. The Commission has previously determined over the course of several orders that a significant number of FTEs in the International Bureau do work that should be considered indirect for regulatory fee purposes and set the number of direct FTEs at 24.[91] The

[79] We note that an earth station authorization allowing any other kind of data acquisition by a non-U.S. licensed space station will be considered to have access to the U.S. market and will be subject to the regulatory fees.

[80] Such a voluntary surrender of market access can be made through existing procedures for surrender of grants of market access or removal of a non-U.S. licensed space station as a point of communications in an earth station license.

[81] We note that after FY 2020 it is the responsibility of a non-U.S. licensed space station with U.S. market access to inform the Commission (International Bureau) by September 30th before the new fiscal year begins that it is relinquishing its U.S. market access; failing timely notification, the non-U.S. licensed station will be assessed regulatory fees for the ensuing fiscal year. For example, in FY 2021, a non-U.S. licensed space station with U.S. market access must inform the Commission (International Bureau) by September 30, 2020 that it wishes to relinquish its market access or it will be charged the FY 2021 regulatory fee in September 2021.

[82] The International Bureau will include notice of such surrenders in its routine weekly Public Notices of Actions Taken for satellite space and earth stations.

[83] In some cases, a single GSO satellite with access to the U.S. market may be operated by more than one entity, as reflected in the terms of the license or market access grant. In such cases, the satellite operators should notify OMD which operator/FRN is the contact for the space station regulatory fee purposes and that operator/FRN will be billed. If no notification is received, OMD will assign one party as the FRN contact for billing purposes.

[84] *https://apps.fcc.gov/coresWeb/publicHome.do.*

[85] *See* 47 U.S.C. 159(a).

[86] For FY 2021 and subsequent years, the date of assessment will be October 1, which is the standard date of assessment for space and earth stations.

[87] *FY 2015 Report and Order,* 30 FCC Rcd at 10278, paragraph 24. At the time, the Commission stated that the number of market access requests by these entities can vary; however, four FTEs was appropriate to be reallocated as indirect in calculating benefit to International Bureau fee payors at the time. *See id.* paragraph 24, and n. 94.

[88] 47 U.S.C. 159(d).

[89] *Id.*

[90] 47 U.S.C. 159A(b)(2).

[91] In FY 2013, the Commission proposed that all Satellite Division FTEs working on issues involving regulatees, 25 FTEs, be considered direct FTEs for determining the regulatory fees for space stations and earth stations. *FY 2013 NPRM,* 28 FCC Rcd at 7800, paragraphs 22–23. The Commission further proposed that two FTEs from the Telecommunications and Analysis Division be allocated as direct FTEs for regulatory fee purposes. *Id.* at 7802, paragraph 27. The Commission also proposed that the Global Strategy and Negotiation Division would be considered indirect because their activities benefit the Commission as a whole and are not specifically focused on International Bureau regulatees. *Id.* at 7802–803, paragraph 28. The Commission adopted the proposal, but revised the number of direct International Bureau FTEs to 28. *Assessment and Collection of FY 2013 Regulatory Fees,* Report and Order, 28 FCC Rcd 12351, 12355–56, paragraph 14 (78 FR 52433 (August 23, 2013)) (*FY 2013 Report and Order*). Then, in 2015, the Commission further reduced the number of direct FTEs in the International Bureau to 24 due to the number of International Bureau FTEs in the Satellite Division working on non-U.S. licensed space station market access requests. *FY 2015 Report and Order,* 30 FCC Rcd at 10278, paragraph 24.

International Bureau fees are divided into a satellite category (with subcategories of GSO space stations, NGSO space stations, and earth stations) and an international bearer circuits category (consisting of submarine cable systems in one subcategory and terrestrial and satellite international facilities in another). In the *FY 2019 Report and Order,* the Commission explained that we currently allocate 17.1 of the 24 International Bureau FTEs to the satellite category and 6.9 to the international bearer circuits category.[92] Including the 4 FTEs that were previously considered indirect because of their work with non-U.S. licensed space stations as discussed above brings those totals to 21.1 FTEs assigned to the satellite category and 6.9 to the international bearer circuit category.

31. In the *FY 2019 FNPRM,* we sought comment on whether we should adjust the apportionment among fee categories within the International Bureau.[93] In response, the International Bureau undertook a review of its work, staffing, and distribution of responsibilities benefiting its fee payers, division by division and between the Telecommunications and Analysis Division and the Satellite Division. Based on this review, we find that adjusting the FTE allocation for the international bearer circuit category to 8 FTEs rather than 6.9 FTEs would better reflect the direct FTE work in the International Bureau that benefits the fee payors in the international bearer circuit category. This action brings the FTEs for the satellite category to 20 and the total number of direct FTEs for the International Bureau to 28.

32. We are not persuaded by the Submarine Cable Coalition's assertion that two FTEs from the Telecommunications and Analysis Division are sufficient for international bearer circuit regulation.[94] As we explained in the *FY 2015 Report and Order,* two FTEs do not take into account all the work provided for this industry by the International Bureau.[95] Currently, almost all of the work of the Telecommunications and Analysis Division, as well as some of the work by the Office of the Bureau Chief, benefits international telecommunications service providers including submarine cable operators.[96]

33. The Submarine Cable Coalition also argues that the number of FTEs in the International Bureau was not appropriately reduced when the Office of Economics and Analytics was created and the reassignment of staff led to decreases in the direct FTEs in the Media, Wireline Competition, and Wireless Telecommunication Bureaus.[97] None of the 24 FTEs from the International Bureau identified as direct for regulatory fee purposes, however, were moved to the Office of Economics and Analytics. Therefore, the number of direct FTEs in the International Bureau was not reduced due to the creation of the Office of Economics and Analytics. Accordingly, we reject these arguments. In the *FY 2019 Report and Order* we recognized that the increase to fees for International Bureau regulatees was not trivial when we rejected similar arguments and explained that such an increase was consistent with previous FTE shifts we have made as well as the statute.[98]

34. *GSO and NGSO Space Stations Apportionment.* In the *FY 2019 FNPRM,* we sought comment on adjustments to the allocation of FTEs among GSO and NGSO space and earth station operators.[99] The FY 2019 annual regulatory fee per unit for Space Stations (Geostationary Orbit) is $159,625, and the comparable fee per unit for Space Stations (Non-Geostationary Orbit) is $154,875.[100]

35. In response, SES Americom, Intelsat, EchoStar, and Hughes (collectively, the GSO Satellite Operators), request that the Commission rebalance the cost allocations between GSO and NGSO space stations to address perceived unfairness in the current balance and because the current balance purportedly does not align with underlying costs.[101] The GSO Satellite Operators observe that, for FY 2019, the expected regulatory fee revenue from GSO satellite operators was $15,643,250, which is more than 14 times the expected $1,084,125 regulatory fee revenue for NGSO satellite operators.[102] This imbalance in regulatory fee revenue results from the large disparity in number of units between GSO space stations (98) and NGSO space stations (7),[103] even though under a single NGSO license hundreds, or thousands, of satellites can be operated while counting as a single unit for regulatory fee purposes, whereas only one satellite can be operated per GSO space station regulatory fee unit.[104]

36. We agree with the GSO Satellite Operators that the significantly larger amount of regulatory fee payments by GSO operators cannot be attributed to them benefiting more from the Commission's regulatory activities. We instead allocate 80% of space station fees to Space Stations (Geostationary Orbit) and 20% to Space Stations (Non-Geostationary Orbit). We consider three factors that reflect the benefits of Commission oversight to GSO and NGSO operators: The number of applications processed (that is, the benefits of adjudication), the number of changes made to the Commission's rules (that is, the benefit of rulemaking), and the number of FTEs working on oversight for each category of operators.

37. First, using the data compiled from the International Bureau Filing System, we looked at the applications received and processed by the International Bureau for each of the most recent three years (that is, 2017–2019).[105] The breakdown shows that GSO applications accounted for 79% (108/136) of applications disposed in 2019 and 79% (124/157) of applications received in 2019. For 2018, the GSO share is 75% (88/117) disposed and 84% (77/92) received. For 2017, the GSO share is 84% (122/146) disposed and 77% (128/167) received. Thus, the

[92] *FY 2019 Report and Order,* 34 FCC Rcd at 8197, paragraph 20.

[93] *Id.* at 8214, paragraph 67.

[94] Submarine Cable Coalition Comments at 3–4. The Commission initially indicated the number of FTEs was two in 2013. *FY 2013 NPRM,* 28 FCC Rcd at 7802, paragraph 27.

[95] *FY 2015 Report and Order,* 30 FCC Rcd 10273, paragraph 12.

[96] One exception is the work in the Telecommunications and Analysis Division on foreign ownership issues under section 310 of the Communications Act, 47 U.S.C. 310, which benefits domestic common carrier wireless providers by facilitating foreign investment in wireless carriers.

[97] Submarine Cable Coalition Comments at 4–5.

[98] *FY 2019 Report and Order,* 34 FCC Rcd at 8195, paragraphs 15–18.

[99] *Id.* at 8214, paragraph 67 (citing Letter from Jennifer A. Manner, Senior Vice President, EchoStar Satellite Operating Corporation and Hughes Network Systems, LLC, to Marlene H. Dortch, Secretary, FCC, MD Docket No. 19–105, Attachment at 1 (filed Aug. 8, 2019) (EchoStar August 8 *Ex Parte* Letter)).

[100] 47 CFR 1.1156(a).

[101] GSO Satellite Operators Comments at 1–2.

[102] *Id.* at 2 (citing *FY 2019 Report and Order,* 34 FCC Rcd at 8223–24, Appendix B).

[103] It may also arise from the fact that the Commission does not assess regulatory fees on licenses that do not have operational satellites associated with them. Thus, even though there may be an increase in NGSO licensing in recent years, there would not be an increase in regulatory fees if those licensed systems had not yet launched and operated satellites.

[104] *See, e.g., Space Exploration Holdings, LLC, Application for Approval for Orbital Deployment and Operating Authority for the SpaceX NGSO Satellite System,* IBFS File Nos. SAT–LOA–20161115–00118, SAT–LOA–20170726–00110, 33 FCC Rcd 3391 (2018).

[105] The application counts include applications from U.S. and non-U.S. space station operators for new systems, requests for modification or amendment, and requests for special temporary authority. By reporting the data as part of this proceeding, we address the request of the Satellite Industry Association to provide additional factual detail on fee decisions. Satellite Industry Association Comments at 17.

total number of applications received and disposed of in this three-year period continues to support a significantly greater allocation of adjudication benefits to GSO than NGSO systems in the range of 75% to 84%.

38. Second, using compiled data for the last three years on the number of Commission-level items originating from the Satellite Division of the International Bureau, we considered each items' relative precedential value to GSO and NGSO operators.[106] The list consists of 6 items during 2017–2019,[107] of which 3 held more benefit for GSOs and 3 held more benefit for NGSOs.[108] Accordingly, the data presented suggests that there was approximately the same rulemaking benefit to GSO operators as to NGSO operators. We note, however, that, quantifying only the most recent rulemaking activities does not take into account any continued benefits derived from older rulemakings. Some of those continued benefits are received through the efforts of adjudication and administration of the rules adopted in those rulemakings. Accordingly, we find that attributing a value to rulemaking activities directly is a somewhat subjective exercise and lacks precision.

39. Third, we considered whether we could examine FTE activities directly, but there has been no change in the number of FTEs attributable to satellite regulatory activities in the International Bureau from previous years and the International Bureau does not separate FTEs by work done on GSO versus NGSO matters.[109] Indeed, a single FTE may work on authorizations and rulemakings that benefit both categories of satellite operations. Because we are unable to assess benefits based on a clearly identifiable division of work by assigned FTEs, we must estimate the relative percentage of FTEs that are attributable to benefitting either GSO or NGSO systems based on the factors above.

40. We recognize the considerable challenge of assigning a precise number to the apportionment of regulatory fees between GSO and NGSO space stations. Taking all of the foregoing factors and data into consideration we conclude, however, that the GSO/NGSO ratio should be adjusted to reflect that GSO space stations derived roughly 75–84% of the benefit from the Commission's adjudicatory efforts. Given that our consideration of FTE activities did not yield a clearly identifiable division between GSO and NGSO, and because it is difficult to be precise in quantifying benefits of rulemaking activities, we believe a number in the middle of the 75–84% range is appropriate. We are also mindful that the number of NGSO units for which regulatory fees are assessed is small, so selection of a number at the bottom end of the 75–84% range would result in a much greater change in the regulatory fee assessed. We find that selecting a number in the middle of the 75–84% range best reflects the other factors considered in our re-balancing and imposes a balanced burden in that range on all space station operators, including the smaller number of NGSO system operators. Accordingly, for FY 2020, GSO and NGSO space stations will be allocated 80% and 20% of the space station fees, respectively.

41. *Earth Station and Space Station Apportionment.* Although the *FY 2019 FNPRM* did not propose adjusting the allocation within the satellite category for earth station regulatory fees, certain satellite operators asked that we review such apportionment[110] and suggested that we implement different earth station subcategories for regulatory fee purposes.[111]

42. We decline to adopt any changes at this time. We find that there is insufficient evidence in the record to increase the apportionment of fees paid by earth station licensees. GSO Satellite Operators state that earth station licensees collectively are responsible for $1,402,500 in total regulatory fees, which is less than one-eleventh of the regulatory fees paid by GSO space station licensees.[112] Although the GSO Satellite Operators claim that this proportion is out of synch with actual relative costs,[113] they do not provide any data to support this claim, or propose an appropriate apportionment of fees between earth and space stations. In support of their claim, GSO Satellite Operators point solely to a pair of proceedings focused on Earth Stations in Motion (ESIMs).[114] Although earth station licensees do benefit from these proceedings, we also find that the proceedings are of equal, if not more, benefit to space station licensees, which would gain access to additional frequency bands in which to sell transponder capacity for mobility services and increased streamlining of their regulatory environment. Accordingly, the record does not support an increase of the apportionment of fees paid by earth station licensees at this time.

43. We also find that the record does not support implementing different classes of earth stations for regulatory fee purposes or increasing earth station regulatory fees. GSO Satellite Operators suggest that blanket-licensed earth station licensees involving multiple antennas under a single authorization should pay higher fees than other earth station licensees because blanket-licensed earth station licensees require more regulatory oversight.[115] The GSO Satellite Operators, however, provide no factual support for the proposition other than a conclusory statement. GSO Satellite Operators instead observe that the fee schedule originally adopted by Congress differentiated between blanket-licensed earth stations and stand-alone antennas.[116] But the prior statutory differentiation pertained to application fees, not regulatory fees—

[106] We limited our review to Commission-level items because of their greater precedential value and because they include rulemaking proceedings that affect the industry as a whole, rather than a particular entity.

[107] Notices of Proposed Rulemakings that resulted in the adoption of an Order within the same three-year period were not included since inclusion could result in double-counting of an eventual benefit.

[108] The following proceedings primarily benefit GSO systems: (1) *Amendment of the Commission's Policies and Rules for Processing Applications in the Direct Broadcast Satellite Service*, Second Report & Order, IB Docket No. 06–160 (rel. Sep. 27, 2019); (2) *Further Streamlining Part 25 Rules Governing Satellite Services,* Notice of Proposed Rulemaking, 33 FCC Rcd 11502 (2018); and (3) *Facilitating the Communications of Earth Stations in Motion with Non-Geostationary Orbit Space Stations,* Report and Order and Further Notice of Proposed Rulemaking, 33 FCC Rcd 9327 (84 FR 53630 (October 8, 2019) and 84 FR 5654 (February 22, 2019)) (2018). The following rulemaking proceedings primarily benefit NGSO systems: (1) *Mitigation of Orbital Debris in the New Space Age,* Notice of Proposed Rulemaking, 33 FCC Rcd 11352 (2019); (2) *Streamlining Licensing Procedures for Small Satellites,* Report and Order, 34 FCC Rcd 13077 (2019); (3) *Facilitating the Communications of Earth Stations in Motion with Non-Geostationary Orbit Space Stations,* Notice of Proposed Rulemaking, 33 FCC Rcd 11416 (83 FR 67180 (December 28, 2018)) (2018). One of the six items, *Mitigation of Orbital Debris in the New Space Age,* could be seen as benefitting both GSOs and NGSOs, but since the item largely addresses mitigation of debris resulting from new space operations in NGSOs, it was counted as benefitting NGSO more.

[109] Similarly, the International Bureau also does not separate FTEs by work done on U.S. licensed versus non-U.S. licensed space stations. Most regulatory activities benefit all space stations, whether U.S. licensed or not.

[110] GSO Satellite Operators Comments, at 4; SIA Comments at 9.

[111] GSO Satellite Operators Comments at 4.

[112] *Id.*

[113] *Id.*

[114] *Id.* (citing *Amendment of Parts 2 and 25 of the Commission's Rules to Facilitate the Use of Earth Stations in Motion Communicating with Geostationary Orbit Space Stations in Frequency Bands Allocated to the Fixed-Satellite Service,* Notice of Proposed Rulemaking, 32 FCC Rcd 4239 (2017); *Facilitating the Communications of Earth Stations in Motion with Non-Geostationary Orbit Space Stations,* Notice of Proposed Rulemaking, 33 FCC Rcd 11416 (2018).

[115] GSO Satellite Operators Comments at 4.

[116] *Id.* at 4–5.

i.e., it was not tied to the statutory factors that bind us in setting regulatory fees.[117] Accordingly, we find no basis in the record to support an increase in regulatory fees for earth station licenses or to support the creation of a separate, higher regulatory fee for blanket-licensed earth stations.

C. Regulatory Fees Paid by VHF Broadcasters

44. In the *FY 2018 Report and Order,* we adopted a new methodology for assessment of broadcast television regulatory fees, finding that the service contour-based population method more accurately reflects the actual market served by full-power television stations for purposes of assessing regulatory fees than the DMA-based methodology we previously employed.[118] We also said that we would phase in implementation of the new methodology in two years, using a transitional fee structure for FY 2019 fees and the new methodology for assessment of FY 2020 fees.[119]

45. In the *FY 2019 FNPRM,* we sought comment on whether we should adjust population counts for the new methodology to address a signal limitation issue raised by commenters to the *FY 2019 NPRM.*[120] Specifically, those commenters argued that VHF channels should have lower regulatory fees because the predicted contour distance does not adequately account for all of the possible effects on the VHF station signal, such as environmental noise issues, the result of which may limit the signal and the population reached. Thus, they argued, the population count is overstated for VHF stations and should be adjusted downward accordingly.[121]

46. Commenters reiterate and amplify the signal limitation concern. NAB explains that following the digital transition, some VHF channels encountered environmental noise that affected the reliability of those broadcasters' signals.[122] As a compensatory measure, some VHF stations have increased their power levels, resulting in an increase in the theoretical, but not the actual, population served and higher regulatory fees under the new methodology.[123] PMCM TV argues that we should assess VHF stations, and especially low band VHF stations, a significantly lower regulatory fee.[124] Maranatha Broadcasting proposes that we average the fee amounts assessed to the commercial full power UHF stations in a given market and apply the average UHF fee as the fee to be assessed VHF stations in the same market.[125] Maranatha Broadcasting argues that the population methodology does not properly account for ''the inherent technical inferiority of the VHF signal in the digital broadcast world,'' and that VHF stations should not be charged more than UHF stations in the same market.[126]

47. We decline to categorically lower regulatory fees for VHF stations to account for signal limitations. Inconsistencies in the reports of low-VHF reception issues have led the Media Bureau to conclude that there is nothing inherent in VHF transmission that creates signal deficiencies but that environmental noise issues can affect reception in certain areas and situations. And although we agree that environmental noise blockages affecting signal strength and reception exist, they do not exist across the board. The impact of signal disruptions, to the extent they exist, varies widely from service area to service area and does not lend itself to an across-the-board rule. However, we do agree with NAB and propose to take into account the licensed power increases that go beyond the maximum allowed for VHF stations. Therefore, we will assess the fees for those VHF stations that are licensed with a power level that exceeds the maximum based on the maximum power level specified for channels 2–6 in § 73.622(f)(6) and for channels 7–13 in § 73.622(f)(7).

IV. Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[127] an Initial Regulatory Flexibility Analysis (IRFA) was included in the FY 2019 Further Notice of Proposed Rulemaking.[128] The Commission sought written public comment on these proposals including comment on the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the IRFA.[129]

A. Need for, and Objectives of, the Report and Order

2. In this *Report and Order,* the Commission assesses for the first time a regulatory fee on non-U.S. licensed space stations with United States market access, by including those non-U.S. licensed space stations in the current regulatory fee categories for GSO and NGSO space stations. This fee is assessed regardless of whether the foreign satellite operator obtains the market access through a declaratory ruling or through an earth station applicant as a point of communication. In either case, the Commission's review of the space station market access request is the same. The earth station application may be filed by the foreign operator, one of its subsidiaries, or an independent third party. Currently, the regulatory fee paid by an earth station licensee that has secured market access for a foreign satellite operator is the same as the fee paid by any other earth station licensee in its class, despite the additional Commission resources consumed by such market access requests. For these reasons, and because it is inequitable and anticompetitive for U.S. licensed space stations to pay regulatory fees while non-U.S. licensed space stations with U.S. market access do not, the Commission assesses its existing GSO and NGSO regulatory fee categories on non-U.S. licensed space stations that have access to the United States market, either through a petition for market access or through an earth station.

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

3. None.

[117] The GSO Satellite Operators cite section 159(g) of Title 47 of the United States Code in support, which was repealed in 2018. GSO Satellite Operators Comments at 5 n.12. Section 159(g) was entitled ''Application of Application Fees'' and addressed the separate issue of FCC filing fees, not regulatory fees.

[118] *Assessment and Collection of Regulatory Fees for Fiscal Year 2018,* Report and Order and Order, 33 FCC Rcd 8497, 8501–8502, paragraphs 13–15 (2018) (83 FR 47079, paragraphs 13–15 (September 18, 2018)) (*FY 2018 Report and Order*).

[119] *Id.*

[120] *FY 2019 Report and Order,* 34 FCC Rcd at 8214–15, paragraph 68 and *FY 2019 NPRM* (84 FR 26234 (June 5, 2019)).

[121] *Id.*

[122] NAB Comments at 2.

[123] NAB Comments at 3–4; NAB suggests a station's original DTV contour is a more accurate reflection of a VHF station's actual coverage and population reach. *See also* Maranatha Broadcasting Comments at 1–4.

[124] PMCM Comments at 4. PMCM TV and Maranatha Broadcasting observe that the advertising revenues for TV are based on the DMA where the station is located, because that is where most of the audience is, and not on the population outside the DMA that may also be able to reach the station. PMCM TV Comments at 4; Maranatha Broadcasting Comments at 5.

[125] Maranatha Broadcasting Comments at 6–7. *See also* Letter from Barry Fisher, President, Maranatha Broadcasting Company, Inc., to Marlene H. Dortch, Secretary, FCC, MD Docket No. 19–105, (filed May 1, 2020).

[126] Maranatha Broadcasting Comments at 7.

[127] 5 U.S.C. 603. The RFA, 5 U.S.C. 601–612 has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 104–121, Title II, 110 Stat. 847 (1996).

[128] *Assessment and Collection of Regulatory Fees for Fiscal Year 2019,* Report and Order and Further Notice of Proposed Rulemaking, 34 FCC Rcd 8189 (2019) (*FY 2019 FNPRM*).

[129] 5 U.S.C. 604.

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

4. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments. In this section respond specifically to any comment filed by Chief Counsel of SBA. The Chief Counsel did not file any comments in response to the proposed rules in the Further Notice of Proposed Rulemaking in this proceeding

D. Description and Estimate of the Number of Small Entities To Which the Rules Will Apply

5. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules and policies, if adopted.[130] The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.''[131] In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act.[132] A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.[133] Nationwide, there are a total of approximately 27.9 million small businesses, according to the SBA.[134]

6. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three broad groups of small entities that could be directly affected herein.[135] First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA's Office of Advocacy, in general a small business is an independent business having fewer than 500 employees.[136] These types of small businesses represent 99.9% of all businesses in the United States which translates to 28.8 million businesses.[137]

7. Next, the type of small entity described as a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.''[138] Nationwide, as of August 2016, there were approximately 356,494 small organizations based on registration and tax data filed by nonprofits with the Internal Revenue Service (IRS).[139]

8. Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.''[140] U.S. Census Bureau data from the 2012 Census of Governments[141] indicate that there were 90,056 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States.[142] Of this number there were 37, 132 General purpose governments (county,[143] municipal and town or township[144]) with populations of less than 50,000 and 12,184 Special purpose governments (independent school districts[145] and special districts[146]) with populations of less than 50,000. The 2012 U.S. Census Bureau data for most types of governments in the local government category show that the majority of these governments have populations of less than 50,000.[147] Based on this data we estimate that at least 49,316 local government jurisdictions fall in the category of ''small governmental jurisdictions.''[148]

[130] 5 U.S.C. 603(b)(3).

[131] 5 U.S.C. 601(6).

[132] 5 U.S.C. 601(3) (incorporating by reference the definition of ''small-business concern'' in the Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.''

[133] 15 U.S.C. 632.

[134] *See* SBA, Office of Advocacy, ''Frequently Asked Questions,'' *https://www.sba.gov/sites/default/files/advocacy/SB-FAQ-2016_WEB.pdf.*

[135] *See* 5 U.S.C. 601(3)–(6).

[136] *See* SBA, Office of Advocacy, ''Frequently Asked Questions, Question 1—What is a small business?'' *https://www.sba.gov/sites/default/files/advocacy/SB-FAQ-2016_WEB.pdf* (June 2016).

[137] *See* SBA, Office of Advocacy, ''Frequently Asked Questions, Question 2—How many small businesses are there in the U.S.?'' *https://www.sba.gov/sites/default/files/advocacy/SB-FAQ-2016_WEB.pdf* (June 2016).

[138] 5 U.S.C. 601(4).

[139] Data from the Urban Institute, National Center for Charitable Statistics (NCCS) reporting on nonprofit organizations registered with the IRS was used to estimate the number of small organizations. Reports generated using the NCCS online database indicated that as of August 2016 there were 356,494 registered nonprofits with total revenues of less than $100,000. Of this number, 326,897 entities filed tax returns with 65,113 registered nonprofits reporting total revenues of $50,000 or less on the IRS Form 990–N for Small Exempt Organizations and 261,784 nonprofits reporting total revenues of $100,000 or less on some other version of the IRS Form 990 within 24 months of the August 2016 data release date. *See http://nccs.urban.org/sites/all/nccs-archive/html//tablewiz/tw.php* where the report showing this data can be generated by selecting the following data fields: Report: ''The Number and Finances of All Registered 501(c) Nonprofits''; Show: ''Registered Nonprofits''; By: ''Total Revenue Level (years 1995, Aug to 2016, Aug)''; and For: ''2016, Aug'' then selecting ''Show Results.''

[140] 5 U.S.C. 601(5).

[141] *See* 13 U.S.C. 161. The Census of Government is conducted every five (5) years compiling data for years ending with ''2'' and ''7''. *See also* Program Description Census of Government *https://factfinder.census.gov/faces/affhelp/jsf/pages/metadata.xhtml?lang=en&type=program&id=program.en.COG#.*

[142] *See* U.S. Census Bureau, 2012 Census of Governments, Local Governments by Type and State: 2012—United States—States, *https://factfinder.census.gov/bkmk/table/1.0/en/COG/2012/ORG02.US01.* Local governmental jurisdictions are classified in two categories—General purpose governments (county, municipal and town or township) and Special purpose governments (special districts and independent school districts).

[143] *See* U.S. Census Bureau, 2012 Census of Governments, County Governments by Population-Size Group and State: 2012—United States—States. *https://factfinder.census.gov/bkmk/table/1.0/en/COG/2012/ORG06.US01.* There were 2,114 county governments with populations less than 50,000.

[144] *See* U.S. Census Bureau, 2012 Census of Governments, Subcounty General-Purpose Governments by Population-Size Group and State: 2012—United States—States. *https://factfinder.census.gov/bkmk/table/1.0/en/COG/2012/ORG07.US01.* There were 18,811 municipal and 16,207 town and township governments with populations less than 50,000.

[145] *See* U.S. Census Bureau, 2012 Census of Governments, Elementary and Secondary School Systems by Enrollment-Size Group and State: 2012—United States—States. *https://factfinder.census.gov/bkmk/table/1.0/en/COG/2012/ORG11.US01.* There were 12,184 independent school districts with enrollment populations less than 50,000.

[146] *See* U.S. Census Bureau, 2012 Census of Governments, Special District Governments by Function and State: 2012—United States—States. *https://factfinder.census.gov/bkmk/table/1.0/en/COG/2012/ORG09.US01.* The U.S. Census Bureau data did not provide a population breakout for special district governments.

[147] *See* U.S. Census Bureau, 2012 Census of Governments, County Governments by Population-Size Group and State: 2012—United States—States. *https://factfinder.census.gov/bkmk/table/1.0/en/COG/2012/ORG06.US01;* Subcounty General-Purpose Governments by Population-Size Group and State: 2012—United States—States—*https://factfinder.census.gov/bkmk/table/1.0/en/COG/2012/ORG07.US01;* and Elementary and Secondary School Systems by Enrollment-Size Group and State: 2012—United States—States. *https://factfinder.census.gov/bkmk/table/1.0/en/COG/2012/ORG11.US01.* While U.S. Census Bureau data did not provide a population breakout for special district governments, if the population of less than 50,000 for this category of local government is consistent with the other types of local governments the majority of the 38, 266 special district governments have populations of less than 50,000.

[148] *Id.*

Governmental entities are, however, exempt from application fees.[149]

9. *All Other Telecommunications.* The ''All Other Telecommunications'' category is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation.[150] This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems.[151] Establishments providing internet services or voice over internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry.[152] The SBA has developed a small business size standard for All Other Telecommunications, which consists of all such firms with annual receipts of $35 million or less.[153] For this category, U.S. Census Bureau data for 2012 shows that there were 1,442 firms that operated for the entire year.[154] Of those firms, a total of 1,400 had annual receipts less than $25 million and 15 firms had annual receipts of $25 million to $49, 999,999.[155] Thus, the Commission estimates that the majority of ''All Other Telecommunications'' firms potentially affected by our action can be considered small.

E. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

10. This *Report and Order* does not adopt any new reporting, recordkeeping, or other compliance requirements.

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

11. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its approach, which may include the following four alternatives, among others: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.[156]

12. This *Report and Order* does not adopt any new reporting requirements. Therefore, no adverse economic impact on small entities will be sustained based on reporting requirements. In keeping with the requirements of the Regulatory Flexibility Act, we have considered certain alternative means of mitigating the effects of fee increases to a particular industry segment. For example, The Commission's annual de minimis threshold of $1,000, replaced last year with a new section 9(e)(2) annual regulatory fee exemption of $1,000, will reduce burdens on small entities with annual regulatory fees that total $1,000 or less. Also, regulatees may also seek waivers or other relief on the basis of financial hardship. *See* 47 CFR 1.1166.

G. Federal Rules That May Duplicate, Overlap, or Conflict

13. None.

V. Ordering Clauses

14. Accordingly, it is ordered that, pursuant to the authority found in sections 4(i) and (j), 9, 9A, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 159, 159A, and 303(r), this *Report and Order* is hereby adopted.

15. *It is further ordered* that the *Report and Order* shall be effective 30 days after publication in the **Federal Register**.

16. *It is further ordered* that the amendment adopted in section III A shall be effective 90 days after notice to Congress, pursuant to section 159A(b) of the Communications Act of 1934, as amended, 47 U.S.C. 159A(b),

17. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this *Report and Order,* including the Final Regulatory Flexibility Analysis in this document, to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

Federal Communications Commission.

Cecilia Sigmund,

Federal Register Liaison Officer.

[FR Doc. 2020–11348 Filed 6–19–20; 8:45 am]

BILLING CODE 6712–01–P

[149] 47 U.S.C. 158(d)(1)(A).

[150] *See* U.S. Census Bureau, 2017 NAICS Definitions, NAICS Code ''517919 All Other Telecommunications'', *https://www.census.gov/cgi-bin/sssd/naics/naicsrch?input=517919&search=2017+NAICS+Search&search=2017.*

[151] *Id.*

[152] *Id.*

[153] *See* 13 CFR 121.201, NAICS code 517919.

[154] U.S. Census Bureau, *2012 Economic Census of the United States,* Table EC1251SSSZ4, Information: Subject Series—Estab and Firm Size: Receipts Size of Firms for the United States: 2012, NAICS code 517919, *https://factfinder.census.gov/bkmk/table/1.0/en/ECN/2012_US/51SSSZ4//naics~517919.*

[155] *Id.*

[156] 5 U.S.C. 603(c)(1)–(c)(4).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 200528–0149]

RIN 0648–BH59

International Fisheries; Eastern Pacific Tuna Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Area of Overlap Between the Convention Areas of the Inter-American Tropical Tuna Commission and the Western and Central Pacific Fisheries Commission

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

ACTION: Final rule.

SUMMARY: Under authority of the Western and Central Pacific Fisheries Convention Implementation Act (WCPFCIA) and the Tuna Conventions Act, NMFS issues this final rule that revises the management regime for U.S. fishing vessels that target tunas and other highly migratory fish species (HMS) in the area of overlapping jurisdiction in the Pacific Ocean between the Inter-American Tropical Tuna Commission (IATTC) and the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPFC). The rule applies all regulations implementing IATTC resolutions in the area of overlapping jurisdiction and some regulations implementing WCPFC provisions. NMFS is undertaking this action based on an evaluation of the management regime in the area of overlapping jurisdiction, in order to satisfy the obligations of the United States as a member of the IATTC and the WCPFC, pursuant to the authority of the Western and Central Pacific Fisheries Convention Implementation Act (WCPFCIA) and the Tuna Conventions Act.

DATES: This rule is effective on July 22, 2020, except for 50 CFR 300.218, which is delayed. NOAA will publish a document in the **Federal Register** announcing the effective date.

ADDRESSES: Copies of supporting documents prepared for this final rule, including the regulatory impact review (RIR) and the environmental assessment (EA), as well as the proposed rule (84 FR 60040; November 7, 2019), are available via the Federal e-rulemaking Portal, at *www.regulations.gov* (search for Docket ID NOAA–NMFS–2018–0049). Those documents are also available from NMFS at the following address: Michael D. Tosatto, Regional Administrator, NMFS, Pacific Islands Regional Office (PIRO), 1845 Wasp Blvd., Building 176, Honolulu, HI 96818.

A final regulatory flexibility analysis (FRFA) prepared under authority of the Regulatory Flexibility Act is included in the Classification section of the **SUPPLEMENTARY INFORMATION** section of this document.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule may be submitted to PIRO at the address listed above, by email to *OIRA_Submission@omb.eop.gov,* or by fax to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Rini Ghosh, NMFS PIRO, 808–725–5033.

SUPPLEMENTARY INFORMATION:

Background

On June 12, 2018, NMFS published an advance notice of proposed rulemaking in the **Federal Register** (83 FR 27305) seeking public input about whether it should change the management regime for fishing vessels that target tunas and other HMS in the area of overlapping jurisdiction in the Pacific Ocean between the IATTC and the WCPFC. On November 7, 2019, NMFS published a proposed rule in the **Federal Register** (84 FR 60040) proposing to revise that management regime. The proposed rule was open for public comment until November 22, 2019.

This final rule is issued under the authority of the WCPFCIA (16 U.S.C. 6901 *et seq.*) and the Tuna Conventions Act (16 U.S.C. 951 *et seq.*). The United States is a member of both IATTC and WCPFC. NMFS implements decisions of WCPFC under the authority of the WCPFCIA and decisions of IATTC under the authority of the Tuna Conventions Act. The convention areas for the IATTC (IATTC Area) and WCPFC (WCPFC Area) overlap in the Pacific Ocean waters within an area bounded by 50° S latitude, 4° S latitude, 150° W longitude, and 130° W longitude (''overlap area'').

This final rule changes management of the overlap area in accordance with WCPFC and IATTC decisions (described below) regarding the overlap area. Specifically, this final rule changes management of the overlap area so that all NMFS regulations implementing IATTC resolutions apply in the overlap area. NMFS regulations implementing WCPFC conservation and management measures that place limits or restrictions on catch, fishing effort, and bycatch mitigation no longer apply in the overlap area, except that existing WCPFC regulations prohibiting transshipments at sea from or to purse seine vessels continue to apply. A few regulations implementing WCPFC conservation and management measures, will continue to apply in the overlap area for the reasons described below, in the section that follows Table 1.

The WCPFC and IATTC decisions addressing the overlap area (IATTC Recommendation C–12–11, ''IATTC–WCPFC Overlap Area,'' and the WCPFC decision documented in ''Summary Report of the Ninth Regular Session of the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean,'' Manila, Philippines, 2–6 December, 2012, paragraph 80, hereafter ''WCPFC–IATTC joint decision on the overlap area''), broadly indicate that a member of both commissions, such as the United States, may decide and notify both commissions which commission's conservation and management measures it intends to apply.

In the proposed rule, NMFS proposed that regulations implementing WCPFC measures that control fishing activity, such as purse seine fishing restrictions, longline fishing restrictions, and bycatch mitigation measures would no longer apply in the overlap area, and that WCPFC management measures related to monitoring, control, and surveillance (MCS) would continue to apply. NMFS stated in the proposed rule that it currently implements, and would continue to implement, the MCS measures pursuant to its obligations under the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPF Convention).

As described in more detail in the Comments and Responses section below, NMFS received comments on the proposed rule expressing concern regarding continued application of WCPFC MCS management measures in the overlap area. In particular, U.S. purse seine industry representatives indicated that the requirement for vessels to carry WCPFC observers in the overlap area is unnecessary and would make fishing in the overlap area more logistically complicated and unduly burdensome than if the rule did not continue to apply that requirement in the overlap area. If this requirement continues to apply, vessels would continue to need to carry two observers (an IATTC observer and a WCPFC observer) or carry a cross-endorsed observer [1] when fishing the overlap area.

NMFS has reexamined the proposed rule and believes the following regulations, proposed to be maintained in the overlap area in the proposed rule, need not apply in the overlap area for the United States to fulfill its obligations under the WCPF Convention:

- Transshipment observer requirements (50 CFR 300.215(b) and (d));
- general requirements to carry WCPFC observers (50 CFR 300.215(c)(1) and (2));
- transshipping, bunkering, and net sharing requirements (50 CFR 300.216(b)(2)–(3) and (c));
- transshipment reporting requirements (50 CFR 300.218(b) and (d));
- discard reporting requirements (50 CFR 300.218(e));
- net sharing reporting requirements (50 CFR 300.218(f));
- daily purse seine fishing effort reports (50 CFR 300.218(g)); and
- purse seine observer coverage (50 CFR 300.223(e)).

Therefore, this final rule removes the above WCPFC regulations, in addition to those WCPFC regulations identified in the proposed rule, from application in the overlap area.

Under this final rule, a few other WCPFC regulations continue to apply in the overlap area, as explained in more detail below in the section describing the action.

The preamble to the proposed rule provides additional information on all relevant IATTC and WCPFC regulations, including additional information on the regulations that previously applied in the overlap area and the development of the proposed rule, which is not repeated here.

The Action

This final rule changes the definition of ''IATTC Convention Area'' at 50 CFR 300.21 to include the overlap area with respect to all the regulations at 50 CFR part 300, subpart C, with the effect that

[1] A cross-endorsed observer is an observer that is ''cross-endorsed'' pursuant to a Memorandum of Cooperation between the WCPFC and the IATTC that specifies a process to allow the observer to meet the observer requirements of both organizations.

all regulations at 50 CFR part 300, subpart C, now apply in the overlap area (except in cases where particular regulations apply to more specific areas within the IATTC Area). The requirements under the Marine Mammal Protection Act and the Agreement on the International Dolphin Conservation Program (AIDCP), including observer requirements at 50 CFR 216.24(e), which already applied in the overlap area, continue to apply under the final rule. Table 1, below, lists the specific regulations, including citations, implementing WCPFC management measures and IATTC management measures that apply in the overlap area under the final rule. A detailed description of these regulations is provided in the proposed rule preamble and below.

In addition to those IATTC regulations described in the proposed rule, this final rule will apply several newly implemented IATTC regulations in the overlap area. Subsequent to publication of the proposed rule, NMFS published a final rule that expands the requirement for vessel owners to obtain International Maritime Organization (IMO) numbers to include smaller U.S. vessels fishing for tuna and tuna-like species in the IATTC Area and relaxes the restrictions on retention of incidental catch by purse seine vessels (84 FR 70040; December 20, 2019; corrected in 85 FR 8198; February 13, 2020). Under that final rule, all purse seine vessels are required to release all billfish, ray (except mobulid ray), dorado, and other fish species, except tuna, tuna-like species, and fish retained for consumption aboard the vessel. That final rule became generally effective on January 21, 2020; however, new or revised requirements related to collection of information, including the new IMO number requirements, are not yet in effect. The regulations implementing this rule are found at 50 CFR part 300, subpart C, and are applicable in the overlap area.[2]

Under this final rule, the following regulations at 50 CFR part 300, subpart O, which implement WCPFC conservation and management measures, no longer apply in the overlap area:[3]

- Transshipment observer requirements (50 CFR 300.215(b) and (d));
- general requirements to carry WCPFC observers (50 CFR 300.215(c)(1) and (c)(2));
- transshipping, bunkering, and net sharing requirements (50 CFR 300.216(b)(2)–(3) and (c));
- purse seine fishing effort limits (50 CFR 200.223(a));
- purse seine fish aggregating device (FAD) restrictions (50 CFR 300.223(b));
- purse seine catch retention requirements (50 CFR 300.223(d));
- purse seine observer coverage (50 CFR 300.223(e));
- purse seine sea turtle bycatch mitigation requirements (50 CFR 300.223(f));
- whale shark bycatch mitigation requirements (50 CFR 300.223(g)–(h));
- longline bigeye tuna catch limits (50 CFR 300.224(a));
- oceanic whitetip and silky shark interaction mitigation (50 CFR 300.226); and
- reporting requirements that are associated with the regulations listed above that would no longer apply in the overlap area (transshipment reporting requirements at 50 CFR 300.218(b) and (d); discard reporting requirements at 50 CFR 300.218(e); net sharing reporting requirements at 50 CFR 300.218(f); daily purse seine fishing effort reports at 50 CFR 300.218(g), and whale shark reporting requirements at 50 CFR 300.218(h))

Table 1 shows the regulations that apply and no longer apply in the overlap area under the final rule.

TABLE 1—TABLE OF REGULATIONS UNDER THE FINAL RULE

Regulations implementing WPCFC decisions		Regulations implementing IATTC decisions		
50 CFR 300 subpart O	Applies in overlap area under final rule?	50 CFR 300 subpart C or 50 CFR 216	Applies in overlap area under final rule?	Changed from proposed rule
§ 300.223(a) Purse seine fishing effort limits.	No	§ 300.25(e) Purse seine closures	Yes	No.
§ 300.223(b) Purse seine fish aggregating devices (FADs).	No	§ 300.28 Purse seine FAD restrictions	Yes	No.
§ 300.223(d) Purse seine catch retention.	No	§ 300.27(a) Tuna retention requirements for purse seine vessels.	Yes	No.
§ 300.223(f) Purse seine sea turtle mitigation.	No	§ 300.27(c) Purse seine sea turtle handling and release.	Yes	No.
§ 300.223(g)–(h) Purse seine whale shark mitigation.	No	§ 300.27(g)–(h) Purse seine whale shark restrictions for purse seine vessels.	Yes	No.
§ 300.224 Longline fishing restrictions.	No	§ 300.25(a) Longline tuna catch limits	Yes	No.
§ 300.226 Oceanic whitetip shark and silky shark.	No	§ 300.27(d) Oceanic whitetip shark restrictions; § 300.27(e)–(f) Silky shark restrictions.	Yes	No.
No comparable requirements	N/A	§ 300.25(b) Use of tender vessels	Yes	No (though not included in description of proposed rule).
No comparable requirements	N/A	§ 300.25(f) Restrictions on fishing in proximity to data buoys.	Yes	No.
No comparable requirements	N/A	§ 300.25(g) Pacific bluefin tuna catch limits	Yes	No.
No comparable requirements	N/A	§ 300.27(b) Release requirements for non-tuna species on purse seine vessels.	Yes	No.
No comparable requirements	N/A	§ 300.27(i)–(j) Mobulid ray restrictions	Yes	No.
No comparable requirements	N/A	§ 300.27(k) Shark handling and release requirements for purse seine vessels.	Yes	No.
No comparable requirements	N/A	§ 300.27(l) Shark line prohibition for longline vessels.	Yes	No.

[2] NMFS published a proposed rule on January 24, 2020 (85 FR 4250), to implement provisions in IATTC Resolutions C–19–01 (''Amendment to Resolution C–18–05 on the Collection and Analysis of Data on Fish Aggregating Devices (FADs)''), C–19–05 (''Amendment to the Resolution C–16–06 Conservation Measures for Shark Species, with Special Emphasis on the Silky Sharks *(Carcharhinus Falciformis),* for the Years 2020–2021''), and C–18–07 (''Resolution on Improving Observer Safety At Sea: Emergency Action Plan''), and AIDCP Resolution A–18–03 (''On Improving Observer Safety At Sea: Emergency Action Plan'').

[3] This list includes those regulations that NMFS proposed removing from application in the overlap area under the proposed rule, as well as the additional regulations described above that were not included in the proposed rule.

TABLE 1—TABLE OF REGULATIONS UNDER THE FINAL RULE—Continued

Regulations implementing WPCFC decisions		Regulations implementing IATTC decisions		
50 CFR 300 subpart O	Applies in overlap area under final rule?	50 CFR 300 subpart C or 50 CFR 216	Applies in overlap area under final rule?	Changed from proposed rule
§ 300.212 WCPFC vessel permit endorsements.	Yes	§ 300.22(b) IATTC vessel register requirements	Yes	No.
§ 300.213 Vessel information requirements for fishing in foreign exclusive economic zones (EEZs).	Yes	No comparable requirements	N/A	No.
§ 300.214 Compliance with Laws of Other Nations.	Yes	No comparable requirements	N/A	No.
§ 300.215(c)(3), (c)(4), and (c)(5) Accommodating observers.	Yes	§ 216.24(e) Purse seine observers *	Yes	No.
§ 300.215(b), (c)(1), (c)(2), and (d) Observers and Transshipment observers.	No	No comparable requirements	N/A	Yes.
§ 300.216(b)(1) Purse seine transshipment at sea.	Yes	§ 300.25(c) Purse seine transshipment requirements.	Yes	No.
§ 300.216(b)(2)–(3) and (c) Transshipping, bunkering and net sharing.	No	No comparable requirements	N/A	Yes.
§ 300.217 Vessel identification	Yes	§ 300.22(b)(3)(ii) IMO numbers	Yes	No.
§ 300.218 Reporting and recordkeeping requirements.	Yes **	§ 300.22 Recordkeeping and reporting requirements.	Yes	Yes.**
§ 300.219 Vessel monitoring system	Yes	§ 300.26 Vessel Monitoring System	Yes	No.
§ 300.221 Facilitation of enforcement and inspection.	Yes	No comparable requirements	N/A	No.
§ 300.223(e) Purse seine observer coverage.	No	§ 216.24(e) Purse seine observers *	Yes	Yes.
No comparable requirements	N/A	§ 216.24 Requirements for U.S. purse seine vessels fishing under the requirements of the AIDCP (*e.g.,* vessel and operator permit requirements, requirements for fishing on dolphins, *etc.*) *.	Yes	No.

* These regulations also implement provisions of the Marine Mammal Protection Act and the Agreement on the International Dolphin Conservation Program, and are not located at 50 CFR part 300, subpart C, but instead are located at 50 CFR part 216, subpart C.

** The transshipment reporting requirements at 50 CFR 300.218(b) and (d), the discard reporting requirements at 50 CFR 300.218(e), the net sharing reporting requirements at 50 CFR 300.218(f), the daily purse seine fishing effort reports at 50 CFR 300.218(g), and the whale shark reporting requirements at 50 CFR 300.218(h) no longer apply in the overlap area. The whale shark reporting requirements were described as no longer applicable in the overlap area under the proposed rule. However, the other requirements listed here that no longer apply in the overlap area are changes from the proposed rule.

Note: Titles of regulation sections have been modified in some instances to include additional descriptive information.

The narrative that follows provides an explanation of why certain WCPFC regulations continue to apply in the overlap area, while other WCPFC regulations no longer apply in the overlap area, under this final rule. The narrative is organized into topic areas.

Recordkeeping and Reporting

The regulations at 50 CFR 300.218(a) for catch and effort reporting continue to apply in the overlap area under the final rule. NMFS is required to maintain these provisions to fulfill its obligations under the WCPF Convention (see Annex III, Article 5, requiring vessel operators to ''record and report vessel position, catch of target and non-target species, fishing effort, and other relevant fisheries data'').

The regulations for transshipment reporting and notices at 50 CFR 300.218(b) and (d) apply to transshipment of fish caught in the WCPFC Area and transshipped anywhere. Thus, they continue to apply to transshipments of fish caught in the WCPFC Area outside the overlap area and transshipped inside the overlap area under this final rule. However, these regulations no longer apply to transshipments of fish caught in the overlap area and transshipped in the overlap area.

The reporting requirements at 50 CFR 300.218 (e), (f), (g), and (h), regarding purse seine discards, purse seine net sharing, daily purse seine fishing effort, and whale shark encirclements no longer apply in the overlap area.

Vessel Authorizations and Information

The requirements for vessel owners and operators to apply for and obtain from NMFS an endorsement to fish in the WCPFC Area (WCPFC Area Endorsement) and to provide certain information to NMFS if the vessel is used for fishing in waters under the jurisdiction of a nation other than the United States (50 CFR 300.212 and 50 CFR 300.213) continue to apply in the overlap area. The United States is required by the WCPF Convention to prohibit fishing vessels entitled to fly its flag to fish beyond its areas of national jurisdiction unless they have been authorized to do so and the United States must also ''maintain a record of fishing vessels entitled to fly its flag and authorized to be used for fishing in the [WCPF] Convention Area beyond its areas of national jurisdiction'' and ''ensure that all such fishing vessels are entered in that record'' (Article 24, Paragraphs 2 and 4). Accordingly, to continue to fulfill these requirements, NMFS is maintaining the regulations at 50 CFR 300.212 and 300.213 in the overlap area.

Vessel Identification

The vessel identification requirements at 50 CFR 300.217 continue to apply in the overlap area. The requirements include specific vessel marking requirements as well as requirements for obtaining IMO numbers. NMFS must maintain the marking requirement to fulfill its obligations under both the WCPF Convention (see Annex III, Article 6, Paragraph 3, stating that vessels must be ''marked and identified in accordance with the FAO Standard Specifications for the Marking and Identification of Fishing Vessels or such alternative standard as may be adopted by the Commission'') and the regulations implementing the High Seas Fishing Compliance Act (see 50 CFR 300.36). NMFS is maintaining the requirement for obtaining IMO numbers in the overlap area (50 CFR 300.217(c)).

A parallel IATTC regulation (50 CFR 300.22(b)) imposes the same requirement, so maintaining orremoving the WCPFC regulation in the overlap area would have no effect on vessel owners and operators at this time. As noted above, NMFS has published a final rule that expands the requirement for vessel owners to obtain IMO numbers to include smaller U.S. vessels fishing for tuna and tuna-like species in the IATTC Area (84 FR 70040; December 20, 2019; corrected in 85 FR 8198; February 13, 2020).

Observers

The majority of the requirements implementing WCPFC conservation and management measures regarding observers no longer apply in the overlap area under this final rule. However, the requirements for accommodating observers at 50 CFR 300.215(c)(3), (4), and (5) continue to apply in the overlap area, as they apply in all locations where a WCPFC observer is on board the vessel. The specific provisions regarding accommodation of WCPFC observers at 50 CFR 300.215(c) will continue to apply in the overlap area so there is no gap in these requirements, which are intended for the safety and well-being of WCPFC observers, just because the vessel has entered the overlap area.

Transshipment and Net Sharing

Requirements implementing the WCPFC decisions regarding transshipment and net sharing no longer apply in the overlap area under this final rule, except for the prohibition on transshipments at sea from or to purse seine vessels at 50 CFR 300.216(b)(1). NMFS is required to maintain the purse seine transshipment prohibition to fulfill its obligation under the WCPF Convention (see Article 29, Paragraph 5, stating that ''transshipment at sea by purse seine vessels operating within the Convention Area shall be prohibited''). Regulations that implement IATTC management measures for transshipment also include prohibitions on at-sea transshipment for purse seine vessels (50 CFR 300.25(c)).

Vessel Monitoring System (VMS)

Regulations implementing WCPFC VMS measures continue to apply in the overlap area under this final rule (50 CFR 300.219). NMFS is required to maintain the VMS provisions in order to fulfill its obligations under the WCPF Convention (see Article 24, Paragraph 8, stating that ''[e]ach member of the Commission shall require its fishing vessels that fish for highly migratory fish stocks on the high seas in the Convention Area to use near real-time satellite position-fixing transmitters while in such areas'').

NMFS implements the WCPFC VMS requirements so that the vessel owner and operator must continuously operate the VMS unit at all times, except that the VMS unit may be shut down while the vessel is at port or otherwise not at sea, provided that the owner and operator follows certain steps (50 CFR 300.219(c)(3)). Thus, similar to the requirements regarding accommodation of WCPFC observers, these regulations are not specific to a particular geographic area and continue to apply in the overlap area under this final rule.

Compliance With Laws of Other Nations

Regulations regarding compliance with laws of other nations (50 CFR 300.214) continue to apply in the overlap area under this final rule. NMFS is required to maintain this provision in order to fulfill its obligations under the WCPF Convention (see Annex III, Article 2, stating that vessel operators must ''comply with the applicable national laws of each coastal State Party to this Convention in whose jurisdiction it enters and shall be responsible for the compliance by the vessel and its crew with such laws and the vessel shall be operated in accordance with such laws'').

Facilitation of Enforcement and Inspection

Regulations for facilitating enforcement and inspection (50 CFR 300.221) continue to apply in the overlap area under this final rule. NMFS is required to maintain the regulations found in 50 CFR 300.221(a) in order to fulfill its obligations under the WCPF Convention. 50 CFR 300.221(a)(1) requires certain documentation be carried onboard, as required by Annex III, Article 6, Paragraph 1 of the WCPF Convention. This provision states that ''the authorization issued by the flag State of the vessel and if applicable, any license issued by a coastal State Party to this Convention, or a duly certified copy . . . shall be carried on board the vessel at all times and produced at the request of an authorized enforcement official of any member of the Commission.'' 50 CFR 300.221(a)(2) requires continuous monitoring of certain radio frequencies, as required by Annex III, Article 6, Paragraph 4 of the WCPF Convention, which states that vessel operators ''shall ensure the continuous monitoring of the international distress and calling frequency 2182 khz (HF) or the international safety and calling frequency 156.8 Mhz (channel 16, VHF–FM) to facilitate communication with the fisheries management, surveillance and enforcement authorities of the members of the Commission.'' Title 50 CFR 300.221(a)(3) requires that an up-to-date copy of the International Code of Signals (INTERCO) is on board and accessible at all times, as required by Annex III, Article 6, Paragraph 5 of the WCPF Convention. Title 50 CFR 300.221(a)(4) requires specific provisions for facilitating the work of WCPFC transshipment monitors, as required by Annex III, Article 4, Paragraph 2, which states ''[t]he operator shall allow and assist any person authorized by the Commission or by the member of the Commission in whose designated port or area a transhipment takes place to have full access to and use of facilities and equipment which such authorized person may determine is necessary to carry out his or her duties, including full access to the bridge, fish on board and areas which may be used to hold, process, weigh and store fish, and full access to the vessel's records, including its log and documentation for the purpose of inspection and photocopying. The operator shall also allow and assist any such authorized person to remove samples and gather any other information required to fully monitor the activity. The operator or any member of the crew shall not assault, obstruct, resist, delay, refuse boarding to, intimidate or interfere with any such authorized person in the performance of such person's duties. Every effort should be made to ensure that any disruption to fishing operations is minimized during inspections of trans[s]hipments.''

The regulations at 50 CFR 300.221(b) set forth specific requirements regarding boarding and inspection on the high seas. NMFS is required by the WCPF Convention to implement procedures for boarding and inspection established by the WCPFC (see Article 26, Paragraph 3, stating that Commission members ''shall ensure that fishing vessels flying its flag accept boarding by duly authorized inspectors in accordance with such procedures''). The regulations found in § 300.221(b) implement those WCPFC procedures (Conservation and Management Measure (CMM) 2006–08, ''Western and Central Pacific Fisheries Commission Boarding and Inspection Procedures''), and therefore, NMFS is maintaining these provisions in the overlap area.

The regulations at 50 CFR 300.221(c) require transiting fishing vessels to store gear when transiting in an area they are not authorized to fish, as required by Annex III, Article 6, Paragraph 6 of the WCPF Convention (''At all times when

[a] vessel is navigating through an area under the national jurisdiction of a member of the Commission in which it does not have a license to fish, and at all times when the vessel is navigating on the high seas in the Convention Area and has not been authorized by its flag state to fish on the high seas, all fishing equipment on board the vessel shall be stowed or secured in such a manner that is not readily available to be used for fishing'').

Comments and Responses

NMFS received 10 comment letters in response to the proposed rule, several of which included similar comments. Below, NMFS summarizes the matters raised in each of the individual comment letters, grouping similar comments together, and provides a response to each of these matters.

Comment 1: Several commenters expressed support for changing management of the overlap area so that regulations implementing IATTC decisions rather than regulations implementing WCPFC decisions would apply. One commenter stated that the IATTC rules are fairer, more transparent, and more clearly delineated in terms of the rules to be applied than are the WCPFC rules, thus reducing considerable uncertainty with respect to potential violations. According to the commenter, the IATTC regime establishes a more level playing field for the U.S. fleet when compared to other fleets; the management measures are more effectively monitored and enforced to ensure that everyone is abiding by the same rules. The commenter also stated that for these reasons, applying the IATTC rules to the overlap area would benefit the U.S. tuna purse seine fleet, which, according to the commenter, operates at a significant competitive disadvantage to its foreign competitors, and has been recently reduced in size by approximately one quarter due to the adverse economic conditions affecting the fleet. According to the commenter, if adopted and applied correctly, this proposed change could be one important step to mitigate these conditions and stabilize the current situation. It would also respond to some of the concerns of American Samoa Governor Moliga regarding the adverse effects of current conditions on the economy of American Samoa.

Response: NMFS acknowledges the comments. This final rule maintains the regulations in the proposed rule that apply IATTC management measures in the overlap area.

Comment 2: Several commenters expressed concern that the proposal to continue the requirement for purse seine vessels to carry WCPFC observers on all fishing trips in the overlap area would make fishing in the overlap area more logistically complicated and more expensive than if those regulations did not continue to apply in the overlap area. One commenter stated that more U.S. purse seine vessels are choosing to fish exclusively in the IATTC Area for all or a significant part of the year, rather than in the exclusive economic zones (EEZs) of Pacific island parties to the South Pacific Tuna Treaty. If the requirement to carry a WCPFC observer continues in the overlap area, vessels would continue to need to carry two observers (an IATTC observer and a WCPFC observer) or to carry a cross-endorsed observer when fishing in the overlap area. Commenters stated that all cross-endorsed observers are WCPFC observers that receive additional training from the IATTC to operate in the IATTC Area and that there are no cross-endorsed observers from the IATTC that are similarly approved to operate in the WCPFC Area. One commenter stated that a vessel departing from a port in the IATTC Area has two options for obtaining a WCPFC observer: (1) Fly the observer to the port of departure, at the cost of the travel as well as lost fishing time of a week or more; or (2) steam to Christmas Island or other port to pick the observer up, again at the loss of significant fishing time and fuel costs in excess of $20,000.

One commenter stated that it is important to note that purse seine vessels currently fishing exclusively in the IATTC Area do not embark cross-endorsed observers and thus are not able to fish in the overlap area. According to the commenter, maintaining the existing observer requirements for the overlap area would perpetuate this inequity, run counter to the proposed rule's specified intent of applying IATTC rules instead of WCPFC rules in the overlap area, and significantly reduce the potential benefits of the proposed rule to the purse seine fleet. The commenter also stated that the EA for the proposed rule shows that requiring cross-endorsed observers and other WCPFC MCS measures in the overlap area in addition to IATTC regulations would not provide any additional conservation benefit.

Commenters requested NMFS to modify the proposed rule so that purse seine vessels fishing exclusively in the IATTC Area, including the overlap area, not be required to carry WCPFC observers, and be subject to only the IATTC-related observer requirements. One commenter stated that it understood that this is the practice of all others that are Contracting Parties to both the WCPF Convention and the Convention for the Strengthening of the Inter-America Tropical Tuna Commission Established by the 1949 Convention between the United States of America and the Republic of Costa Rica (Antigua Convention), and NMFS' rationale for maintaining both requirements is unclear. According to the commenter, NMFS' 2016 rule regarding the overlap area did continue to apply both WCPFC and IATTC observer requirements for purse seine vessels, but stated that NMFS only continued to apply the IATTC observer requirements at 50 CFR 300.22(b) to fulfill U.S. obligations under the AIDCP (2016 final rule; 81 FR 24501; April 26, 2016). The proposed rule does not similarly identify any U.S. treaty obligations that would be undermined or abrogated by following the clear intent of the WCPFC–IATTC joint decision on the overlap area. The commenter stated that the proposed rule draws an unwarranted and unsupported distinction between conservation and management measures for fish stocks and those for MCS purposes that runs contrary to the decisions of both organizations and fails to acknowledge that all WCPFC decisions related to the operations of fishing vessels, including those for MCS purposes, are implemented by binding conservation and management measures. The commenter stated that with respect to the continued application of certain WCPFC rules in the overlap area, the concern is not with the application of the requirements themselves. The concern is that the continued application of the WCPFC MCS measures in the overlap area appears to require vessels to carry cross-endorsed observers, which, as noted, will unnecessarily limit the benefits of the proposed rule for vessels fishing exclusively in the IATTC Area. Another commenter stated that it did not believe that there are issues relating to legal obligations for carrying an observer under either the WCPF Convention or the Antigua Convention, since both conventions require purse seine vessels just to carry an observer, and do not specify that the observer needs to be a WCPFC observer or an IATTC observer.

Response: As stated above, NMFS has reconsidered the specific WCPFC observer coverage requirements for purse seine vessels in 50 CFR 300.223(e). We agree that NMFS need not apply the observer provisions in 50 CFR 300.223(e) in the overlap area in order for the U.S. to fulfill its obligations under the WCPF Convention. Moreover, requiring both a

WCPFC observer and an IATTC observer, or a cross-endorsed observer, would not provide any additional conservation or monitoring benefit, and may be cost-prohibitive for vessels fishing in the IATTC Area who wish to enter the overlap area. However, for the reasons discussed above, the requirements for accommodating observers at 50 CFR 300.215(c)(3) continue to apply in the overlap area.

In response to the comment that the proposed rule did not identify any U.S. treaty obligation that would be undermined by continuing to apply certain WCPFC regulations in the overlap area, NMFS has identified specific provisions of the WCPF Convention which impose continuing requirements upon NMFS in the overlap area. NMFS is continuing to apply WCPFC regulations which are necessary to continue to fulfill its obligations under the WCPF Convention. Please see discussion above for a description of these obligations.

Comment 3: One commenter objected to NMFS' conclusions that the proposed rule would not have any disproportionate economic impacts based on vessel size, gear, or homeport and that the rule would only bring modest increases in compliance costs to purse seine vessels. According to the commenter, the purse seine observer coverage requirements under the proposed rule would permanently prevent some vessels that are active on the IATTC Regional Vessel Register (RVR) from being able to fish in the overlap area. The commenter stated that since publication of the 2016 final rule, repeated requests have been made to NMFS to assist in getting IATTC observers approved as cross-endorsed observers, but there are still no IATTC observers that are cross-endorsed observers. In addition, the commenter stated that the WCPFC and the Pacific Islands Forum Fisheries Agency (FFA) have stated that a WCPFC observer will never be placed on board a vessel that is not on the WCPFC Record of Fishing Vessels. Thus, according to the commenter, U.S. purse seine vessels that are on the IATTC RVR but not on the WCPFC Record of Fishing Vessels would not be permitted to fish in the overlap area under the proposed rule. The commenter stated that unlike IATTC vessels from every other nation, and any U.S. flagged purse seine vessel that operates in the WCPFC Area outside of the overlap area, its vessel would be completely excluded from fishing in the overlap area, and suffer the resulting disproportionate economic impact simply because it operates from a port in the eastern Pacific Ocean (EPO) instead of the western and central Pacific Ocean (WCPO).

In addition, the commenter stated, for vessels that are on both the IATTC RVR and the WCPFC Record of Fishing Vessels and operate from ports in the EPO, the requirement to carry a WCPFC observer results in trip delays and tens of thousands of dollars in additional costs for every fishing trip in the overlap area. According to the commenter, it takes the IATTC approximately 24 hours to assign an observer to a vessel leaving out of a port in the EPO, but the process to obtain a WCPFC observer that is a cross endorsed-observer is substantially more burdensome. The commenter stated that it takes at least two weeks advance notice to have a cross-endorsed observer assigned to a vessel in the EPO, if such as an observer is even available. According to the commenter, once the vessel owner notifies the FFA that a cross-endorsed observer is needed, the FFA begins the process of finding an observer who is willing to travel to South America. The vessel owner must then pay for a round trip ticket for the observer and obtain all required visas for the travel, which amount to approximately $6,000 per trip. If the FFA cannot provide an observer willing to travel to South America, a vessel based out of an EPO port must travel with an IATTC observer on board, cross into the WCPFC Area and pick up a WCPFC observer, and then enter the overlap area. Such a trip takes at least four days out of the way to get to the closest port in the WCPFC Area, which costs upwards of $20,000 in fuel costs, in addition to the crew and other vessel costs and lost fishing time.

Response: Please see the response to Comment 2, above, regarding application of WCPFC purse seine observer coverage requirements in the overlap area under this final rule. The WCPFC observer coverage requirements for purse seine vessels found in 50 CFR 300.223(e) no longer apply in the overlap area under this final rule. The analysis in the FRFA below, provides an updated discussion of the compliance costs of the final rule, including a discussion of potential disproportionate economic impacts. NMFS notes that the requirement to carry a WCPFC observer on U.S. purse seine vessels when in the overlap area was not newly proposed in the proposed rule (*i.e.,* it was an existing requirement). Thus, the proposed rule would not have introduced any new compliance costs regarding observers for U.S. purse seine vessels when fishing in the overlap area, and would not have led to disproportionate economic impacts based on vessel size, gear, or homeport.

Comment 4: One commenter questioned why the WCPFC is giving up or ceding its right to determine fishing regulations in the overlap area.

Response: Under the WCPF Convention, the WCPFC continues to have management competence over the overlap area. However, the WCPFC and IATTC decided that members of both commissions, like the United States, can choose whether to apply WCPFC management measures or IATTC management measures in the overlap area (see WCPFC–IATTC joint decision on the overlap area). Table 1, above, shows the domestic regulations implementing WCPFC decisions and which regulations implementing IATTC decisions that NMFS is applying in the overlap area under this final rule.

Comment 5: One commenter stated that the use of FADs can pose a serious risk to young fish populations, specifically juvenile yellowfin and bigeye tuna. The commenter requested that the more stringent FAD restrictions enacted through the WCPFC-derived regulations remain in effect and not be replaced by regulations implementing IATTC measures. According to the commenter, populations of younger yellowfin and bigeye tuna tend to congregate near FADs much more frequently than their adult counterparts. The commenter stated that FADs are believed to be effective because they provide fish with a sense of security from lurking predators in the open sea, and that younger fish seek this protection much more than adult fish. The commenter provided information regarding the behavioral tendencies of fish around FADs and cited a publication by the Pew Environment Group. According to the commenter, FADs place juvenile fish populations at risk of being overfished, which can lead to sharp declines in overall fish populations, and place our natural resources in jeopardy. The commenter stated that the regulations implementing the WCPFC 5-month FAD prohibition period should remain in effect in the overlap area.

Response: As stated in the EA, the change in application in the overlap area from the WCPFC purse seine fishing effort limits and FAD restrictions to the IATTC purse seine fishing seasonal closures and FAD restrictions could affect the fishing patterns and practices of U.S. purse seine vessels fishing in the overlap area, leading to greater fishing effort in the overlap area and possibly greater flexibility and fishing opportunities in the WCPO as a whole. However, when agreeing on the joint WCPFC–IATTC decision on the overlap area, the WCPFC and IATTC

recognized that a member may choose to apply the conservation and management measures of only the WCPFC or the IATTC. Moreover, as stated in the EA, because many other factors contribute to the status of the stocks (fishing activities by non-U.S. fleets, oceanographic conditions, etc.), and because the overlap area is a small part of the total area available for fishing in the Pacific Ocean, the direct and indirect effects to fish stocks from implementation of this final rule is expected to be small. The stocks of skipjack tuna, yellowfin tuna, and bigeye tuna in the Pacific Ocean are not currently in an overfished condition or experiencing overfishing (except the EPO stock of yellowfin tuna).

Comment 6: One commenter stated that the overlap area is an important fishing ground for the U.S. purse seine fleet based in American Samoa, due to the geographic proximity of the overlap area to American Samoa. The commenter also stated that U.S. purse seine vessels do not have to pay access fees for fishing on the high seas in the overlap area, unlike the access fees needed to fish in the EEZs of the Parties to the Nauru Agreement, Tokelau, and the Cook Islands. According to the commenter, the current practice of applying both the WCPFC and IATTC management measures to the overlap area is redundant and is a wasteful use of compliance, monitoring, surveillance and regulatory resources. Similarly, the commenter stated, the proposed rule seems wasteful and operationally impractical in that it requires both IATTC observers and WCPFC observers or a cross-endorsed observer for fishing in the overlap area. According to the commenter, cross-endorsed observers are not always available, so U.S. purse seine vessels operating from American Samoa may not be able to fish in the overlap area if an IATTC observer or a cross-endorsed observer is unavailable. The commenter stated that the American Samoa government is trying to attract fishing vessels to operate out of American Samoa so that the canneries will have access to their catch; locally based U.S. purse seine vessels are critically important for the supply of tuna to the dependent economy. The commenter stated that U.S. purse seine vessels need access to the overlap area, but access would be effectively blocked if the vessels have to take observers from both the WCPFC and the IATTC and such observers or cross-endorsed observers are not available.

Response: NMFS acknowledges the comment. However, the term ''current practice'' in the comment is unclear to NMFS and NMFS does not know whether the commenter is referring to the regulatory changes described in the proposed rule or to regulations that were already in effect. Table 1 above details the regulations that were already in effect, the regulations that go into effect under this final rule, and the changes from the proposed rule. Please see the response to Comment 2, above, regarding application of WCPFC purse seine observer requirements in the overlap area under this final rule. The WCPFC observer coverage requirements for purse seine vessels found in 50 CFR 300.223(e) no longer apply in the overlap area under this final rule. U.S. purse seine vessels operating from American Samoa must comply with the IATTC observer measures for purse seine vessels found in 50 CFR 216.24(e) when operating in the overlap area, which can be satisfied by carrying either an IATTC observer or a cross-endorsed observer. The current list of cross-endorsed observers includes 86 individuals (list dated September 26, 2019), all from Pacific Island countries, and thus, they are generally more readily available to depart from American Samoa than are IATTC observers.

Comment 7: A commenter stated that there is no need to have an area of overlap between two fishing commissions that manage tuna. According to the commenter, the IATTC covers more overall territory and the IATTC's distribution of fishing zones is more precise and evenly spaced. Thus, the commenter stated, it would be more efficient for the overlap area to be managed by the IATTC, but questioned what those on the U.S. west coast and in the Pacific islands would receive in return. According to the commenter, the proposed rule does not seem to provide a detailed solution to revoking territory from the WCPFC.

Response: NMFS acknowledges the comment. However, the matter raised by the commenter is outside the scope of this rulemaking. The WCPF Convention specifies the WCPFC's area of competence, which includes the overlap area, and the Antigua Convention specifies the IATTC's area of competence, which includes the overlap area. As these boundaries are established by international agreement, NMFS has no authority to alter them.

Comment 8: A commenter stated that there may be protocols in place between the IATTC and the Secretariat of the Pacific Community (and by extension WCPFC) for sharing observer data for vessels carrying IATTC observers in the overlap area. The commenter requests that NMFS consider whether any such arrangement might be sufficient to address the concerns expressed (by the same commenter) regarding the need for U.S. purse seine vessels fishing in the overlap area to carry a cross-endorsed observer.

Response: NMFS acknowledges the comment. As detailed in the response to Comment 2, above, the WCPFC purse seine observer coverage requirements at 50 CFR 300.223(e) no longer apply in the overlap area under this final rule.

Comment 9: One commenter requested protection for tuna fisheries and the areas where tuna live.

Response: NMFS acknowledges the comment. As detailed in Table 1, above, NMFS regulations that implement conservation and management measures for tuna fisheries apply in the overlap area under this final rule.

Changes From Proposed Rule

In this final rule, several regulations implementing WCPFC decisions, which would have applied in the overlap area under the proposed rule, no longer apply in the overlap area. These regulations are as follows:

- Transshipment observer requirements (50 CFR 300.215(b) and (d));
- general WCPFC observer coverage requirements (50 CFR 300.215(c)(1) and (2));
- transshipping, bunkering, and net sharing regulations (50 CFR 300.216(b)(2)–(3) and (c));
- transshipment reporting requirements (50 CFR 300.218(b) and (d));
- discard reporting requirements at (50 CFR 300.218(e));
- net sharing reporting requirements at (50 CFR 300.218(f));
- daily purse seine fishing effort reports (50 CFR 300.218(g)); and
- purse seine observer coverage (50 CFR 300.223(e)).

The reasons for these changes from the proposed rule are described in greater detail above in the Background section.

This final rule also includes an administrative change to the definition of Effort Limit Area for Purse Seine, or ELAPS, to further clarify that the regulations at 50 CFR 300.223(a) implementing WCPFC purse seine fishing effort limits, no longer apply in the overlap area, and an administrative change to the definition of overlap area. Based on NMFS' reexamination of the proposed rule, NMFS believes these administrative changes will help clarify the intent of the final rule.

Classification

The Assistant Administrator for Fisheries has determined that this final

rule is consistent with the WCPFCIA, the Tuna Conventions Act, and other applicable laws.

Coastal Zone Management Act (CZMA)

NMFS determined that this action is consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program of American Samoa, the Commonwealth of the Northern Mariana Islands (CNMI), Guam, and the State of Hawaii. NMFS submitted determinations to Hawaii and each of the Territories on February 7, 2019, for review by the responsible state and territorial agencies under section 307 of the CZMA. The CNMI replied by letter dated March 7, 2019, stating that based on the information provided, it has determined that the action will be undertaken in a manner that is consistent to the maximum extent practicable with the enforceable policies of the CNMI's coastal management program. Hawaii replied by letter dated February 15, 2019, stating that, because the overlap area is outside of the jurisdiction of the Hawaii Coastal Zone Management Program's enforceable policies, it would not be responding to the consistency determination. No responses were received from Guam or American Samoa, and thus, concurrence with the respective consistency determinations is presumed (15 CFR 930.41).

Executive Order 12866

This final rule has been determined to be not significant for purposes of Executive Order 12866.

Executive Order 13771

This final rule is considered an Executive Order 13771 deregulatory action.

Regulatory Flexibility Act (RFA)

A final regulatory flexibility analysis (FRFA) was prepared as required by section 604 of the RFA. The FRFA incorporates the initial regulatory flexibility analysis (IRFA) prepared for the proposed rule. The analysis in the IRFA is not repeated here in its entirety. A description of the action, why it is being considered, and the legal basis for this action are contained above in the **SUMMARY** section and this **SUPPLEMENTARY INFORMATION** section of the preamble of this final rule. The FRFA analysis follows:

Significant Issues Raised by Public Comments in Response to the IRFA

NMFS received one comment that responded specifically to the IRFA. Comment 3, above, objected to NMFS' conclusions regarding disproportionate economic impacts and compliance costs. Several other comments on the proposed rule related to NMFS' assessment of the economic effects of the proposed rule, and thus could be relevant to the IRFA. See the discussion above summarizing Comments 1, 2, 3, and 6 and NMFS's responses to those comments.

Description of Small Entities to Which the Rule Will Apply

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 114111) 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.

The final rule would apply to owners and operators of U.S. commercial fishing vessels used to fish for HMS in the overlap area, including longline vessels, albacore troll vessels, and purse seine vessels. The number of such vessels is the number authorized to fish in both the IATTC Area and WCPFC Area. The numbers as of January 27, 2020, as reflected on the IATTC RVR and the WCPFC Record of Fishing Vessels, were 144 longline vessels, 25 albacore troll vessels, and 15 purse seine vessels.

Based on limited financial information about the affected fishing fleets, and using individual vessels as proxies for individual businesses, NMFS believes that all of the affected longline and albacore troll fishing entities, and almost 85 percent of the purse seine fishing entities, are small entities as defined by the RFA; that is, they are independently owned and operated and not dominant in their fields of operation, and have annual receipts of no more than $11.0 million. Within the purse seine fleet, analysis of the average revenue, by vessel, for the three years of 2016–2018 (most recent data available) reveals that average annual revenue among vessels in the fleet was about $9.0 million, and the 3-year annual averages were less than the $11 million threshold for 12 of the 15 vessels on both the RVR and the WCPFC Record of Fishing Vessels.

Recordkeeping, Reporting, and Other Compliance Requirements

The reporting, recordkeeping and other compliance requirements of this final rule are described earlier in the preamble, as well as in the preamble to the proposed rule. The classes of small entities subject to the requirements and the expected costs of complying with the requirements are described in this Classification section of this final rule.

As described in the Paperwork Reduction Act (PRA) subsection below, this final rule contains a revised collection-of-information requirement subject to review and approval by OMB under the PRA.

Fulfillment of the requirements under the final rule is not expected to require any professional skills that affected vessel owners and operators do not already possess.

For longline fishing entities, although as previously described there are about 144 such entities that are authorized to be used for fishing in the overlap area, there has been very little fishing activity in the overlap area (and no longline fishing activity at all since 2010), and NMFS has not identified any factors affecting the longline fishing status quo. The overlap area is distant from the general areas of operation of the U.S. longline fisheries in the Pacific Ocean. Moreover, the longline bigeye tuna catch limit for the WCPFC area is 3,554 metric tons (mt) per year, while the longline bigeye tuna catch limit for the IATTC area through 2020 is 750 mt per year for vessel over 24 meters in overall length. Thus, at least for large vessels that are capable of making the trip to the overlap area, the change in management of the overlap area from WCPFC regulations to IATTC regulations is not expected to provide an increased incentive to fish in the overlap area. Consequently, NMFS expects the final rule to have little or no effect in terms of recordkeeping, reporting, or other compliance requirements for affected longline fishing entities.

For albacore troll fishing entities, NMFS does expect fishing activity in the overlap area, so affected troll fishing entities could experience effects from the final rule. Under the final rule, two substantive sets of requirements that implement conservation and management measures for fishing activity are newly applied to the overlap area: The regulations to implement IATTC conservation and management measures that restrict fishing in proximity to data buoys (50 CFR 300.25(f)), and the regulations to implement IATTC conservation and management measures prohibiting the retention of mobulid rays (with limited exceptions) and requiring that they be handled and released in specified manners (50 CFR 300.27(i)–(j)). The new data buoy requirements could increase

operating costs by increasing the time spent at sea in the overlap area. For example, the vessel operator and crew would have to avoid interactions with data buoys, and if the vessel or gear becomes entangled with a data buoy they would need to make sure to disentangle the gear carefully, to cause as little damage to the data buoys as possible. As NMFS found in the analysis in support of the 2011 rulemaking establishing these requirements throughout the IATTC Area, NMFS expects interactions with data buoys to be rare (76 FR 68332; November 4, 2011). Moreover, data from the National Data Buoy Center (NDBC) indicates that only one anchored data buoy is located in the overlap area. Since interactions with data buoys would be unlikely to occur in the overlap area, the compliance costs are expected to be minor or nil. NMFS does not expect the mobulid ray requirements to lead to any compliance costs for albacore troll fishing vessels, because there is very little bycatch in albacore troll fisheries (81 FR 50401; August 1, 2016).

Some of the regulations implementing WCPFC conservation and management measures (at 50 CFR part 300, subpart O) no longer apply in the overlap area, but they are replaced with comparable regulations implementing IATTC conservation and management measures (at 50 CFR part 300, subpart C) that now apply in this area. Specifically, the IATTC prohibition against retaining oceanic whitetip shark, implemented by 50 CFR 300.27(d)), now applies in the overlap area. The requirements under the regulations implementing WCPFC conservation and management measures and IATTC conservation and management measures are similar, and NMFS does not expect any substantive change in compliance costs for albacore troll fishing entities. The regulations implementing WCPFC requirements for observer coverage for transshipments at sea, transshipping and bunkering, and for transshipment reporting for fish caught in the overlap area no longer apply in the overlap area. However, available information indicates that albacore troll vessels have not been transshipping in the WCPFC Area, including the overlap area, in recent years. There are also new requirements of a more administrative nature that apply in the overlap area for albacore troll fishing entities under regulations implementing IATTC conservation and management measures, including logbook reporting requirements (50 CFR 300.22(a)(1)), VMS requirements (50 CFR 300.26), and the prohibition on the use of tender vessels (50 CFR 300.25(b)). However, because the affected albacore troll fishing entities are already required to comply with these requirements when fishing in the IATTC Area, the application of these requirements in the overlap area would not require substantial changes in practices and would not be expected to bring any change in compliance costs.

For the purse seine fishing entities, the removal of several regulations that implement WCPFC conservation and management measures for fishing activity from the overlap area is expected to reduce compliance costs, but those reductions will be somewhat offset by compliance costs associated with the imposition of similar regulations to implement IATTC conservation and management measures in the overlap area. The regulations that are removed from the overlap area under this final rule are the annual limits on purse seine fishing effort and the seasonal prohibitions on setting on FADs (50 CFR 300.223(b)), as well as the requirements to carry WCPFC observers on all fishing trips (50 CFR 300.223(e)). The IATTC-related regulations that are now applied in the overlap area are the seasonal closures on purse seine fishing and purse seine FAD restrictions (50 CFR 300.28), as well as the IATTC observer coverage requirements that have already been in effect (50 CFR 216.24(e)). Aside from the observer coverage requirements, the respective purse seine measures of IATTC and WCPFC are not directly comparable, and NMFS cannot predict their respective potential compliance costs with any precision. Accordingly, only a qualitative comparison of their respective compliance costs is possible. The measures as they apply on the high seas are what matter for this analysis, since no portion of the U.S. EEZ is within the overlap area, and no U.S. commercial HMS fishing vessels have had a history of fishing in the foreign EEZs in the overlap area. Under the final rule, U.S. purse seine fishing vessels are subject to one of the IATTC's two 72-day prohibitions on purse seine fishing (50 CFR 300.25(e)) in the overlap area each year. If instead the WCPFC measures continued to apply in the overlap area, U.S. purse seine fishing entities would be allowed, collectively, to spend 1,270 fishing days on the high seas in the WCPFC Area each year, with fishing days spent in the overlap area counting against that limit, and they would be subject to 5-month prohibitions on fishing on FADs in the overlap area each year (50 CFR 300.223). Although, the two sets of measures are not directly comparable, the IATTC measures provide greater fishing opportunities to most or all affected purse seine fishing entities than those of WCPFC, because the IATTC purse seine closure period is shorter than the purse seine closures that have been in effect on the high seas in the WCPO due to the purse seine fishing effort limits specified by the WCPFC (in 2015, closure from June 15 through December 31, 2015; in 2016, closure from September 2 through December 31, 2016; in 2018, closure from September 18 through December 31, 2018; in 2019, closure from October 9 through November 28, 2019, and December 10 through December 31, 2019) or the WCPFC FAD prohibition periods. Further, the vessels operating under IATTC measures have greater operational certainty (affording logistical and maintenance predictability) because the vessel owner chooses between one of two closure periods rather than being subject to a variable closure date under WCPFC measures. It is not possible to predict the degree to which those opportunities would be taken advantage of, but the greater opportunities and flexibility they provide indicate that application of IATTC measures in the overlap area will likely reduce compliance costs for the directly affected purse seine fishing entities.

Purse seine fishing entities authorized to fish in the WCPFC Area but not in the overlap area (because they are on the WCPFC Record of Fishing Vessels but not on the IATTC RVR) would not be directly affected by the final rule, but they could be indirectly affected. The fishing effort limits set forth in WCPFC conservation and management measures no longer apply in the overlap area, allowing greater fishing effort in the overlap area. Additionally, under the final rule, fishing effort in the overlap area is not counted against WCPFC limits, potentially increasing fishing opportunities for the U.S. purse seine fleet outside the overlap area. This is based on trends in recent years showing increased U.S. purse seine fishing activity in the overlap area. Since all of the fishing days in the overlap area no longer count towards the WCPFC-specified fishing effort limits, it is likely that more fishing days would be available to U.S. purse seine vessels on the high seas in the WCPFC Area outside of the overlap area.

The removal of the requirement for purse seine vessels to carry WCPFC observers on all fishing trips in the overlap area is expected to reduce compliance costs, as U.S. purse seine vessels no longer need to carry both a

WCPFC observer and an IATTC observer or a cross-endorsed observer when fishing in the overlap area. As detailed in the comment summary and response section, above, obtaining a cross-endorsed observer or a WCPFC observer is costly and difficult for U.S. purse seine vessels departing from ports in the EPO, so this final rule will provide relief from that cost.

In addition to the changes to the purse seine-specific regulations just described, several substantive requirements apply to purse seine fishing entities in the overlap area under the final rule that did not previously apply in that area: The regulations implementing IATTC conservation and management measures on FADs (50 CFR 300.28), the Pacific bluefin tuna catch limit (50 CFR 300.25(g)), restrictions on fishing in proximity to data buoys (50 CFR 300.25(f)), requirements to release non-tuna and non-tuna-like species (50 CFR 300.27), requirements to release mobulid rays (with limited exceptions) and release them in specified manners (50 CFR 300.27(i)–(j)), and requirements to release sharks and handle them in specified manners (50 CFR 300.27(k)), as explained in more detail below.

The FAD management measures include FAD identification regulations that require that deployed FADs be physically marked with unique identifiers, as well as limits on the number of active FADs, restrictions on FAD deployments and removals, and FAD design regulations, which require that all FADs on board or deployed meet certain specifications, particularly with respect to the use of netting. Although this final rule changes the area of application of the FAD management regulations at 50 CFR 300.28, all of the affected vessels are currently complying with those regulations when fishing in the EPO. Data from 2014–2018 show that all current U.S. purse seine vessels that fished in the overlap area also fished in the EPO. For affected entities, the change in area of application of the FAD management regulations probably will only bring a minor increase in costs or no increased costs, as they are already complying with those regulations when fishing in the EPO outside the overlap area. Moreover, there are comparable limits for the number of active FADs currently applicable in the overlap area under the regulations implementing WCPFC decisions at 50 CFR 300.223(b).

The Pacific bluefin tuna catch limits that will go into effect in the overlap area under the final rule are not expected to bring compliance costs to the large U.S. purse seine vessels that fish in the overlap area, as these vessels generally do not target or catch Pacific bluefin tuna.

The data buoy requirements could increase operating costs for purse seine vessels by increasing the time spent at sea for a given amount of fishing. For example, vessels now are not allowed to fish within 1 nautical mile of an anchored data buoy, they must avoid interactions with data buoys, and if the vessel or its gears becomes entangled with a data buoy, the operator and crew need to make sure to disentangle the gear carefully to cause as little damage to the data buoys as possible. As NMFS found in the 2011 rulemaking that established these requirements throughout the IATTC Area, NMFS expects interactions with data buoys to be rare (76 FR 68332; November 4, 2011). Moreover, there is a small number of data buoys located in the overlap area. Based on data from the NDBC, only one anchored data buoy is located in the overlap area. Thus, the compliance costs are expected to be minor.

The requirements to release non-tuna species and non-tuna-like species, mobulid rays, and sharks are not expected to substantially affect business revenues, because none of the affected fishing entities target non-tuna species and non-tuna-like species, sharks, or rays. However, the requirements could lead to increased time spent by vessel operators and crew handling and releasing incidentally caught non-tuna species and non-tuna-like species, sharks, and rays in the specified manner, and so could bring modest compliance costs. In addition, these requirements could detrimentally affect revenues if targeted tuna are incidentally released when these species are intentionally released from the brailer to comply with the regulations. However, affected U.S. purse seine vessel owners and operators are already subject to these requirements when fishing in the IATTC Area, and thus the small change in the area of application of these requirements is not expected to substantially increase compliance costs.

Some regulations implementing WCPFC conservation and management measures for bycatch (at 50 CFR part 300, subpart O) no longer apply in the overlap area. However, comparable regulations that implement IATTC conservation and management measures for bycatch (at 50 CFR part 300, subpart C) now apply in the overlap area. Regulations that have shifted in this manner include the requirements to retain all catch of bigeye tuna, skipjack tuna, and yellowfin tuna (50 CFR 300.27(a)), not to retain oceanic whitetip shark (50 CFR 300.27(d)), and not to retain silky shark (50 CFR 300.27(e)); requirements regarding sea turtle handling and release (50 CFR 300.27(c)); whale shark restrictions (50 CFR 300.27(g)–(h)); and whale shark encirclement reporting requirements (50 CFR 300.22(a)(2)). For these requirements, the two sets of regulations are similar, and NMFS does not expect any substantive change in compliance costs.

There are also six additional requirements for purse seine fishing entities under the regulations implementing IATTC conservation and management measures that are in effect under the final rule. These requirements include reporting on FAD interactions (50 CFR 300.22(a)(3)(i)), reporting on active FADs (50 CFR 300.22(a)(3)(ii)), logbook reporting requirements (50 CFR 300.22(a)(1)), the prohibition on the use of tender vessels (50 CFR 300.25(b)), transshipment requirements (50 CFR 300.25(c)), and VMS requirements (50 CFR 300.26). The first two requirements (reporting on FAD interactions and reporting on active FADs) bring substantive new requirements for fishing activities in the overlap area. Regarding the requirement for reporting on FAD interactions, as NMFS found in the 2016 rulemaking that established the requirement throughout the IATTC Area (excepting the overlap area), NMFS expects a minimal additional time burden for owners and operators of large purse seine vessels to record the specified information for FAD interactions activities, and expects minor impacts on business incomes (81 FR 86966; December 2, 2016). Regarding reporting on active FADs, as NMFS found in the 2018 rulemaking establishing the requirement throughout the IATTC Area (excepting the overlap area), NMFS does not expect any increase in compliance costs, because it is likely that vessel operators are already collecting the necessary information (83 FR 15503; April 11, 2018). The latter four requirements (prohibition on the use of tender vessels, logbook reporting requirements, transshipment requirements, and VMS requirements) are not expected to bring any new compliance costs, because the affected purse seine fishing entities are currently subject to those regulations when fishing in the IATTC Area outside of the overlap area, and the addition of these regulations in the overlap area will not require substantial changes in practices. Moreover, the regulations implementing the IATTC prohibition on at-sea transshipments for purse seine vessels are essentially identical to regulations in

effect in the overlap area implementing the WCPF Convention and WCPFC decisions. Similarly, the regulations implementing the IATTC VMS provisions are essentially identical to regulations in effect in the overlap area implementing the WCPF Convention and WCPFC decisions, but would just apply to a smaller group of vessels—vessels 24 meters or more in overall length. Given that the requirements implementing the WCPF Convention already apply and continue to apply under the final rule to vessels of all sizes, there will be no new VMS requirements under the proposed rule, and all U.S. commercial fishing vessels fishing for HMS in the overlap area are still required to continuously operate the VMS at all times, with certain exceptions.

Several other regulations implementing WCPFC conservation and management measures for U.S. purse seine vessels no longer apply in the overlap area under this final rule. These include the discard reporting requirements at 50 CFR 300.218(e); the transshipping, bunkering, and net sharing regulations at 50 CFR 300.216(b)(3) and 50 CFR 300.216(c); the net sharing reporting requirements at 50 CFR 300.218(f); and the daily purse seine fishing effort reports at 50 CFR 300.218(g). However, under regulations implementing the WCPF Convention and IATTC resolutions, U.S. purse seine vessels are prohibited from transshipping at sea, so the removal of the transshipping, bunkering, and net sharing regulations will have little or no effect. Removal of the reporting requirements is expected to reduce some compliance costs.

Based on the comments received on the proposed rule, NMFS is now aware that several U.S. purse seine vessels that fish exclusively in the EPO will likely fish in the overlap area under this final rule. These vessels are already subject to all the regulations implementing IATTC resolutions that apply to the overlap area under this final rule when fishing in the EPO. However, these vessels will be subject to the regulations implementing WCPFC conservation and management measures that continue to apply in the overlap area. These regulations include the following: (1) Vessel permit endorsements at 50 CFR 300.212; (2) vessel information requirements for fishing in foreign EEZs at 50 CFR 300.213; (3) compliance with laws of other nations at 50 CFR 300.214; (4) accommodating observers at 50 CFR 300.215(c)(3); (5) prohibition on transshipments to and from purse seine vessels at sea at 50 CFR 300.216(b)(1); (6) vessel identification requirements at 50 CFR 300.217; (7) reporting and recordkeeping requirements at 50 CFR 300.218(a); (8) VMS requirements at 50 CFR 300.219; and (9) facilitation of enforcement and inspection at 50 CFR 300.221. The regulations regarding the prohibition on transshipments to and from purse seine vessels at sea, vessel identification requirements, and VMS requirements are not expected to bring any new compliance costs, as U.S. purse seine vessels fishing in the EPO are already subject to similar or identical requirements, as discussed above. The regulations for accommodating WCPFC observers also are not expected to bring any new compliance costs, as they apply only when WCPFC observers are on board the vessel and U.S. purse seine vessels fishing exclusively in the EPO, including the overlap area, are not expected to be carrying WCPFC observers. The requirements for complying with the laws of other nations also are not expected to bring any new compliance costs, as it is unlikely these purse seine vessels will fish in areas subject to the laws of other nations. Similarly, vessel information requirements for fishing in foreign EEZs at 50 CFR 300.213 would not be expected to bring any new compliance costs. Applying for and obtaining the WCPFC Area Endorsements will result in some minor compliance costs—the application fee for the five-year authorization is $58 and the estimated time for completing the application is one hour. Submission of the vessel information for fishing in foreign EEZs is estimated to take 1.5 hours, so again, there will be some minor compliance costs associated with this requirement. The reporting and recordkeeping requirements also may bring some compliance costs, but these costs are not expected to be substantial. The fishing report requirements at 50 CFR 300.218(a) may be fulfilled by completion of the IATTC reporting requirements at 50 CFR 300.22. The requirements for facilitation of enforcement and inspection could bring some compliance costs, but these compliance costs are also unlikely to be substantial. Maintaining appropriate documentation on board the vessel, monitoring certain radio frequencies, and adhering to gear stowage requirements is not expected to lead to substantial compliance costs. Facilitating high seas boarding and inspections would only lead to compliance costs when they occur WCPFC CMM 2006–08, ''Western and Central Pacific Fisheries Commission Boarding and Inspection Procedures'' details the specific procedures that inspection vessels must follow when conducting such boarding and inspections and requires inspections to be completed within four hours unless evidence of a serious violation is found. Thus, such high seas boarding and inspections, if they do occur, would not be expected to lead to substantial compliance costs unless evidence of a serious violation is found; it is difficult to predict how often that would occur and what type of compliance costs would be incurred in such a situation. Overall, the compliance costs under this final rule for U.S. purse seine vessels fishing exclusively in the EPO are not expected to be substantial.

In summary, this final rule is expected to have little or no effect on the compliance costs of any affected entities, except purse seine fishing entities, for which a positive economic impact is expected. For purse seine fishing entities, this rule is likely to bring modest increases in compliance costs associated with several requirements that will go into effect in the overlap area. However, these costs will be counteracted by a potentially substantial reduction in compliance costs associated with removal of the regulations to implement WCPFC conservation and management measures for fishing effort limits and FAD prohibition periods from application in the overlap area, making the overall economic impacts positive.

Disproportionate Impacts

NMFS does not expect any disproportionate economic impacts between small and large entities operating vessels resulting from this rule. Furthermore, NMFS does not expect any disproportionate economic impacts based on vessel size, gear, or homeport. Comment 3, above, questioned NMFS' conclusions regarding disproportionate impacts in the proposed rule. The commenter stated its belief that vessels fishing solely in the IATTC Area, including the overlap area, would experience disproportionate impacts from the WCPFC purse seine observer coverage requirements set forth in 50 CFR 300.223(e). As stated above, the purse seine observer coverage requirements at 50 CFR 300.223(e) no longer apply under this final rule. Additionally, as stated above, the compliance costs under this final rule for U.S. purse seine vessels fishing exclusively in the IATTC Area or EPO are not expected to be substantial.

Duplicating, Overlapping, and Conflicting Federal Regulations

NMFS has not identified any Federal regulations that conflict with these regulations. NMFS has identified several Federal regulations that duplicate or overlap with the regulations. These include: The logbook reporting requirements at 50 CFR 300.22(a)(1), which overlap with existing regulations at 50 CFR 300.34(b)(1) and 300.218(a), the transshipment requirements at 50 CFR 300.25(c), which overlap with existing regulations at 50 CFR 300.216(b), the vessel identification requirements at 50 CFR 300.217, which overlap with requirements at 50 CFR 300.22(b)(3) and 50 CFR 300.336(b)(2), and the VMS regulations at 50 CFR 300.26, which overlap with existing regulations at 50 CFR 300.45 and 300.219. However, as described above, these regulations impose requirements which are substantially similar to, or in some cases identical to, requirements imposed under regulations currently applicable in the overlap area. Thus, application of these overlapping requirements is not expected to create significant economic burdens on vessel owners and operators.

Alternatives to the Final Rule

NMFS has sought to identify alternatives that would minimize the final rule's economic impacts on small entities (''significant alternatives''). For most affected entities, the final rule is likely to have no economic impact or a positive economic impact compared to the no-action alternative. NMFS also considered the alternative of removing application from the overlap area of all regulations derived from WCPFC conservation and management measures and from the WCPF Convention. This alternative would likely result in lower compliance costs than this final rule for some affected entities, but NMFS believes maintaining the application of some of those regulations is necessary to fulfill U.S. obligations under the WCPF Convention, as detailed above. Therefore, NMFS rejected this alternative.

Small Entity Compliance Guide

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. NMFS has prepared small entity compliance guides for this rule, and will send the appropriate guides to holders of permits in the relevant fisheries. The guides and this final rule also will be available via the Federal e-rulemaking Portal, at *www.regulations.gov* (search for Docket ID NOAA–NMFS–2018–0049) and by request from NMFS PIRO (see **ADDRESSES**).

Paperwork Reduction Act

This final rule contains revised collection-of-information requirements subject to review and approval by OMB under the PRA. These requirements have been submitted to OMB for approval under Control Numbers 0648–0649 and 0648–0218 and pertain to the reporting and recordkeeping requirements that would no longer apply in the overlap area and would not affect the estimated public reporting burden of these collections. Other existing collection of information requirements apply in the overlap area, under the following Control Numbers: (1) 0648–0148, West Coast Region Pacific Tuna Fisheries Logbook and Fish Aggregating Device Data Collection; (2) 0648–0595, WCPFC Vessel Information Family of Forms; and (3) 0648–0204, West Coast Region Family of Forms.

Send comments on these or any other aspects of the collection of information to Michael D. Tosatto, Regional Administrator, NMFS PIRO (see **ADDRESSES**), and by email to *OIRA Submission@omb.eop.gov* or fax to 202–395–5806. Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 300

Administrative practice and procedure, Fish, Fisheries, Fishing, Fishing vessels, Marine resources, Reporting and recordkeeping requirements, Treaties.

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 300 is amended as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

Subpart C—Eastern Pacific Tuna Fisheries

■ 1. The authority citation for part 300, subpart C, continues to read as follows:

Authority: 16 U.S.C. 951 *et seq.*

■ 2. In § 300.21, revise the definition of ''Convention Area or IATTC Convention Area'' to read as follows:

§ 300.21 Definitions.

* * * * *

Convention Area or *IATTC Convention Area* means all waters of the Pacific Ocean within the area bounded by the west coast of the Americas and by 50° N latitude from the coast of North America to its intersection with 150° W longitude, then 150° W longitude to its intersection with 50° S latitude, and then 50° S latitude to its intersection with the coast of South America.

* * * * *

Subpart O—Western and Central Pacific Fisheries for Highly Migratory Species

■ 3. The authority citation for 50 CFR part 300, subpart O, continues to read as follows:

Authority: 16 U.S.C. 6901 *et seq.*

■ 4. In § 300.211, revise the definition of ''Effort Limit Area for Purse Seine, or ELAPS'' and add the definition of ''Overlap Area'' in alphabetical order to read as follows:

§ 300.211 Definitions.

* * * * *

Effort Limit Area for Purse Seine, or *ELAPS,* means, within the area between 20° N latitude and 20° S latitude, areas within the Convention Area that either are high seas or within the EEZ, except for the Overlap Area.

* * * * *

Overlap Area means the area within the Pacific Ocean bounded by 50° S latitude, 4° S latitude, 150° W longitude, and 130° W longitude.

* * * * *

■ 5. In § 300.215, revise paragraphs (c)(1) and (2), (d)(1)(ii), and (d)(2)(v) to read as follows:

§ 300.215 Observers.

* * * * *

(c) * * * (1) Fishing vessels specified in paragraphs (a)(1) and (2) of this section must carry, when directed to do so by NMFS, a WCPFC observer on fishing trips during which the vessel at any time enters or is within any part of the Convention Area other than the

Overlap Area. The operator and each member of the crew of the fishing vessel shall act in accordance with paragraphs (c)(3), (4), and (5) of this section with respect to any WCPFC observer.

(2) Fishing vessels specified in paragraph (a)(3) of this section must carry an observer when required to do so under paragraph (d) of this section, except for within the Overlap Area. The operator and each member of the crew of the fishing vessel shall act in accordance with paragraphs (c)(3), (4), and (5) of this section, as applicable, with respect to any WCPFC observer.

* * * * *

(d) * * *

(1) * * *

(ii) The transshipment takes place entirely within the territorial seas or archipelagic waters of any nation, as defined by the domestic laws and regulations of that nation and recognized by the United States, or entirely within the Overlap Area, and only includes fish caught in such waters; or

* * * * *

(2) * * *

(v) The transshipment takes place entirely within the territorial seas or archipelagic waters of any nation, as defined by the domestic laws and regulations of that nation and recognized by the United States, or entirely within the Overlap Area, and only includes fish caught in such waters; or

* * * * *

■ 6. In § 300.216, revise paragraphs (b)(2) introductory text, (b)(3)(i)(D), (b)(3)(ii) introductory text, and (c)(1) introductory text to read as follows:

§ 300.216 Transshipping, bunkering and net sharing.

* * * * *

(b) * * *

(2) *Restrictions on at-sea transshipments.* If a transshipment takes place entirely within the territorial seas or archipelagic waters of any nation, as defined by the domestic laws and regulations of that nation and recognized by the United States, or entirely within the Overlap Area, and only includes fish caught within such waters, this paragraph does not apply.

* * * * *

(3) * * *

(i) * * *

(D) The transshipment takes place entirely within the territorial seas or archipelagic waters of any nation, as defined by the domestic laws and regulations of that nation and recognized by the United States, or entirely within the Overlap Area, and only includes fish caught within such waters.

(ii) *Bunkering, supplying and provisioning.* Only fishing vessels that are authorized to be used for fishing in the EEZ may engage in bunkering in the EEZ. A fishing vessel of the United States used for commercial fishing for HMS shall not be used to provide bunkering, to receive bunkering, or to exchange supplies or provisions with another vessel in the Convention Area, except for the Overlap Area, unless one or more of the following is satisfied:

* * * * *

(c) * * *

(1) The owner and operator of a fishing vessel of the United States shall not conduct net sharing in the Convention Area, except for within the Overlap Area, unless all of the following conditions are met:

* * * * *

■ 7. In § 300.218:

■ a. Revise paragraphs (c), (d)(1) introductory text, (d)(2) introductory text, and (e);

■ b. Add introductory text to paragraph (f); and

■ c. Revise paragraphs (g) and (h).

The revisions and addition read as follows:

§ 300.218 Reporting and recordkeeping requirements.

* * * * *

(c) *Exceptions to transshipment reporting requirements.* Paragraph (b) of this section shall not apply to a transshipment that takes place entirely within the Overlap Area or within the territorial seas or archipelagic waters of any nation, as defined by the domestic laws and regulations of that nation and recognized by the United States, and only includes fish caught within such waters.

(d) * * *

(1) *High seas transshipments.* This section shall not apply to a transshipment that takes place entirely within the Overlap Area and only includes fish caught within such waters. The owner and operator of a fishing vessel of the United States used for commercial fishing that offloads or receives a transshipment of HMS on the high seas in the Convention Area or a transshipment of HMS caught in the Convention Area anywhere on the high seas and not subject to the requirements of paragraph (d)(2) of this section, must ensure that a notice is submitted to the Commission by fax or email at least 36 hours prior to the start of such transshipment at the address specified by the Pacific Islands Regional Administrator, and that a copy of that notice is submitted to NMFS at the address specified by the Pacific Islands Regional Administrator at least 36 hours prior to the start of the transshipment. The notice must be reported in the format provided by the Pacific Islands Regional Administrator and must contain the following information:

* * * * *

(2) *Emergency transshipments.* This section shall not apply to a transshipment that takes place entirely within the Overlap Area and only includes fish caught within such waters. The owner and operator of a fishing vessel of the United States used for commercial fishing for HMS that offloads or receives a transshipment of HMS in the Convention Area or a transshipment of HMS caught in the Convention Area anywhere that is allowed under § 300.216(b)(4) but would otherwise be prohibited under the regulations in this subpart, must ensure that a notice is submitted by fax or email to the Commission at the address specified by the Pacific Islands Regional Administrator, and a copy is submitted to NMFS at the address specified by the Pacific Islands Regional Administrator within 12 hours of the completion of the transshipment. The notice must be reported in the format provided by the Pacific Islands Regional Administrator and must contain the following information:

* * * * *

(e) *Purse seine discard reports.* The owner and operator of any fishing vessel of the United States equipped with purse seine gear must ensure that a report of any at-sea discards of any bigeye tuna (*Thunnus obesus*), yellowfin tuna (*Thunnus albacares*), or skipjack tuna (*Katsuwonus pelamis*) caught in the Convention Area, except for within the Overlap Area, is completed, using a form that is available from the Pacific Islands Regional Administrator, and recording all the information specified on the form. The report must be submitted within 48 hours after any discard to the Commission by fax or email at the address specified by the Pacific Islands Regional Administrator. A copy of the report must be submitted to NMFS at the address specified by the Pacific Islands Regional Administrator by fax or email within 48 hours after any such discard. A hard copy of the report must be provided to the observer on board the vessel, if any.

(f) *Net sharing reports.* This paragraph (f) does not apply to net sharing activity within the Overlap Area.

* * * * *

(g) *Daily purse seine fishing effort reports.* If directed by NMFS, the owner or operator of any fishing vessel of the United States equipped with purse seine gear must report to NMFS, for the period and in the format and manner directed by the Pacific Islands Regional Administrator, within 24 hours of the end of each day that the vessel is at sea in the Convention Area, except for within the Overlap Area, the activity of the vessel (*e.g.,* setting, transiting, searching), location and type of set, if a set was made during that day.

(h) *Whale shark encirclement reports.* The owner and operator of a fishing vessel of the United States used for commercial fishing in the Convention Area that encircles a whale shark (*Rhincodon typus*) with a purse seine in the Convention Area shall ensure that the incident is recorded by the end of the day on the catch report forms maintained pursuant to § 300.34(c)(1), in the format specified by the Pacific Islands Regional Administrator. This paragraph (h) does not apply in the territorial seas or archipelagic waters of any nation, as defined by the domestic laws and regulations of that nation and recognized by the United States, or in the Overlap Area.

■ 8. In § 300.223, revise the introductory text to read as follows:

§ 300.223 Purse seine fishing restrictions.

None of the requirements of this section apply in the territorial seas or archipelagic waters of the United States or any other nation, as defined by the domestic laws and regulations of that nation and recognized by the United States, or within the Overlap Area. All dates used in this section are in Universal Coordinated Time, also known as UTC; for example: The year 2013 starts at 00:00 on January 1, 2013 UTC and ends at 24:00 on December 31, 2013 UTC; and July 1, 2013, begins at 00:00 UTC and ends at 24:00 UTC.

* * * * *

■ 9. In § 300.224, add introductory text to read as follows:

§ 300.224 Longline fishing restrictions.

None of the requirements of this section apply in the Overlap Area.

* * * * *

■ 10. In § 300.226, add introductory text to read as follows:

§ 300.226 Oceanic whitetip shark and silky shark.

None of the requirements of this section apply in the Overlap Area.

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[FR Doc. 2020–11981 Filed 6–19–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 191125–0090; RTID 0648–XA230]

Atlantic Highly Migratory Species; Commercial Aggregated Large Coastal Shark and Hammerhead Shark Management Group in the Atlantic Region; Retention Limit Adjustment

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

ACTION: Temporary rule; inseason retention limit adjustment.

SUMMARY: NMFS is adjusting the commercial aggregated large coastal shark (LCS) and hammerhead shark management groups' retention limits for directed shark limited access permit holders in the Atlantic region from 36 LCS other than sandbar sharks per vessel per trip to 55 LCS other than sandbar sharks per vessel per trip. This action is based on consideration of the regulatory determination criteria regarding inseason adjustments. The retention limit will remain at 55 LCS other than sandbar sharks per vessel per trip in the Atlantic region through the rest of 2020 or until NMFS announces via a notice in the **Federal Register** another adjustment to the retention limit or a fishery closure. This retention limit adjustment affects anyone with a directed shark limited access permit fishing for LCS in the Atlantic region.

DATES: This retention limit adjustment is effective on June 19, 2020, through December 31, 2020, or until NMFS announces via a notice in the **Federal Register** another adjustment to the retention limit or a fishery closure, if warranted.

FOR FURTHER INFORMATION CONTACT: Karyl Brewster-Geisz at *karyl.brewster-geisz@noaa.gov,* Guy Eroh at *guy.eroh@noaa.gov,* or Lauren Latchford at *lauren.latchford@noaa.gov.*

SUPPLEMENTARY INFORMATION: The Atlantic shark fishery is managed under the 2006 Consolidated Highly Migratory Species (HMS) Fishery Management Plan (FMP), its amendments, and implementing regulations (50 CFR part 635) issued under authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).

The Atlantic shark fishery has separate regional (Gulf of Mexico and Atlantic) quotas for all management groups except those for blue shark, porbeagle shark, pelagic sharks (other than porbeagle or blue sharks), and the shark research fishery for LCS and sandbar sharks. The boundary between the Gulf of Mexico region and the Atlantic region is defined at § 635.27(b)(1) as a line beginning on the East Coast of Florida at the mainland at 25°20.4′ N lat, proceeding due east. Any water and land to the north and east of that boundary is considered, for the purposes of setting and monitoring quotas, to be within the Atlantic region. This inseason action only affects the aggregated LCS and hammerhead shark management groups in the Atlantic region.

Under § 635.24(a)(8), NMFS may adjust the commercial retention limits in the shark fishery during the fishing season. Before making any adjustment, NMFS must consider specified regulatory criteria (see § 635.24(a)(8)(i) through (vi)). After considering these criteria as discussed below, NMFS has concluded that increasing the retention limit of the Atlantic aggregated LCS and hammerhead management groups for directed shark limited access permit holders in the Atlantic region will allow use of available quotas for the aggregated LCS and hammerhead shark management groups. Therefore, NMFS is increasing the commercial Atlantic aggregated LCS and hammerhead shark retention limit in the Atlantic region from 36 to 55 LCS other than sandbar shark per vessel per trip.

NMFS considered the inseason retention limit adjustment criteria listed at § 635.24(a)(8)(i) through (vi), which include:

- The amount of remaining shark quota in the relevant region.

Based on dealer reports through June 11, 2020, 29.2 metric tons (mt) dressed weight (dw) (64,384 lb dw), or 17 percent, of the 168.9 mt dw shark quota for aggregated LCS management group and 9.7 mt dw (21,493 lb dw), or 36 percent, of the 27.1 mt dw shark quota for the hammerhead management group have been harvested in the Atlantic region. This means that approximately 83 percent of the aggregated LCS quota remains available and approximately 64 percent of the hammerhead shark quota remains available. NMFS is increasing the retention limit to 55 LCS other than sandbar shark per vessel per trip to promote the use of available quota.

- The catch rates in the relevant region.

Based on the current commercial retention limit and average catch rate of landings data from dealer reports, harvest in the Atlantic region on a daily

basis is low, and the overall available quota is remains high. Using current catch rates and comparing to catch rates from last year, projections indicate that landings would not reach the quota before the end of 2020 (December 31, 2020). A higher retention limit authorized under this action will provide increased fishing opportunities and utilization of available quota in the Atlantic region.

• The estimated date of fishery closure based on projections.

If landings of either the aggregated LCS or hammerhead shark management groups reach 80 percent of their respective quotas, and those landings are projected to reach 100 percent of the quota by the end of the year, NMFS would, as required by the regulations at § 635.28(b)(3), close the aggregated LCS and hammerhead shark management groups since they are ''linked quotas.'' However, without the adjustment undertaken in this action, current catch rates would likely result in both management groups remaining open for the remainder of the year with quota unused at the end of the year. The higher retention limit should increase the likelihood of full utilization of the quota in the Atlantic region, while also allowing both management groups to remain open for the remainder of the year.

• The effects of the adjustment on accomplishing the objectives of the 2006 Consolidated HMS FMP and its amendments.

Increasing the retention limit on the aggregated LCS and hammerhead management groups in the Atlantic region from 36 to 55 LCS other than sandbar sharks per vessel per trip would continue to allow for fishing opportunities throughout the rest of the year consistent with objectives established in the 2006 Consolidated HMS FMP, and would manage these groups within previously-established, science-based quotas, consistent with requirements to prevent overfishing and rebuild overfished stocks.

• The variations in seasonal distribution, abundance, or migratory patterns of the relevant shark species.

The directed shark fishery in the Atlantic region is composed of a mix of species, with a high abundance of aggregated LCS caught in conjunction with hammerhead sharks. Migratory patterns of many LCS in the Atlantic region indicate that sharks move farther north in the summer and then return south in the fall. However, based on dealer reports through June 11, 2020, daily harvest throughout the entirety of the Atlantic region has been low. Therefore, NMFS is increasing the retention limit from 36 to 55 LCS other than sandbar sharks per vessel per trip in order to provide additional opportunities for fishermen to fully utilize the quota in the entire Atlantic region.

• The effects of catch rates in one part of a region precluding vessels in another part of that region from having a reasonable opportunity to harvest a portion of the relevant quota.

NMFS's goal for the 2020 commercial shark fishery is to ensure fishing opportunities throughout the fishing season across the Atlantic region. While dealer reports indicate that, under current catch rates, the aggregated LCS and hammerhead shark management groups in the Atlantic region would remain open for the remainder of the year, the catch rates also indicate that the quotas would likely not be fully harvested under the current retention limit. If the harvest of these species is increased through an increased retention limit, NMFS estimates that the fishery would remain open for the remainder of the year and fishermen throughout the Atlantic region would have a reasonable opportunity to harvest a large portion of the quota.

On November 29, 2019 (84 FR 65690), NMFS announced in a final rule that the fishery for the aggregated LCS and hammerhead shark management groups for the Atlantic region would open on January 1 with a quota of 168.9 mt dw (372,552 lb dw) and 27.1 mt dw (59,736 lb dw), respectively, and a commercial retention limit of 36 LCS other than sandbar sharks per trip for directed shark limited access permit holders. NMFS published a proposed rule on September 19, 2019 (84 FR 49236), and invited and considered public comment. In the final rule, NMFS explained that if it appeared that the quota is being harvested too quickly, thus precluding fishing opportunities throughout the entire region (*e.g.,* if approximately 35 percent of the quota is caught at the beginning of the year), NMFS would consider reducing the commercial retention limit to 3 or fewer LCS other than sandbar sharks, and then later consider increasing the retention limit later in the year consistent with the applicable regulatory requirements. Based on dealer reports through June 11, 2020, approximately 83 percent and 64 percent of the aggregated LCS and hammerhead shark quotas remain unharvested, respectively. Commercial shark landings in the Atlantic region at this point in the season are uncharacteristically low. A higher retention limit should increase the likelihood of full utilization of the quota in the Atlantic region, while also allowing the fishery to operate for the remainder of the year.

Accordingly, as of June 19, 2020, NMFS is increasing the retention limit for the commercial aggregated LCS and hammerhead shark management groups in the Atlantic region for directed shark limited access permit holders from 36 LCS other than sandbar sharks per vessel per trip to 55 LCS other than sandbar sharks per vessel per trip. This retention limit adjustment does not apply to directed shark limited access permit holders if the vessel is properly permitted to operate as a charter vessel or headboat for HMS and is engaged in a for-hire trip, in which case the recreational retention limits for sharks and ''no sale'' provisions apply (§ 635.22(a) and (c)); or if the vessel possesses a valid shark research permit under § 635.32 and a NMFS-approved observer is onboard, in which case the restrictions noted on the shark research permit apply.

All other retention limits in the Atlantic region remain unchanged. This retention limit will remain at 55 LCS other than sandbar sharks per vessel per trip for the rest of 2020, or until NMFS announces another adjustment to the retention limit or a fishery closure via a notice in the **Federal Register**, if warranted.

Classification

The Assistant Administrator for NMFS (AA) finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons:

Based on recent data, NMFS has determined that landings have been very low (17 percent, of the 168.9 mt dw shark quota for aggregated LCS management group and 36 percent, of the 27.1 mt dw shark quota for the hammerhead management group). Delaying this action for prior notice and public comment would unnecessarily limit opportunities to harvest available aggregated LCS management group and hammerhead shark management group quotas, which may have negative social and economic impacts for U.S. fishers. This action does not raise conservation and management concerns. Adjusting retention limits does not affect the overall aggregated LCS management group and hammerhead shark management groups quotas, and available data show the adjustment would have a minimal risk of exceeding the allocated shark quotas set for the aggregated LCS and hammerhead shark management groups for the Atlantic region in the November 29, 2019 final rule (84 FR 65690). NMFS notes that the

public had an opportunity to comment on the underlying rulemakings that established the quota and retention limit adjustment criteria. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. For all of the above reasons, there is also good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness.

This action is being taken under § 635.24(a)(2) and is exempt from review under Executive Order 12866.

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

Dated: June 17, 2020.

Hélène M.N. Scalliet,

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

[FR Doc. 2020–13373 Filed 6–19–20; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 85, No. 120
Monday, June 22, 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 HOMELAND SECURITY

6 CFR Part 27

[Docket No. DHS–2014–0016]

Retrospective Analysis of the Chemical Facility Anti-Terrorism Standards

AGENCY: Cybersecurity and Infrastructure Security Agency, DHS.

ACTION: Announcement of availability; request for comments.

SUMMARY: Through this document, the Cybersecurity and Infrastructure Security Agency (CISA) is making available a retrospective analysis of the data, assumptions, and methodology used to support the 2007 interim final rule for the Chemical Facility Anti-Terrorism Standards (CFATS) program. The purpose of the retrospective analysis is to provide an updated assessment of the costs and burdens of the CFATS program. Based on data observed by the program for over ten years, CISA estimates that the actual costs of the CFATS program is 83 percent lower than estimated in 2007. The retrospective analysis has been added to the docket for the CFATS Advanced Notice of Proposed Rulemaking (ANPRM) published in 2014.

DATES: Comments are due by September 21, 2020.

ADDRESSES: You may send comments, identified by docket number DHS–2014–0016, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for sending comments.
- *Mail:* DHS/CISA/ISD/OCS, ATTN: DHS Docket No. DHS–2014–0016, 245 Murray Lane SW, Mail Stop 0610, Arlington, VA 20528–0610.

Instructions: All comments received for the public docket will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Do not submit comments that include trade secrets, confidential commercial or financial information, Chemical-terrorism Vulnerability Information (CVI), Protected Critical Infrastructure Information (PCII), or Sensitive Security Information (SSI) to the public regulatory docket. Comments containing this type of protected information should be appropriately marked as containing such information and submitted by mail to the address provided above. CISA will not place comments containing protected information in the public docket and will handle them in accordance with applicable safeguards and restrictions on access. Additionally, CISA will hold them in a separate file to which the public does not have access and place a note in the public docket that CISA has received such protected materials from the commenter. If CISA receives a request to examine or copy this information, CISA will treat it as any other request under the Freedom of Information Act (FOIA), 5 U.S.C. 552, and the Department's FOIA regulation found in part 5 of Title 6 of the Code of Federal Regulations (CFR).

Docket: For access to the docket and to read the retrospective analysis or the comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Lona Saccomando, (703) 603–4868, *CISARulemaking@cisa.dhs.gov.*

SUPPLEMENTARY INFORMATION: The Department published an ANPRM on August 18, 2014 seeking public comment on the CFATS interim final rule (IFR) published in 2007 (72 FR 17687) and a final rule for Appendix A to the CFATS regulations published in 2007 (72 FR 65395). The 2014 ANPRM was an initial step towards maturing the program. See 79 FR 48693 (August 18, 2014). To better inform the ongoing rulemaking process, CISA has performed a retrospective analysis of the costs and burdens of the 2007 CFATS IFR on regulated facilities.[1] The retrospective analysis updates cost estimates from the 2007 CFATS IFR with new estimates based on data observed from the implementation and operation of CFATS over the last decade. CISA intends to use the retrospective analysis: (1) To improve the accuracy of cost estimates incurred by regulated facilities since 2007; (2) as a basis for future regulatory changes to the CFATS program; and (3) to perform cumulative impact analysis on the full costs of the program as it evolves.

Based on the retrospective analysis, CISA believes that the regulatory impact assessment (RIA) for the 2007 CFATS IFR overestimated the costs of the program imposed on chemical facilities and that the actual costs are 83 percent lower than previously estimated. Because CFATS was a new regulatory program that was developed under a six-month Congressional deadline, there was limited time to conduct economic studies and collect data to establish the pre-statutory security baseline at high-risk chemical facilities.[2] As CFATS was a new program, there was no historical data that could inform the analysis. In order to meet the Congressional deadline, the Department relied heavily on the elicitation of subject matter expert (SME) judgment to estimate the cost of the regulation in the 2007 RIA. Now that CISA has fully implemented CFATS, CISA was able to replace the SME judgments with historical data provided by industry through the Chemical Security Assessment Tool, CFATS compliance data, and lessons learned. As a result, the retrospective analysis provides a more accurate estimate of the cost that the CFATS program imposed on chemical facilities between 2007 to 2017. The retrospective analysis resulted in a decrease in the estimated 10-year cost, discounted at 7%, of CFATS from $9.84 billion to $1.68 billion. The main drivers of this substantial reduction in cost were the 2007 CFATS IFR's overestimation of: (1) The number of chemical facilities that would be covered by CFATS; and (2) the costs of security measures implemented by CFATS covered facilities.

CISA encourages public comment on the retrospective analysis. Commenters

[1] The original regulatory impact assessment for the IFR may be viewed at *https://www.regulations.gov/document?D=DHS-2006-0073-0116* and the IFR published on April 9, 2007 may be viewed at *https://www.federalregister.gov/d/E7-6363.*

[2] On October 4, 2006, the President signed the Department of Homeland Security Appropriations Act of 2007, which provided DHS with the authority to regulate the security of high-risk chemical facilities. See Public Law 109–295, sec. 550. Section 550 required the Secretary of Homeland Security to promulgate interim final regulations ''establishing risk-based performance standards for security of chemical facilities'' by April 4, 2007. See also 72 FR 17689 (Apr. 9, 2007).

can find a copy of the analysis in the docket. Comments that will provide the most assistance to CISA will refer to a specific section, appendix, figure, and/or table of the analysis, explain the reason for any comments, and include other information or authority that supports such comments.

This document is issued under the authority of 6 U.S.C. 621 *et seq.*

Todd Klessman,

Deputy Director, Office of Chemical Security, Infrastructure Security Division, Cybersecurity and Infrastructure Security Agency, Department of Homeland Security.

[FR Doc. 2020–13147 Filed 6–19–20; 8:45 am]

BILLING CODE 9110–9P–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Chapter X

[Docket No. CFPB–2020–0019]

Advisory Opinions Proposal

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Proposed procedural rule; proposed information collection; request for comment.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) invites the public to comment on a new advisory opinion program (Proposed AO Program), and a proposed information collection associated with requests submitted by persons requesting advisory opinions under the Proposed AO Program, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments on the Proposed AO Program are encouraged and must be received on or before August 21, 2020.

ADDRESSES: You may submit comments on the Proposed AO Program, identified by Docket No. [CFPB–2020–0019], by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: 2020-RFC-AdvisoryOpinions@cfpb.gov.* Include Docket No. [CFPB–2020–0019] in the subject line of the email.
- *Mail/Hand Delivery/Courier:* Comment Intake, Bureau of Consumer Financial Protection, 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 hand delivery, mail, or courier.

Instructions: All submissions should include the agency name and docket number. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, and in light of difficulties associated with mail and hand deliveries during the COVID–19 pandemic, commenters are encouraged to submit comments electronically. In general, all comments received will be posted without change to *http://www.regulations.gov.* In addition, once the Bureau's headquarters reopens, comments will be available for public inspection and copying at 1700 G Street NW, Washington, DC 20552, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Standard Time. You can make an appointment to inspect the documents by telephoning (202) 435–9169. All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Sensitive personal information, such as account numbers or Social Security numbers, should not be included. Comments generally will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: For additional information about the Proposed AO Program, contact Marianne Roth, Chief Risk Officer, Office of Strategy, at 202–435–7684. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Under the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act),[1] the Bureau's ''primary functions'' include issuing guidance implementing Federal consumer financial law.[2] The Bureau believes that providing clear and useful guidance to regulated entities is an important aspect of facilitating markets that serve consumers.

The Bureau currently issues several types of guidance regarding the statutes that it administers and regarding the regulations and Official Interpretations that it normally issues through the notice-and-comment process. On occasion, the Bureau provides guidance in interpretive rules or general statements of policy. The Bureau also routinely issues Compliance Aids that present legal requirements in a manner that is useful for compliance professionals, other industry stakeholders, and the public, or include practical suggestions for how entities might choose to go about complying with those requirements.[3] The Bureau also provides individualized ''implementation support'' to regulated entities through its Regulatory Inquiries Function (RIF).[4] Neither Compliance Aids nor the RIF are intended to interpret ambiguities in legal requirements.

The Bureau is presenting the Proposed AO Program in response to feedback received from external stakeholders encouraging the Bureau to provide written guidance in cases of regulatory uncertainty. This feedback is summarized in the Background section of the Advisory Opinions Pilot (AO Pilot) **Federal Register** document published elsewhere in today's edition of the **Federal Register**. The Bureau issues this request for public comment on the Proposed AO Program and associated information collection concurrent with the establishment of the Pilot AO Program. The Proposed AO Program represents the next phase in full implementation of the Bureau's AO capability, with the intent of replacing the AO Pilot, and allowing the Bureau to further provide timely guidance that enables compliance by resolving outstanding regulatory uncertainty, thereby supporting the Bureau's statutory purpose of ensuring consumers have access to markets for consumer financial products and services and that markets for consumer financial products and services are fair, transparent, and competitive.

II. Parameters of the Proposed AO Program

A. Overview

The primary purpose of the Proposed AO Program is to provide a mechanism through which the Bureau may more effectively carry out its statutory purposes and objectives by better enabling compliance in the face of regulatory uncertainty. Under the program, parties will be able to request interpretive guidance, in the form of an AO, to resolve such regulatory uncertainty.[5]

B. Submission and Content of Requests

Requests would be submitted through means, such as an email address, designated by the Bureau. Parties requesting AOs will be required to

[1] Public Law 111–203, 124 Stat. 2081 (2010).

[2] 12 U.S.C. 5511(c)(5).

[3] *See* Policy Statement on Compliance Aids, 85 FR 4579 (Jan. 27, 2020).

[4] *See* Bureau of Consumer Financial Protection Request for Information Regarding Bureau Guidance and Implementation Support (Guidance RFI), 83 FR 13959, 13961–62 (Apr. 2, 2018).

[5] For convenience, this document uses the term ''regulatory uncertainty'' to encompass uncertainty with respect to regulatory or, where applicable, statutory provisions.

submit certain information in order for a request to be complete; where information submitted to the Bureau is information the requestor would not normally make public, the Bureau intends to treat it as confidential pursuant to its rule, Disclosure of Records and Information,[6] to the extent applicable. The Bureau encourages requestors to identify any such information to the extent they choose to include it in their submissions.

The requestor must be identified, regardless of whether it is submitting a request on its own behalf or submitting a request on behalf of a third party (*i.e.,* on behalf of one or more clients or members). Outside counsel or a trade association, for example, could submit a request for AOs on behalf of one or more clients or members, and those entities would not need to be named. Additionally, if the requestor is submitting a request on behalf of an unidentified third party, the requestor must provide a statement on whether the unidentified third party is the subject of an ongoing public Bureau enforcement action or an ongoing Bureau enforcement investigation conducted by the Bureau's Office of Enforcement.

The issue raised in the request must be within the Bureau's purview,[7] and the request must concern actual facts or a course of action that the requestor is considering engaging in, with the requestor providing a statement of whether the issue on which the AO is being requested is the subject of any known or reasonably knowable active litigation or federal or state agency investigations.

The requestor also must set forth as completely as possible all material facts and circumstances, including detailed specification of the legal question and supporting facts with respect to which the requestor seeks an AO; and a proposed interpretation, identification of the potential uncertainty or ambiguity that such interpretation would address, and explanation of why the requested interpretation is an appropriate resolution of that uncertainty or ambiguity.[8] Requestors may also choose to offer additional information, including, as applicable, an explanation of the potential consumer benefits and risks associated with resolution of the interpretive question and the proposed interpretation; and an explanation of how the proposed interpretation relates to the Bureau's statutory objectives.[9]

C. Characteristics of AOs

AOs under the proposed program will be interpretive rules under the Administrative Procedure Act (APA)[10] that respond to a specific request for clarity on an interpretive question. The Bureau would publish AOs in the **Federal Register** and on *consumerfinance.gov*, including the Bureau's summary of the material facts and the Bureau's legal analysis of the issue. Unless otherwise stated, each AO will be applicable to the requestor and to similarly situated parties to the extent that their situations conform to the Bureau's summary of material facts in the AO.[11]

Where a statutory safe harbor is applicable to an AO, the AO will explain that fact. The Truth in Lending Act (TILA), Equal Credit Opportunity Act (ECOA), Electronic Fund Transfer Act (EFTA), and Real Estate Settlement Procedures Act (RESPA) provide certain protections from liability for acts or omissions done in good faith in conformity with an interpretation by the Bureau.[12] The Fair Debt Collection Practices Act (FDCPA) contains similar protections, specifically using the term ''advisory opinion.''[13]

D. Factors in Bureau Selection of Topics for AOs

The Bureau intends to consider the following factors as part of its consideration of whether to address topics through AOs.[14] The Bureau will prioritize open questions within the Bureau's purview that can legally be addressed through an interpretive rule, where an AO is an appropriate tool relative to other Bureau tools for resolving the identified uncertainty. Initial factors weighing for the appropriateness of an AO include: That the interpretive issue has been noted during prior Bureau examinations as one that might benefit from additional regulatory clarity; that the issue is one of substantive importance or impact or one whose clarification would provide significant benefit; and/or that the issue concerns an ambiguity that the Bureau has not previously addressed through an interpretive rule or other authoritative source. Factors weighing strongly for presumption that an AO is not an appropriate tool include that the interpretive issue is the subject of an ongoing Bureau investigation or enforcement action; that the interpretive issue is the subject of an ongoing or planned rulemaking; that the issue is better suited for the notice-and-comment process; that the issue could be addressed effectively through a Compliance Aid; or that there is clear Bureau or court precedent that is available to the public on the issue.

The Bureau intends to further evaluate potential topics for AOs based on additional factors, including: Alignment with the Bureau's statutory objectives; size of the benefit offered to consumers by resolution of the interpretive issue; known impact on the actions of other regulators; and impact on available Bureau resources. The Proposed AO Program will primarily focus on the following statutory objectives of the Bureau: (1) That consumers are provided with timely and understandable information to make responsible decisions about financial transactions; (2) that outdated, unnecessary, or unduly burdensome regulations are regularly identified and addressed in order to reduce unwarranted regulatory burdens; (3) that Federal consumer financial law is enforced consistently, without regard to the status of a person as a depository institution, in order to promote fair competition; and (4) that markets for consumer financial products and services operate transparently and

[6] 12 CFR 1070.

[7] Under title X of the Dodd-Frank Act (Consumer Financial Protection Act of 2010), the Bureau was created to regulate the offering and provision of consumer financial products and services under federal consumer financial laws. 12 U.S.C. 5881. The Act enumerates several consumer laws under the Bureau's jurisdiction (in part or whole). 12 U.S.C. 5841(12).

[8] The responsive AO will not necessarily adopt the requestor's proposed interpretation. Under the proposed program, the Bureau retains discretion to answer requests with its own interpretation regardless of the requestor's proposed interpretation.

[9] Requestors should describe relevant legal provisions and arguments with as much specificity as practicable. The Bureau recognizes that in some cases, the requestor may lack the legal resources to provide a detailed and complete showing. In such circumstances, the requestor should provide the maximum specification practicable under the circumstances and explain the limits on further specification.

[10] 5 U.S.C. 553(b).

[11] Accordingly, the initial request drafted by the requestor is not necessarily a reliable guide to the scope or terms of an AO; the scope and terms of an AO will be set out in the AO itself. Moreover, the Bureau will not normally investigate the underlying facts of the requestor's situation, and an AO is not applicable to the requestor if the underlying facts of the requestor's situation do not conform to the Bureau's summary of material facts.

[12] *See* 15 U.S.C. 1640(f) (TILA); 15 U.S.C. 1691e(e) (ECOA); 15 U.S.C. 1693m(d) (EFTA); 12 U.S.C. 2617, 12 CFR 1024.4 (RESPA).

[13] *See* 15 U.S.C. 1692(k)(e).

[14] The following are factors that the Bureau intends to weigh when deciding which topics to prioritize in the advisory opinion program, based on all of the information available to the Bureau. Advisory opinion requests need not address these factors in order to be fully considered by the Bureau.

efficiently to facilitate access and innovation.[15]

The Proposed AO Program would focus primarily on clarifying ambiguities in the Bureau's regulations, although AOs may clarify statutory ambiguities. The Bureau will not issue AOs on issues that require notice-and-comment rulemaking under the APA,[16] or that are better addressed through that process. For example, the Bureau does not intend to issue an advisory opinion that would change a regulation. Similarly, where a regulation or statute establishes a general standard that can only be applied through highly fact-intensive analysis, the Bureau does not intend to replace it with a bright-line standard that eliminates all of the required analysis. Highly fact-intensive applications of general standards, such as of the statutory prohibition on unfair, deceptive, or abusive acts or practices, pose particular challenges for issuing advisory opinions, although there may be times when the Bureau is able to offer advisory opinions that provide additional clarity on the meaning of such standards.

The Bureau solicits comment on all aspects of the Proposed AO Program. In particular, the Bureau solicits comment on: (a) Application elements the Bureau should require from parties requesting AOs, and accommodations that should be made for requestors with limited legal resources; (b) how the Bureau should prioritize requests for AO guidance; (c) how the Bureau should quantify benefit to consumers when evaluating AO requests; (d) improvements that could be made to the Proposed AO Program to further enhance compliance; (e) how the Bureau should handle sensitive information submitted by requestors; and (f) how the Bureau can make AO guidance that has not been incorporated into the Official Interpretations codified in the Code of Federal Regulations (or Commentary) available to the public in a useful format.

[15] *See* 12 U.S.C. 5511(b)(1), (3)–(5). The Bureau has a further statutory objective, that consumers are protected from unfair, deceptive, or abusive acts and practices (UDAAPs) and from discrimination. 12 U.S.C. 5511(b)(2). The Bureau considers this objective to be at least as important as its other objectives, and it does not plan to issue an AO that is in conflict with this objective. But because other regulatory tools are often more suitable for addressing UDAAPs and discrimination, the Bureau has chosen not to highlight this objective as a primary focus when selecting issues for the Proposed AO Program.

[16] 5 U.S.C. 553(b).

III. Regulatory Requirements

The Bureau has concluded that, if finalized, the Proposed AO Program would constitute a rule of agency organization, procedure, or practice, and that it would therefore be exempt from the notice-and-comment rulemaking requirements of the APA.[17] For the same reason, it would not be subject to the 30-day delayed effective date for substantive rules under the APA.[18] Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis.[19]

IV. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA), Federal agencies are generally required to seek approval from the Office of Management and Budget (OMB) for information collection requirements prior to implementation. Under the PRA, the Bureau may not conduct or sponsor, and, notwithstanding any other provision of law, a person is not required to respond to, an information collection unless the information collection displays a valid control number assigned by OMB.

As part of its continuing effort to reduce paperwork and respondent burden, the Bureau conducts a preclearance consultation program to provide the general public and affected government agencies with an opportunity to comment on the new information collection requirements in accordance with the PRA (See 44 U.S.C. 3506(c)(2)(A)). This helps ensure that: the public understands the Bureau's requirements or instructions, respondents can provide the requested data in the desired format without unnecessary burden.

The proposal would require a new information collection requirement to submit an application to the Bureau to obtain an advisory opinion from the Bureau. This information collection is voluntary. The likely respondents would be for-profit businesses that are CFPB regulated entities.

Title of Collection: Request for an Advisory Opinion.

OMB Control Number: 3170–00NEW.

Type of Review: Request for a new OMB Control Number.

Affected Public: Private Sector.

Estimated Number of Respondents: 100.

Estimated Total Annual Burden Hours: 6,000.

[17] 5 U.S.C. 553(b).

[18] 5 U.S.C. 553(d).

[19] 5 U.S.C. 603(a), 604(a).

Abstract: The Bureau of Consumer Financial Protection (''CFPB'' or ''Bureau'') is proposing to establish an Advisory Opinion (AO) program. AOs issued under the proposed program would be interpretive rules under the Administrative Procedure Act (APA) that respond to a specific request for clarity on an interpretive question regarding a CFPB-administered regulation or statue. Under the program, parties would be able to request interpretive guidance, in the form of an AO, to resolve regulatory uncertainty. The Bureau would have discretion to decide which AOs to respond to and would publish those with a description of the incoming request for the public to review. The information will be collected from persons, primarily business or other for-profit entities, who request AOs from the Bureau. The information will be used by the Bureau to determine whether to pursue the issuance of an AO responsive to the request.

Documentation prepared in support of this information collection request is available at *www.regulations.gov.*

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. Please submit your comments in accordance with the procedure outlined in the **ADDRESSES** section of this notice above.

V. Signing Authority

The Director of the Bureau, having reviewed and approved this document, is delegating the authority to electronically sign this document to Laura Galban, a Bureau Federal Register Liaison, for purposes of publication in the **Federal Register**.

Dated: June 18, 2020.

Laura Galban,

Federal Register Liaison, Bureau of Consumer Financial Protection.

[FR Doc. 2020–13505 Filed 6–19–20; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 360

[Docket No. 200610–0155]

RIN 0625–AB17

Modification of Regulations Regarding the Steel Import Monitoring and Analysis System; Correction

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects an inaccuracy in the proposed rule to modify the Department of Commerce's (Commerce's) regulations regarding the Steel Import Monitoring and Analysis (SIMA) system published on Monday, March 30, 2020.

DATES: Applicable date: June 22, 2020.

ADDRESSES: The comment period for comments on the proposed rule closed on April 29, 2020. All comments received in response to the proposed rule are available on the Federal eRulemaking Portal at *http://www.Regulations.gov.* Commerce will not accept any additional comments regarding the proposed rule.

FOR FURTHER INFORMATION CONTACT: Julie Al-Saadawi at (202) 482–1930 or Brandon Custard at (202) 482–1823.

SUPPLEMENTARY INFORMATION: The following correction is made to the proposed rule to modify the regulations regarding the SIMA system. (85 FR 17515, March 30, 2020). Commerce is removing the following statements on page 17518, column two, first paragraph: ''Because the mill test certification is not currently required by CBP for entry purposes or required by Commerce for antidumping and countervailing duty purposes, Commerce cannot guarantee each importer would have a copy of the mill test certification. However, Commerce expects that the mill test certification would be included with the standard sales documentation for steel mill imports and therefore would be readily available to the importer.'' Commerce is replacing this language with the following: ''Specifically, the mill test certification is currently required by CBP for entry purposes, in accordance with 19 CFR 141.89 and 142.6, and Commerce expects that the mill test certification would be included with the standard sales documentation for steel mill imports and therefore would be readily available to the importer.''

Dated: June 10, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2020–12947 Filed 6–19–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2020–0247]

RIN 1625–AA00

Safety Zone; I–5 Bridge Construction Project, Columbia River, Vancouver, WA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a temporary safety zone for certain waters of the Columbia River. This action is necessary to provide for the safety of life on these navigable waters around the Northbound Interstate Bridge at Columbia River Mile 106.5. This proposed rulemaking would prohibit persons and vessels from being in the safety zone unless authorized by the Captain of the Port Sector Columbia River or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before July 22, 2020.

ADDRESSES: You may submit comments identified by docket number USCG–2020–0247 using the Federal eRulemaking Portal at *https://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Lieutenant Commander Dixon Whitley, Waterways Management Division, Marine Safety Unit Portland, U.S. Coast Guard; telephone 503–240–9319, email *msupdxwwm@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background, Purpose, and Legal Basis

On September 6, 2020, through September 26, 2020, the Oregon Department of Transportation is scheduled replace bridge components at the south end of the Northbound Interstate Bridge over the Columbia River at River Mile 106.5. As a result, a large construction crane barge blocking the navigable channel will be moving oversized equipment and bridge parts overhead and across the waterway resulting in potential hazards to the waterway and its users. The Captain of Port Sector Columbia River has determined that the potential hazards associated with the construction project would be a safety concern for anyone within the designated area of the I–5 bridge construction project.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters within the designated area of the I–5 bridge construction project.

The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231).

III. Discussion of Proposed Rule

The COTP is proposing to establish a safety zone from 12:01 on September 6, 2020 through 11:59 p.m. on September 26, 2020. The safety zone would cover all navigable waters of the Columbia River, directly below the lifting span of the I–5 bridge from the Washington shoreline to the edge of the lifting span (approx. 800 ft) and approximately 400 ft both east and west of the bridge. The duration of the zone is intended to ensure the safety of vessels and these navigable waters while the bridge construction is underway. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory

approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This NPRM has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, duration, and time-of-year of the safety zone. Vessel traffic would be able to safely transit around this safety zone which would impact a small designated area of the Columbia River during the bridge construction project. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule would allow vessels to seek permission to enter the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

Also, this proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a safety zone lasting 20 days that will prohibit vessel traffic to transit underneath the lift span of the I–5 Bridge during bridge repair and construction operations. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking

System of Records notice (85 FR 14226, March 11, 2020).

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T13–0247 to read as follows:

§ 165.T13–0247 Safety Zone[s]; Safety Zone; I–5 Bridge Construction Project, Columbia River, Vancouver, WA.

(a) *Location.* The following area is a safety zone: All navigable waters of the Columbia River, surface to bottom, encompassed by a line connecting the following points beginning at the shoreline at 45°37′17.7″ N/122°40′31.4″ W, southwest to 45°37′12.1″ N/122°40′35.0″ W, southeast to 45°37′08.8″ N/122°40′22.1″ W, thence northeast to 45°37′15.0″ N/122°40′18.3″ W, and along the shoreline back to the beginning point.

(b) *Definitions.* As used in this section, *designated representative* means any Coast commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Columbia River (COTP) to act on his behalf, or a Federal, State, and local officer designated by or assisting the Captain of the Port Columbia River in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) Vessel operators desiring to enter or operate with the safety zone may contact the COTP's on-scene designated representative by calling (503) 209–2468 or the Sector Columbia River Command Center on Channel 16 VHF–FM. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This safety zone is in effect from 12:01 on September 6, 2020 through 11:59 p.m. on September 26, 2020. It will be subject to enforcement this entire period unless the Captain of the Port, Columbia River determines it is no longer needed. The Coast Guard will inform mariners of any change to this period of enforcement via Broadcast Notice to Mariners.

Dated: May 12, 2020.

J.C. Smith,

Captain, U.S. Coast Guard, Captain of the Port Columbia River.

[FR Doc. 2020–13128 Filed 6–19–20; 8:45 am]

BILLING CODE 9110–04–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. 2020–11]

Exemptions to Permit Circumvention of Access Controls on Copyrighted Works

AGENCY: U.S. Copyright Office, Library of Congress.

ACTION: Notification of inquiry and request for petitions.

SUMMARY: The United States Copyright Office is initiating the eighth triennial rulemaking proceeding under the Digital Millennium Copyright Act (''DMCA''), to consider possible temporary exemptions to the DMCA's prohibition against circumvention of technological measures that control access to copyrighted works. In this proceeding, the Copyright Office is again providing a streamlined procedure for the renewal of exemptions that were granted during the seventh triennial rulemaking. If renewed, those current exemptions would remain in force for an additional three-year period (October 2021–October 2024). Members of the public seeking the renewal of current exemptions should submit petitions as described below; parties opposing such renewal will then have the opportunity to file comments in response. The Office is also accepting petitions for new exemptions to engage in activities not currently permitted by existing exemptions, which may include proposals that expand upon a current exemption. Those petitions, and any renewal petitions that are meaningfully opposed, will be considered pursuant to a more comprehensive rulemaking process similar to that of the seventh rulemaking, including three rounds of written comment, followed by public hearings, which may be conducted virtually.

DATES: Written petitions for renewal of current exemptions must be received no later than 11:59 p.m. Eastern Time on July 22, 2020. Written comments in response to any petitions for renewal must be received no later than 11:59 p.m. Eastern Time on September 8, 2020. Written petitions for new exemptions must be received no later than 11:59 p.m. Eastern Time on September 8, 2020.

ADDRESSES: Written petitions for renewal of current exemptions must be completed using the form provided on the Office's website at *https://www.copyright.gov/1201/2021/renewal-petition.pdf.* Written petitions proposing new exemptions must be completed using the form provided on the Office's website at *https://www.copyright.gov/1201/2021/new-petition.pdf.* The Copyright Office is using the *regulations.gov* system for the submission and posting of public petitions and comments in this proceeding. All petitions and comments are therefore to be submitted electronically through *regulations.gov*. Specific instructions for submitting petitions and comments are available on the Copyright Office website at *https://www.copyright.gov/1201/2021.* If electronic submission is not feasible, please contact the Office using the contact information below for special instructions.

FOR FURTHER INFORMATION CONTACT: Regan A. Smith, General Counsel and Associate Register of Copyrights, *regans@copyright.gov* or Kevin R. Amer, Deputy General Counsel, *kamer@copyright.gov.* They can be reached by telephone at (202) 707–3000.

SUPPLEMENTARY INFORMATION:

I. The Digital Millennium Copyright Act and Section 1201

The Digital Millennium Copyright Act (''DMCA'') [1] has played a pivotal role in the development of the modern digital economy. Enacted by Congress in 1998 to implement the United States' obligations under two international treaties,[2] the DMCA was intended to

[1] Public Law 105–304, 112 Stat. 2860 (1998).

[2] WIPO Copyright Treaty, Dec. 20, 1996, 36 I.L.M. 65 (1997); WIPO Performances and Phonograms Treaty, Dec. 20, 1996, 36 I.L.M. 76 (1997).

foster the growth and development of a thriving, innovative, and flexible digital marketplace by making digital networks safe places to disseminate and use copyrighted materials.[3] It did this by, among other things, providing new legal protections for copyrighted content made available in digital formats.[4]

These protections, codified in section 1201 of title 17, United States Code, seek to balance the interests of copyright owners and users, including the personal interests of consumers, in the digital environment.[5] Section 1201 protects technological measures (also called technological protection measures or TPMs) used by copyright owners to prevent unauthorized access to or use of their works.[6] Section 1201 contains three separate protections for TPMs. First, it prohibits circumvention of technological measures employed by or on behalf of copyright owners to protect access to their works (also known as access controls). Access controls include, for example, a password requirement limiting access to an online service to paying customers or an authentication code in a video game console to prevent the playing of pirated copies. Second, the statute prohibits trafficking in devices or services primarily designed to circumvent access controls. Finally, it prohibits trafficking in devices or services primarily designed to circumvent TPMs used to protect the exclusive rights of the copyright owner of a work (also known as copy controls). Copy controls protect against unauthorized uses of a copyrighted work once access has been lawfully obtained. They include, for example, technology preventing the copying of an e-book after it has been downloaded to a user's device. Because title 17 already provides remedies for copyright infringement, there is no corresponding ban on the act of circumventing a copy control.[7] All these prohibitions supplement the preexisting rights of copyright owners under the Copyright Act of 1976 by establishing separate and distinct causes of action independent of any infringement of copyright.[8]

Section 1201 contains a number of specific exemptions to these prohibitions, to avoid curtailing legitimate activities such as security testing, law enforcement activities, or the protection of personally identifying information.[9] In addition, to accommodate changing marketplace conditions and ensure that access to copyrighted works for other lawful purposes is not unjustifiably diminished,[10] the statute provides for a rulemaking proceeding where temporary exemptions to the prohibition on circumventing access controls may be adopted by the Librarian of Congress, upon the recommendation of the Register of Copyrights in consultation with the Assistant Secretary for Communications and Information of the Department of Commerce.[11] In contrast to the permanent exemptions set out by statute, exemptions adopted pursuant to the rulemaking must be reconsidered every three years.[12] By statute, the triennial rulemaking process only addresses the prohibition on circumvention of access controls; the statute does not grant the authority to adopt exemptions to the anti-trafficking provisions.[13]

For an exemption to be granted through the triennial rulemaking, it must be established that ''persons who are users of a copyrighted work are, or are likely to be in the succeeding 3-year period, adversely affected by the prohibition . . . in their ability to make noninfringing uses under [title 17] of a particular class of copyrighted works.'' [14] In evaluating the evidence, several statutory factors must be weighed: ''(i) the availability for use of copyrighted works; (ii) the availability for use of works for nonprofit archival, preservation, and educational purposes; (iii) the impact that the prohibition on the circumvention of technological measures applied to copyrighted works has on criticism, comment, news reporting, teaching, scholarship, or research; (iv) the effect of circumvention of technological measures on the market for or value of copyrighted works; and (v) such other factors as the Librarian considers appropriate.'' [15]

II. Overview of the Rulemaking Process

To assess whether the implementation of access controls impairs the ability of individuals to make noninfringing uses of copyrighted works, the Copyright Office solicits exemption proposals from the public and develops a comprehensive administrative record using information submitted by interested parties.[16] Based on that record, the Register provides a written recommendation to the Librarian concerning which exemptions are warranted based on that record. The recommendation includes proposed regulatory text for adoption and publication in the **Federal Register.**

The rulemaking process for the eighth triennial proceeding will be generally the same as the process followed in the seventh proceeding. This includes the streamlined procedure introduced in the seventh proceeding through which members of the public may petition for current temporary exemptions that were granted during the previous rulemaking to remain in force for an additional three-year period (October 2021–October 2024).

With this notification of inquiry, the Copyright Office is initiating the petition phase of the rulemaking, calling for the public to submit petitions both to renew current exemptions, as well as any comments in support of or opposition to such petitions, and to propose new exemptions. This two-track petition process is described below. After the close of the petition phase, the Office will publish a notice of proposed rulemaking (''NPRM'') to initiate the next phase of the rulemaking process, as described below.

Video tutorials explaining section 1201 in general and the rulemaking process can be found on the Office's 1201 rulemaking web page at *https://www.copyright.gov/1201.*

III. Process for Seeking Renewal of Current Exemptions

In the prior rulemaking, the Copyright Office introduced a streamlined process

[3] *See* Staff of H. Comm. on the Judiciary, 105th Cong., Section-by-Section Analysis of H.R. 2281 as Passed by the United States House of Representatives on August 4th, 1998, at 2, 6 (Comm. Print 1998) (''House Manager's Report''); H.R. Rep. No. 105–551, pt. 2, at 21, 23 (1998); H.R. Rep. No. 105–551, pt. 1, at 10 (1998); S. Rep. No. 105–190, at 1–2, 8–9 (1998).

[4] *See* House Manager's Report at 6 (noting Congress's intention to ''support new ways of disseminating copyrighted materials to users, and to safeguard the availability of legitimate uses of those materials by individuals'').

[5] *See* H.R. Rep. No. 105–551, pt. 2, at 26.

[6] 17 U.S.C. 1201(a)–(b).

[7] S. Rep. No. 105–190, at 12.

[8] *See* U.S. Copyright Office, Section 1201 of Title 17, at i, iii, 43–45 (June 2017), *https://www.copyright.gov/policy/1201/section-1201-full-report.pdf* (''Section 1201 Study'').

[9] 17 U.S.C. 1201(d)–(j).

[10] H.R. Rep. No. 105–551, pt. 2, at 35–36.

[11] 17 U.S.C. 1201(a)(1)(C); *see also id.* 1201(a)(1)(B)–(D).

[12] *Id.* 1201(a)(1)(C).

[13] *Id.* 1201(a)(1)(C), (a)(1)(E).

[14] *Id.* 1201(a)(1)(C).

[15] *Id.*

[16] *See* H.R. Rep. No. 105–796, at 64 (1998) (Conf. Rep.) (''It is the intention of the conferees that . . . the Register of Copyrights will conduct the rulemaking, including providing notice of the rulemaking, seeking comments from the public, consulting with the Assistant Secretary for Communications and Information of the Department of Commerce and any other agencies that are deemed appropriate, and recommending final regulations in the report to the Librarian.''); *see also* H.R. Rep. No. 106–464, at 149 (1999) (Conf. Rep.) (''[T]he Copyright Office shall conduct the rulemaking under section 1201(a)(1)(C) . . . .'').

to facilitate the renewal of previously adopted exemptions for which there was no meaningful opposition.[17] This process was initiated shortly after the Office concluded a comprehensive public policy study of section 1201.[18] In that study, following careful analysis of relevant legal principles and noting a broad consensus of stakeholders supporting an expedited process to consider renewal of such exemptions, the Office concluded that ''the statute itself requires that exemptions cannot be renewed automatically, presumptively, or otherwise, without a fresh determination concerning the next three-year period. . . . [A] determination must be made specifically for each triennial period.'' [19] The Office further determined, however, that ''the statutory language appears to be broad enough to permit determinations to be based upon evidence drawn from prior proceedings, but only upon a conclusion that this evidence remains reliable to support granting an exemption in the current proceeding.'' [20]

Those seeking readoption of a current exemption may petition for renewal by submitting the Copyright Office's required fillable form, available on the Office's website at *https://www.copyright.gov/1201/2021/renewal-petition.pdf.* This form is for renewal petitions only. The Office has a separate form, discussed below, for petitions for new exemptions.

Scope of Renewal. Renewal may only be sought for current exemptions as they are currently formulated, without modification. This means that if a proponent seeks to engage in any activities not currently permitted by an existing exemption, a petition for a *new* exemption must be submitted. Where a petitioner seeks to engage in activities that expand upon a current exemption, the Office recommends that the petitioner submit both a petition to renew the current exemption, and, separately, a petition for a new exemption. In such cases, the petition for a new exemption need only discuss those issues relevant to the proposed expansion of the current exemption. If the Office recommends readoption of the current exemption, then only those discrete aspects relevant to the expansion will be subject to the more comprehensive rulemaking procedure described below.

Automatic Reconsideration. If the Office declines to recommend renewal of a current exemption (as discussed below), the petition to renew will automatically be treated as a petition for a new exemption, and will be considered pursuant to the more comprehensive rulemaking proceeding. If a proponent has petitioned both for renewal and an expansion, and the Office declines to recommend renewal, the entire exemption (*i.e.,* the current exemption along with the proposed expansion) will automatically be considered under the more comprehensive proceeding.

Petition Form and Contents. The petition to renew is a short form designed to let proponents identify themselves and the relevant exemption, and to make certain sworn statements to the Copyright Office concerning the existence of a continuing need and justification for the exemption. Use of the Office's prepared form is mandatory, and petitioners must follow the instructions contained in this notice and on the petition form. A separate petition form must be submitted for each current exemption for which renewal is sought. This is required for reasons of administrability and so it is clear to which exemption the stated basis for renewal applies. While a single petition may not encompass more than one current exemption, the same party may submit multiple petitions.

The petition form has four components:

1. Petitioner identity and contact information. The form asks for each petitioner (*i.e.,* the individual or entity seeking renewal) to provide its name and the name of its representative, if any, along with contact information. Any member of the public capable of making the sworn declaration discussed below may submit a petition for renewal, regardless of prior involvement with past rulemakings. Petitioners and/or their representatives should be reachable through the provided contact information for the duration of the rulemaking proceeding. Multiple petitioning parties may jointly file a single petition.

2. Identification of the current exemption that is the subject of the petition. The form lists all current exemptions granted during the last rulemaking (codified at 37 CFR 201.40), with a check box next to each. The exemption for which renewal is sought is to be identified by marking the appropriate checkbox.

3. Explanation of need for renewal. The petitioner must provide a brief explanation summarizing the basis for claiming a continuing need and justification for the exemption. The required showing is meant to be minimal. The Office anticipates that petitioners will provide a paragraph or two detailing this information, but there is no page limit. While it is permissible to attach supporting documentary evidence as exhibits to the petition, it is not necessary. The Office's petition form includes an example of what it regards as a sufficient explanation.

4. Declaration and signature. One of the petitioners named in the petition must sign a declaration attesting to the continued need for the exemption and the truth of the explanation provided in support. Where the petitioner is an entity, the declaration must be signed by an individual at the organization having appropriate personal knowledge to make the declaration. The declaration may be signed electronically.

For the attestation to be trustworthy and reliable, it is important that the petitioner make it based on his or her own personal knowledge and experience. This requirement should not be burdensome, as a broad range of individuals have a sufficient level of knowledge and experience. For example, a blind individual having difficulty finding and purchasing e-books with appropriate assistive technologies would have such personal knowledge and experience to make the declaration with regard to the assistive technology exemption; so would a relevant employee or volunteer at an organization like the American Foundation for the Blind, which advocates for the blind, visually impaired, and print disabled, is familiar with the needs of the community, and is well-versed specifically in the e-book accessibility issue. It would be improper, however, for a general member of the public to petition for renewal if he or she knows nothing more about matters concerning e-book accessibility other than what he or she might have read in a brief newspaper article, or simply opposes the use of digital rights management tools as a matter of general principle.

The declaration also requires affirmation that, to the best of the petitioner's knowledge, there has not been any material change in the facts, law, or other circumstances set forth in the prior rulemaking record (available at *https://www.copyright.gov/1201/2018*) that originally demonstrated the need for the selected exemption, such that renewal of the exemption would not be justified. By ''material change,'' the Office means a significant change in the underlying conditions that originally justified the exemption when it was first granted, such that the appropriateness of continuing the exemption for another three years based on that original

[17] 82 FR 29804 (June 30, 2017).

[18] *See generally* Section 1201 Study.

[19] *Id.* at 142.

[20] *Id.* at 143.

justification is called into question. This attestation tells the Office that the prior rulemaking record from when the current exemption was originally granted is still ripe and applicable in considering whether or not the same exemption is appropriate for the subsequent triennial period. Only after finding the old record to still be germane can the Office rely upon it in deciding, pursuant to 17 U.S.C. 1201(a)(1)(C), whether to recommend renewal.

C. Comments in Response to a Petition To Renew an Exemption

Any interested party may respond to a petition to renew a current exemption by submitting comments. While the primary purpose of these comments is to allow for opposition to renewing the exemption, comments in support of renewal are also permitted. Although no form is being provided for such comments, the first page of any responsive comments must clearly identify which exemption's readoption is being supported or opposed. While participants may comment on more than one exemption, a single submission may not address more than one exemption. For example, a party that wishes to oppose the renewal of both the wireless device unlocking exemption and the jailbreaking exemption must file separate comments for each.[21] The Office acknowledges that this format may require some parties to repeat certain general information (*e.g.,* about their organization) across multiple submissions, but the Office believes that the administrative benefits of creating self-contained, separate records for each exemption will be worth the modest amount of added effort involved.

Opposition to a renewal petition must be meaningful, such that, from the evidence provided, it would be reasonable for the Office to conclude that the prior rulemaking record and any further information provided in the renewal petition are insufficient to support recommending renewal of an exemption. For example, a change in case law might affect whether a particular use is noninfringing, new technological developments might affect the availability for use of copyrighted works, or new business models might affect the market for or value of copyrighted works. Such evidence could cause the Office to conclude that the prior evidentiary record is too stale to rely upon for an assessment affecting the subsequent three-year period. The Office may also consider whether opposition is meaningful only as to part of a current exemption.

Unsupported conclusory opinion and speculation will not be enough for the Office to refuse to recommend renewing an exemption it would have otherwise recommended in the absence of any opposition, or to subject consideration of this exemption to the more comprehensive rulemaking procedure.

IV. Process for Seeking New Exemptions

Those seeking to engage in activities not currently permitted by an existing exemption, including activities that expand upon a current exemption, may propose a new exemption by filing a petition using the Copyright Office's required fillable form, available on the Office's website at *https://www.copyright.gov/1201/2021/new-petition.pdf.* Use of the Office's prepared form is mandatory, and petitioners must follow the instructions contained in this notice and on the petition form. As in the seventh rulemaking, a separate petition must be filed for *each* proposed exemption. The Office anticipates that it will, once again, receive a significant number of submissions, and requiring separate submissions for each proposed exemption will help both participants and the Office keep better track of the record for each proposed exemption. Although a single petition may not encompass more than one proposed exemption, the same party may submit multiple petitions.

The petition form has two components:

1. Petitioner identity and contact information. The form asks for each petitioner (*i.e.,* the individual or entity proposing the exemption) to provide its name and the name of its representative, if any, along with contact information. Petitioners and/or their representatives should be reachable through the provided contact information for the duration of the rulemaking proceeding. Multiple petitioning parties may jointly file a single petition.

2. Description of the proposed exemption. At this stage, the Office is only asking petitioners to briefly explain the nature of the proposed new or expanded exemption. The information that would be most helpful to the Office includes the following, to the extent relevant: (1) The types of copyrighted works that need to be accessed; (2) the physical media or devices on which the works are stored or the services through which the works are accessed; (3) the purposes for which the works need to be accessed; (4) the types of users who want access; and (5) the barriers that currently exist or which are likely to exist in the near future preventing these users from obtaining access to the relevant copyrighted works.

To be clear, petitioners do not need to propose precise regulatory language or fully define the contours of an exemption class in the petition. A short, plain statement describing the nature of the activities the petitioners wish to engage in is sufficient. Although there is no page limit, the Office anticipates that petitioners will be able to adequately describe in plain terms the relevant information in a few sentences. The Office's petition form includes examples of what it regards as a sufficient description of a requested exemption.

Nor does the Office intend for petitioners to deliver the complete legal and evidentiary basis for their proposals in the petition, and specifically requests that petitioners not do so. Rather, the sole purpose of the petition is to provide the Office with basic information about the uses of copyrighted works that are adversely affected by the prohibition on circumvention. The Office will then use that information to itself formulate categories of potential exemptions, and group similar proposals into those categories, for purposes of the next, more substantive, phase of the rulemaking beginning with the publication of the NPRM.

Indeed, as during the previous two rulemakings, even the NPRM will not ''put forward precise regulatory language for the proposed classes, because any specific language for exemptions that the Register ultimately recommends to the Librarian will necessarily depend on the full record developed during this rulemaking.''[22] Rather, the proposed categories of exemptions described in the NPRM will ''represent only a starting point for further consideration in the rulemaking proceeding, and will be subject to further refinement based on the record.''[23] Thus, proponents will have the opportunity to further refine or expound upon their initial petitions during later phases of the rulemaking.

V. Notice of Proposed Rulemaking

Following receipt of all petitions, as well as comments on petitions for

[21] Commenters may, however, respond to multiple *petitions* to renew the same exemption in a single submission. For instance, if the Office receives six petitions in favor of readopting the current wireless device unlocking exemption, a commenter can file a single comment that addresses points made in the six petitions. That comment, however, may not address petitions to readopt the jailbreaking exemption.

[22] 82 FR at 29807 (quoting 79 FR 73856, 73859 (Dec. 12, 2014)).

[23] *Id.* (internal quotation marks and citation omitted).

renewal, the Office will evaluate the material received and will issue an NPRM addressing all of the potential exemptions to be considered in the rulemaking.

The NPRM will set forth which exemptions the Register will recommend for readoption, along with proposed regulatory language. The NPRM will also identify any exemptions the Register has declined to recommend for renewal under the streamlined process, after considering any opposition received. Those exemptions will instead be subject to the more comprehensive rulemaking procedure in order to build out the administrative record. The Register will not at the NPRM stage make a final determination to reject recommendation of any exemption that meets the threshold requirements of section 1201(a).[24]

For current exemptions for which renewal was sought but which were not recommended for readoption through the streamlined process and all new exemptions, including proposals to expand current exemptions, the NPRM will group them appropriately, describe them, and initiate at least three rounds of public comment. As with the seventh rulemaking, the Office plans to consolidate or group related and/or overlapping proposed exemptions where possible to simplify the rulemaking process and encourage joint participation among parties with common interests (though such collaboration is not required). As in previous rulemakings, the exemptions as described in the NPRM will represent only a starting point for further consideration in the rulemaking proceeding, and will be subject to further refinement based on the record. The NPRM will provide guidance regarding specific areas of legal and factual interest for the Office with respect to each proposed exemption, and suggest particular types of evidence that participants may wish to submit for the record. It will also contain additional instructions and requirements for submitting comments and will detail the later phases of the rulemaking proceeding—*i.e.,* public hearings, post-hearing questions, recommendation, and final rule—which will be similar to those of the seventh rulemaking.

The Office expects to follow a similar timeframe for issuance of the NPRM and submission of comments that applied during the seventh rulemaking. In addition, as it did in the previous rulemaking, the Office will look for opportunities to discuss discrete issues, including suggestions regarding regulatory language, through its *ex parte* meeting process, and to ask additional post-hearing questions, where necessary to ensure sufficient stakeholder participation.[25]

Dated: June 11, 2020.

Regan A. Smith,

General Counsel and Associate Register of Copyrights.

[FR Doc. 2020–12911 Filed 6–19–20; 8:45 am]

BILLING CODE 1410–30–P

[24] *See* 79 FR 55687, 55692 (Sept. 17, 2014) (explaining that part of the purpose of providing the information in the petition phase is so the Office can ''confirm that the threshold requirements of section 1201(a) can be met''); *see also* 79 FR at 73859 (noting that three petitions sought an exemption which could not be granted as a matter of law and declining to put them forward for comment).

[25] *See* 82 FR at 29808; U.S. Copyright Office, *Ex Parte* Communications, *https://www.copyright.gov/1201/2018/ex-parte-communications.html;* U.S. Copyright Office, Additional Correspondence from Participants in Proposed Class 10, *https://www.copyright.gov/1201/2018/additional-correspondence/;* Section 1201 Study at 150–51.

POSTAL REGULATORY COMMISSION

39 CFR part 3050

[Docket No. RM2020–10; Order No. 5548]

Periodic Reporting

AGENCY: Postal Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is acknowledging a recent filing requesting the Commission initiate a rulemaking proceeding to consider changes to analytical principles relating to periodic reports (Proposal Three). This document informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* August 14, 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. Proposal Three
III. Notice and Comment
IV. Ordering Paragraphs

I. Introduction

On June 11, 2020, the Postal Service filed a petition pursuant to 39 CFR 3050.11 requesting that the Commission initiate a rulemaking proceeding to consider changes to analytical principles relating to periodic reports.[1] The Petition identifies the proposed analytical changes filed in this docket as Proposal Three.

II. Proposal Three

Background. The Postal Service's current In-Office Cost System (IOCS) design uses a multi-stage probability sample to randomly select craft employees, including city carriers, and then an interval of work time from the employee's tour for a ''snapshot'' of work activities in the work interval. Petition, Proposal Three at 1. The Postal Service states that moving data collectors to distant delivery units for carrier readings is costly so that in FY 2019, of over 250,000 individual readings scheduled on city carriers, over 85 percent were conducted by telephone. *Id.* The Postal Service asserts that the availability of detailed clock ring data from the Time and Attendance Collection System (TACS) allows reshaping of the sampling design to improve sampling efficiency and data quality. *Id.* The Postal Service explains that In Docket No. RM2019–6, the Commission approved the modelling of all Special Purpose Route (SPR) carrier costs using TACS data and econometric equations.[2]

Proposal. The Postal Service states that Proposal Three would change IOCS system design for city carriers to a cluster sampling utilizing census data from TACS to enable on-site data collection at locations and times where and when city carriers are working on the premises. Petition, Proposal Three at 3. Rather than sampling individual employees, the proposed design would sample blocks of time and then subsample clusters of carriers working during those blocks of time. *Id.* The Postal Service asserts that this new design improves data quality with more on-site data rather than telephone readings and, thereby, improves data collection efficiency. *Id.* at 1.

[1] Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Three), June 11, 2020 (Petition). The Postal Service also filed a notice of filing of public and non-public materials relating to Proposal Three. Notice of Filing of USPS–RM2020–10–1 and USPS–RM2020–10–NP1 and Application for Nonpublic Treatment, June 11, 2020.

[2] *Id.* at 1–2. Docket No. RM2019–6, Order on Analytical Principles Used in Periodic Reporting (Proposal One), January 14, 2020 (Order No. 5405).

The Postal Service states that for in-morning tests (prior to 1100), when carriers typically work on the premises of postal facilities, on-site data collection of the associated carriers using clustered on-site readings in sampled individual finance numbers (within cost ascertainment group (CAG) strata) would be used as described in the Proposal as Sampling Mode 1. *Id.* at 3. In the afternoon period (after 1100), when carriers are typically working on the street, clustered telephone readings with one-hour intervals of time would be sampled as described in the Proposal as Sampling Mode 2. *Id.*

The Postal Service states that TACS data would be used to control totals for supervisor costs incurred on weekdays by employees whose base craft is carrier but clocked in as a supervisor craft. *Id.* at 4. The Postal Service asserts that this method was approved by the Commission in Order No. 5395 for Sundays and holidays.[3] The Postal Service states that it will not conduct carrier readings on Sundays and holidays, but would expand the methodology to all days of the week. *Id.* It would use TACS data to provide control totals for carrier costs on Sundays and holidays described in Docket No. RM2018–5.[4]

Each of the Sampling Modes is described briefly in the Proposal. Sampling Mode 1 is Morning On-site Tests. Petition, Proposal Three at 3. The Postal Service states that all carriers working in the selected finance number are identified and software is used to randomly subsample up to six carriers. *Id.* at 4–5. Typically a reading is conducted on each of the six carriers every 30 minutes from the start of their workday until 1100. *Id.* at 5. Sampling Mode 2 is Afternoon Telephone Tests. *Id.* Telephone tests are scheduled for one-hour blocks of time between 1100 and 1900. *Id.* Software randomly selects 30 carriers across a district and groups them by finance numbers. *Id.* There are larger CAG groups and smaller CAG groups to allow for oversampling of smaller CAGs. *Id.* The Postal Service states that a full description of the sampling modes is provided in Appendix A as part of Library Reference USPS–RM2020–10–1. *Id.* at 4.

The Postal Service states that the sampling methodology utilizes probability proportional to size (PPS) sampling ''based on the accrued TACS workhours for carriers from two pay periods out of the prior quarter.'' *Id.* at 6. TACS workhours are grouped by CAG finance number, district and time of day and samples are on a quarterly basis. *Id.* Table 1 of the Proposal presents the Mode 1 quarterly sample size by CAG Group. *Id.* Table 2 shows the Mode 2 quarterly sample size by CAG Group. *Id.* at 7. Table 3 of the Proposal displays the proposed number of tests by each Sampling Mode and CAG Group and the proposed number of ''non-stop'' readings (when a carrier is actively working in the tested finance number) expected from each mode. *Id.* at 8. The Postal Service would estimate costs for carriers using quarterly TACS data to weight the IOCS-Cluster sample readings. *Id.* The Postal Service states that equations for the estimations are provided in Appendix A of Library Reference USPS–RM2020–10–1. *Id.*

The Postal Service states that with the approval of Proposal One in Docket No. RM2019–6, tallies are no longer used to distribute SPR activity costs. *Id.* at 9. It states that the current proposal will continue to sample SPR carriers, but will not use the readings to attribute any costs. *Id.* The Postal Service states that the change in sampling methods does not change the activity or mail-related questions of the data collectors; only administrative fields and back-end variables will be affected by the sampling methodology. *Id.*

Rationale. The Postal Service states that there are numerous reasons it views the cost estimates from the new sampling systems as more accurate than the cost estimates from the current IOCS sampling system. *Id.* at 10. It offers the following reasons. Dedicated on-site data collectors can provide valuable information and validate data. *Id.* They are trained and may better implement IOCS data collection procedures with a primary objective to complete their tests compared to the current data collecting employees who also have other responsibilities. *Id.* On-site data collectors will have time for increased sampling with less disruption and delay of carriers and respondent clerks and supervisors. *Id.* at 10–11.

Based on Table 4 of the Proposal, the Postal Service asserts that direct mailpiece costs using the allocation of direct mailpiece tallies when carriers were in the office increased 44 percent, and increased 223 percent when carriers were in the parking lot. *Id.* at 10. It also asserts that in-office mixed mail costs decreased 24 percent and that parking lot mixed mail costs decreased 9 percent. *Id.* at 10–11.

The Postal Service asserts that there will be a reduction in ambiguous route costs. *Id.* at 12. No costs except certain training costs will be allocated to unidentified routes; whereas, in Non-Cluster IOCS, numerous tallies are assigned to the ambiguous route 99 when carriers are not assigned to a specific route or not working on a valid route. *Id.* The Postal Service asserts Table 6 of the Proposal demonstrates that larger route categories appear stable between the two systems. *Id.* at 13.

As its last rationale, the Postal Service states that use of the TACS system to weight tests by finance number or district means that the Postal Service no longer needs to absorb the inefficiency of simple random sampling. TACS allows sampling at all CAGs, and weights the results according to accrued hours and costs. *Id.*

Impact. The Postal Service asserts that Table 7 of the Proposal demonstrates that the proposed IOCS-Cluster sampling would result in a 49 percent increase in costs allocated based on direct tallies, where the carrier was handling a mailpiece and the mailpiece was able to be sampled. *Id.* at 13–14. It also asserts that costs decreased for mixed mail, training, support and administrative activities, all readings without an actual mailpiece. *Id.*

The impacts at the Cost and Revenue Analysis (CRA) product level are indicated in Table 8 of the Proposal. *Id.* at 15. The Postal Service states that the material cost changes are seen in competitive products which increased overall, that First-Class Mail Single-Piece Letter costs decreased, accounting for most of the decrease in First-Class Mail, and that costs of other market dominant products increased. *Id.* at 14. Competitive product details were filed under seal in Library Reference USPS–RM2020–10–NP–1. *Id.*

The Postal Service provides the results of the coefficients of variation (CVs) by CRA Subproducts in Table 9 of the Proposal. *Id.* at 16–17. The Postal Service asserts that, using Quarter 2 FY 2020 data, the majority of CVs projected for IOCS-Cluster were lower than during FY 2019. *Id.* at 16. The Postal Service also asserts that the efficiency gains for street time outweigh the slight increase in CVs. *Id.* It claims that First-Class Mail experiences a slight increase in CVs due to a drop in allocated costs, but that the approval of modeling SPR costs in Docket No. RM2018–5 improved the CVs compared to the previous IOCS-Cluster filing. *Id.*

III. Notice and Comment

The Commission establishes Docket No. RM2020–10 for consideration of matters raised by the Petition. More information on the Petition may be accessed via the Commission's website

[3] *Id.* at 4 n.4. *See* Docket No. RM2019–12, Order on Analytical Principles Used in Periodic Reporting (Proposal Seven), January 6, 2020 (Order No. 5395).

[4] Petition, Proposal Three at 4. *See* Docket No. RM2018–5, Order Approving In Part Proposal Two, January 8, 2019 (Order No. 4972).

at *http://www.prc.gov.* Interested persons may submit comments on the Petition and Proposal Three no later than August 14, 2020. Pursuant to 39 U.S.C. 505, Katalin K. Clendenin is designated as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. RM2020–10 for consideration of the matters raised by the Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Three), filed June 11, 2020.

2. Comments by interested persons in this proceeding are due no later than August 14, 2020.[5]

3. Pursuant to 39 U.S.C. 505, the Commission appoints Katalin K. Clendenin to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this docket.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Erica A. Barker,

Secretary.

[FR Doc. 2020–13188 Filed 6–19–20; 8:45 am]

BILLING CODE 7710–FW–P

[5] The Commission reminds interested persons that its revised and reorganized Rules of Practice and Procedure became effective April 20, 2020, and should be used in filings with the Commission after April 20, 2020. The new rules are available on the Commission's website and can be found in Order No. 5407. Docket No. RM2019–13, Order Reorganizing Commission Regulations and Amending Rules of Practice, January 16, 2020 (Order No. 5407).

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2017–0416; FRL–10011–19–Region 7]

Air Plan Approval; Iowa; Air Quality Implementation Plan-Muscatine Sulfur Dioxide Nonattainment Area and Start-Up, Shutdown, Malfunction SIP Call Withdrawal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The Environmental Protection Agency's (EPA) Region 7 Office is publishing a second supplemental notice of proposed rulemaking (SNPRM) to propose approval of Iowa's State Implementation Plan (SIP) for the 2010 1-hour Sulfur Dioxide (SO_2) National Ambient Air Quality Standard (NAAQS) for the Muscatine nonattainment area, including the attainment plan control strategy. In this action, Region 7 is including additional technical information in the docket. Region 7 is also considering adoption of an alternative policy regarding startup, shutdown, and malfunction (SSM) exemption provisions in the Iowa SIP that departs from the policy detailed in EPA's 2015 SSM SIP Action, as well as proposing to withdraw the SIP call issued to Iowa as part of the 2015 SSM SIP Action and to approve the attainment plan control strategy.

DATES: Comments must be received on or before July 22, 2020.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–R07–OAR–2017–0416 to *https://www.regulations.gov.* Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received will be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the ''Written Comments'' section of this document.

FOR FURTHER INFORMATION CONTACT: Tracey Casburn, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number (913) 551–7016; email address *casburn.tracey@epa.gov.*

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

Table of Contents

I. Written Comments
II. Executive Summary
III. Background
A. The EPA's SIP Policy for Treatment of Excess Emissions During Periods of Startup, Shutdown, or Malfunction (SSM)
B. The SSM SIP Call for Iowa
C. The Muscatine Attainment Plan
IV. What is Being Addressed in This Document?
V. Region 7's Evaluation of the Iowa SIP
VI. Additional Modeling Information
VII. What Action is EPA Region 7 Taking?
VIII. Statutory and Executive Order Reviews

I. Written Comments

Submit your comments regarding the supplemental modeling information discussed in this document or the EPA's proposal to remove Iowa from the SSM SIP Call, identified by Docket ID No. EPA–R07–OAR–2017–0416 at *https://www.regulations.gov.* Modeling files are provided in the docket to this rulemaking but can also be requested from the EPA by contacting the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document. Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

II. Executive Summary

On August 24, 2017, the EPA's Region 7 published a notice of proposed rulemaking (NPRM) to propose approval of the Iowa SIP revision for attaining the 2010 1-hour SO_2 primary NAAQS for the Muscatine nonattainment area.[1] As a result of comments received on the NPRM, Region 7 published an SNPRM on January 9, 2018 to clarify the August 24, 2017 NPRM and to provide additional technical information in the docket.[2] As a result of comments received on the NPRM and SNPRM, Region 7 is issuing a second SNPRM to provide additional detail regarding technical support for approving the attainment demonstration contained in Iowa's submitted SIP revision. In addition, Region 7 is considering in this document adoption of an alternative policy regarding SSM exemption provisions in the Iowa SIP that departs from the policy detailed in EPA's 2015 SSM SIP Action.[3] Simultaneously, Region 7 is also proposing to withdraw the SIP call issued to Iowa as part of the 2015 SSM SIP Action and proposing to

[1] 82 FR 40086.
[2] 83 FR 997.
[3] 80 FR 33840.

approve the attainment plan control strategy.

III. Background

Clean Air Act (CAA or Act) section 110 provides a framework for how states must adopt and periodically revise their SIPs with a goal of attaining and maintaining the NAAQS.[4] State regulatory or statutory requirements are submitted by the state to the EPA for approval into the SIP. The CAA establishes the framework for EPA action on submitted SIP revisions, and the EPA must approve submitted SIP revisions that it determines meet the applicable requirements of the Act. Once approved by the EPA, the SIP provisions become federally enforceable.

There are times when a state will update or revise its SIP on its own initiative due to revisions to state law or the need to update its regulations. Additionally, certain events trigger requirements that a state revise or update its SIP. Examples of mandatory SIP revisions triggered by specific events include ''infrastructure'' SIP (iSIP) revisions, which are required 3 years after the promulgation of a new or revised NAAQS, and ''attainment plan'' SIP revisions, which are required after an area is designated or redesignated nonattainment for a NAAQS. A state may also be required to revise its SIP after the EPA revises its regulations to clarify certain requirements of the CAA.

Another event that can result in a required SIP revision is if the EPA determines at any time that a state's SIP is substantially inadequate to meet certain requirements of the Act, including attaining or maintaining the relevant NAAQS or mitigating interstate pollutant transport. In such cases, the EPA will issue a ''SIP call'' pursuant to CAA section 110(k)(5) requiring the state to revise the SIP to address the inadequacy.

A. The EPA's SIP Policy for Treatment of Excess Emissions During Periods of Startup, Shutdown, or Malfunction (SSM)

On June 30, 2011, Sierra Club (Petitioner) filed a petition for rulemaking (petition) asking the EPA to consider how air agency rules in the EPA-approved SIPs treated excess emissions during periods of startup, shutdown, or malfunction of industrial process or emission control equipment. On July 12, 2015, the EPA responded to the petition, restated and updated its national policy regarding SSM provisions in SIPs, and issued a SIP call pursuant to CAA section 110(k)(5) to certain states to amend those provisions. This action is referred to as the 2015 SSM SIP Action.

In the 2015 SSM SIP Action, among other things, the EPA defined the following terms:

Automatic exemption: A generally applicable provision in a SIP that would provide that if certain conditions existed during a period of excess emissions, then those exceedances would not be considered violations of the applicable emission limitations.[5]

Emission limitation: In the context of a SIP, a legally binding restriction on emissions from a source or source category, such as a numerical emission limitation, a numerical emission limitation with higher or lower levels applicable during specific modes of source operation, a specific technological control measure requirement, a work practice standard, or a combination of these things as components of a comprehensive and continuous emission limitation in a SIP provision. In this respect, the term emission limitation is defined as in section 302(k) of the CAA. By definition, an emission limitation can take various forms or a combination of forms, but in order to be permissible in a SIP it must be applicable to the source continuously, *i.e.,* cannot include periods during which emissions from the source are legally or functionally exempt from regulation. Regardless of its form, a fully approvable SIP emission limitation must also meet all substantive requirements of the CAA applicable to such a SIP provision, *e.g.,* the statutory requirement of section 172(c)(1) for imposition of reasonably available control measures and reasonably available control technology (RACM and RACT) on sources located in designated nonattainment areas.[6]

The EPA used the D.C. Circuit's decision in *Sierra Club* v. *Johnson,* 551 F.3d 1019 (D.C. Cir. 2008) (*Sierra Club*), to further support its position in the 2015 SSM SIP Action that SIPs may not contain SSM exemption provisions. In *Sierra Club,* the D.C. Circuit reviewed an EPA rule promulgated pursuant to CAA section 112 that contained an automatic SSM exemption and found that ''the SSM exemption violates the CAA's requirement that some section 112 standard apply continuously.''[7] In the 2015 SSM SIP Action, the EPA applied the *Sierra Club* court's interpretation of CAA section 302(k) definition of ''emission limitation'' in the CAA section 112 context to the requirements of CAA section 110. CAA section 110(a)(2)(A) provides that SIPs shall include ''enforceable *emission limitations* and other control measures, means, or techniques . . . as may be necessary or appropriate to meet the applicable requirements of this chapter.'' The EPA's application of the *Sierra Club* decision to CAA section 110 SIP requirements rested on the Agency's premise that the D.C. Circuit's interpretation of the definition of ''emission limitation'' in CAA section 302(k) applied generally to the Act. The EPA thus determined that *Sierra Club* was consistent with the EPA's national policy, expressed through previously issued guidance documents and regulatory actions prohibiting exemption provisions for otherwise applicable emission limits in SIPs (such as automatic exemptions granted for startup, shutdown, and malfunction events). Based on this premise, the EPA interpreted the lack of continuous control as creating a substantial risk that exemptions could permit excess emissions that could ultimately result in a NAAQS violation.

B. The SSM SIP Call for Iowa

As part of the Agency's response to the 2011 petition from Sierra Club, the EPA evaluated dozens of existing SIP provisions in 36 state SIPs—including the Iowa SIP—related to automatic excess emission exemptions for consistency with EPA's policy. As a result, the EPA issued findings in its 2015 SSM SIP Action that certain SIP provisions for 36 states (including Iowa) were substantially inadequate to meet CAA requirements. In the 2015 SSM SIP Action, the EPA granted the Sierra Club's petition with respect to Iowa Administrative Code (IAC) subrule 567–24.1(1), finding that the provision was substantially inadequate and issuing a SIP call for that provision, and the EPA denied the petition with respect to IAC 567– 24.1(4).[8] [9]

[4] *See* 40 CFR part 50.

[5] See 80 FR 33839, page 33842.

[6] See 80 FR 33839, page 33842.

[7] 551 F.3d at 1027–1028.

[8] IAC 567–24.1(1) states that excess emissions during a period of startup, shutdown, or cleaning of control equipment is not a violation of the emission standard if the startup, shutdown or cleaning is accomplished expeditiously and in a way that is consistent with good practice for minimizing emissions.

[9] IAC 567–24.1(4) states that incidents of excess emissions (other than an incident during start-up, shutdown or cleaning of control equipment) are violations. If the source believes that the excess emissions are due to a malfunction the source must meet the burden of proof that the incident was not preventable by reasonable maintenance and control measures. Meeting the burden of proof does not guarantee that the excess emissions will not be enforced; the rule states that enforcement will be considered after review of the source's report.

In the 2015 SSM SIP Action, the EPA found IAC 567–24.1(1) to be substantially inadequate to meet the requirements of the Act on the basis that this provision automatically allows for exemptions from the otherwise applicable SIP emission limitations as required by CAA sections 110(a)(2)(A), 110(a)(2)(C), and 302(k).[10] Specifically, IAC 567–24.1(1) explicitly states that excess emissions during periods of startup, shutdown, and cleaning of control equipment are not violations of the emission standard. Iowa has not submitted a SIP revision addressing IAC 567.24.1(1).

C. The Muscatine Attainment Plan

On May 26, 2016, the State of Iowa submitted a SIP revision for the purpose of attaining the 2010 1-hour sulfur dioxide (SO_2) primary National Ambient Air Quality Standard (NAAQS) for the Muscatine nonattainment area (herein called an ''attainment plan''). As detailed in EPA's 2014 SO_2 nonattainment area guidance, such attainment plans are to contain six CAA-required elements: an emissions inventory of current emissions for all sources of SO_2 within the nonattainment area; a New Source Review (NSR) permit program; an attainment demonstration using an EPA-approved air dispersion model; contingency measures; Reasonable Further Progress; and implementation of a control strategy.[11] The state noted that as part of its control strategy, 58 construction permits in the attainment plan relied on the SIP-called IAC 567–24.1(1) (''Condition 6'' of each permit). As such, the State's nonattainment area plan SIP submission requested that the EPA not act on Condition 6 of the included permits.

On August 24, 2017, the EPA published a notice of proposed rulemaking to approve the attainment plan.[12] In that action, the EPA agreed with the State that it would not be appropriate to approve Condition 6 of each permit into the SIP and proposed to approve the permitted limits into the SIP without the condition. During the 30-day public comment period, the EPA received a comment that (1) because Condition 6 provides for an exemption for excess emissions during periods of SSM, and because Condition 6 refers to and implements IAC 567–24.1(1), the construction permits do not ensure continuous compliance with the ''emission limitations'' therein; and (2) even if the EPA does not approve Condition 6 into the SIP, the continued existence of IAC 567–24.1(1) in Iowa's SIP means that Iowa cannot ensure continuous compliance with those ''emission limitations.''[13] Therefore, according to the comment, the EPA should not approve the attainment plan considering the policy and SIP call issued by the EPA in 2015 and the requirements of section 110(a)(2)(A) and 172(c)(6) of the CAA.[14]

On January 9, 2018, the EPA published a supplemental proposal document that: (1) Provided additional information in the docket and clarified that all information, including files that were too large to be provided in the docket, was available upon request; (2) provided an 2018 projected emissions inventory that had been excluded from the Notice of Proposed Rulemaking; and, (3) re-opened the public comment period only on those specific aspects.[15]

IV. What is being addressed in this proposal?

In this second supplemental notice of proposed rulemaking related to Iowa's 2016 submission, EPA Region 7 is considering adopting an alternative policy to the national policy as stated in the 2015 SSM SIP Action specifically regarding exemptions for excess emissions in the State of Iowa, and is simultaneously proposing to withdraw the SIP call for Iowa if the alternative SSM policy for the State is adopted (see Section V).[16] Additionally, after considering comments received to date on the Agency's proposed approval of all elements of the attainment plan for the Muscatine 2010 SO_2 nonattainment area, EPA Region 7 is proposing to approve additional modeling that demonstrates attainment throughout the nonattainment area and at receptors on adjacent properties (see Section VI).

Region 7 is considering adopting an alternative policy for Iowa regarding the continuous application of emission limits in section 110 SIPs. Specifically, although the Iowa SIP contains an exemption for SSM, the SIP is comprised of numerous overlapping planning requirements. Those overlapping planning requirements consist of an array of Federal and state requirements in the SIP that arise from the relationship between states and the Federal Government that underlies implementation of the CAA. Congress's primary goal in creating the SIP adoption and approval process was to ensure the NAAQS are attained and maintained.[17] Region 7 is evaluating the overlapping requirements in the Iowa SIP to assess whether exemptions during SSM periods are allowable. On the basis of that evaluation, Region 7 is proposing to find that Iowa's SSM provision is allowable, because of the proposed finding that the SIP as a whole is protective of the NAAQS, accomplishing the task Congress set out for states and the EPA. If such an alternative policy is finalized, EPA would withdraw the SSM SIP call for Iowa because, under such circumstances, the SIP-called provision would not be substantially inadequate.

As discussed above, the 2015 SSM SIP Action reiterated the EPA's policy that SIPs containing SSM exemptions were not allowable because they would create risk that excess emissions during SSM events could cause a state to fail to attain or maintain the NAAQS for one or more criteria pollutants. Region 7 is proposing to find that the inherent flexibilities in the SIP development process and the general requirements in CAA section 110 mean that a state like Iowa could ensure attainment and maintenance despite one or more SSM exemptions in the SIP.

Although the *Sierra Club* decision did not allow sources to be exempt from complying with CAA section *112* emission limitations during periods of SSM, that finding is not binding on Region 7's consideration of SIPs under CAA section 110. In the *Sierra Club* decision, the court explained, ''[i]n requiring that sources regulated under section 112 meet the strictest standards, Congress gave no indication that it intended the application of MACT standards to vary based on different time periods.''[18] That is, the court found that when the EPA promulgates standards pursuant to CAA section 112, CAA section 112-compliant standards must apply continuously, but the court did not make any statement explicitly applying its finding beyond CAA section 112. The decision itself did not address whether the rationale articulated with respect to SSM exemptions in CAA section 112 rules applies to SIPs approved under CAA section 110.

[10] See 80 FR 33969.

[11] Guidance for 1-Hour SO_2 Nonattainment Area SIP Submissions; April 23, 2014.

[12] See 82 FR 40086.

[13] As that term is defined in section 302(k) of the CAA.

[14] The requirements of CAA section 172(c)(6) parallel those in section 110(a)(2)(A), so Region 7 does not address them separately here.

[15] See 83 FR 997.

[16] If the proposed policy is finalized and the SIP call withdrawn and Iowa requests that EPA act on Condition 6 of the 58 construction permits submitted to the EPA as part of the control strategy for the attainment plan, EPA could propose to approve those provisions based on the rationale set forth in this document.

[17] *See, e.g.,* H.R. Rep. 91–1783 at 193–95 (1970).

[18] *Sierra Club,* 551 F. 3d at 1028.

The EPA took the position in the 2015 SSM SIP Action that the legal reasoning in *Sierra Club* applied equally to CAA section 112 rules and section 110 approved SIPs, but further consideration of the Iowa SIP has shown that an alternative reading of the relevant statutory sections is possible and appropriate.[19] More specifically, in the 2015 SSM SIP Action the EPA interpreted CAA section 302(k)'s definition of ''continuous'' applied broadly to both sections 112 and 110.[20] However, Region 7 believes that, given Iowa's particular factual situation, an alternative interpretation, that the court's reasoning in *Sierra Club* does not extend to CAA section 110, is warranted.

Fundamentally, CAA sections 112 and 110 have different goals and establish different approaches for implementation by the state and the EPA. That is to say, the court in *Sierra Club* recognized that Congress intended ''that sources regulated under section 112 meet the strictest standards,'' a requirement without a similar analog in CAA section 110.[21] CAA section 112 sets forth specific standards for specific source categories once they are listed for regulation pursuant to CAA section 112(c). Once listed, the statute directs the EPA to use a specific and exacting process to establish nationally applicable, category-wide, technology-based emissions standards under section 112(d), requiring the EPA to establish emission standards (known as ''maximum achievable control technology'' or ''MACT'' standards) for major sources that ''require the maximum degree of reduction in emissions of the hazardous air pollutants subject to this section'' that EPA determines is achievable considering certain statutory factors.[22]

In contrast, the CAA sets out a different expectation for section 110 SIPs, reflecting that SIP development and implementation rely on a federal-state partnership and are designed to be flexible for each state's circumstances. The CAA sets the minimum requirements to attain, maintain, and enforce ambient air quality standards, while allowing each state to customize its own approach for the sources and air quality challenges specific to each state. It is important to note that the EPA sets the NAAQS for each criteria pollutant to provide the requisite degree of protection for public health and welfare, but does not direct the states on how to achieve the NAAQS.[23] The NAAQS, then, are fundamentally different in nature than the source-specific standards the EPA issues under section 112. As such, the D.C. Circuit's concern that 112 standards must apply ''continuously'' to regulate emissions from a particular source are not necessarily applicable in the context of section 110, where a state's plan may contain a broad range of measures, including limits on the emissions of multiple pollutants from multiple sources of various source categories—all targeted towards Congress's broad goal of attainment and maintenance of an air quality standard measured against emissions contributions from a variety of sources over a specific geographic area.

It is important to also note that the list of potential CAA section 110(a)(2)(A) measures that a state must implement are required only ''as may be necessary or appropriate to meet the applicable requirements of this chapter.'' This language suggests that Congress intended to give states the flexibility to craft a plan that makes the most sense for that state, so long as the set of emissions limitations, control measures, means and techniques, when taken as a whole, meet the requirements of attaining and maintaining the NAAQS under subpart A. As such, Region 7 is considering whether it may be appropriate to approve certain Iowa SIP submissions notwithstanding the existence of an exemption elsewhere in the Iowa SIP, so long as other provisions in the SIP remain in effect that would ensure protection of the NAAQS.

The U.S. Supreme Court has recognized that the CAA gives a state ''wide discretion'' to formulate its plan pursuant to CAA section 110 and went so far as to say that ''the State has virtually absolute power in allocating emission limitations so long as the national standards are met.'' *See, e.g., Union Elec. Co.* v. *EPA,* 427 U.S. 246, 250 & 267 (1976). *See also id.* at 269 (''Congress plainly left with the States, so long as the national standards were met, the power to determine which sources would be burdened by regulation and to what extent.''). The Court has also explained, ''so long as the ultimate effect of a State's choice of emission limitations is compliance with the national standards for ambient air, the State is at liberty to adopt whatever mix of emission limitations it deems best suited to its particular situation.'' See *Train* v. *Natural Res. Def. Council, Inc.,* 421 U.S. 60, 79 (1975). States are the best suited to determine how best to implement the NAAQS within their jurisdiction and are given primary responsibility under CAA section 110 to do so.

Because the purposes of CAA sections 110 and 112 are different, it is reasonable to interpret the same term (emission limitation) to have different meanings in those sections; a singular interpretation may not necessarily apply statute-wide. The U.S. Supreme Court has recognized that principles of statutory construction are not so rigid as to necessarily require that the same terminology has the exact same meaning in different parts of the same statute. *See Envtl. Defense* v. *Duke Energy Corp.,* 549 U.S. 561, 574 (2007). The Court explained that there is ''no effectively irrebuttable presumption that the same defined term in different provisions of the same statute must be interpreted identically.'' *Id.* at 575–6. ''Context counts,'' stated the Court; terms can have ''different shades of meaning'' reflecting ''different implementation strategies'' even in the same statute. *Id.* at 574, 76 (citations omitted). *See also Utility Air Regulatory Group* v. *EPA,* 573 U.S. 302, 320 (2014) (''a statutory term—even one defined in the statute—may take on distinct characters from association with distinct statutory objects calling for different implementation strategies.'' (citations omitted)).

The text of CAA section 110(a)(2)(A) reflects the increased flexibility built into section 110 as compared to section 112.[24] The requirement that the ''emissions standards'' the EPA issues under section 112, *see, e.g.,* section 112(c)(2), apply continuously may, as the D.C. Circuit held, prevent the EPA from providing SSM exemptions in those standards. However, at the same time, it is reasonable to interpret the concept of continuous ''emission limitations'' in a SIP to be focused not on implementation of each individual limit, but rather on whether the various components of the approved SIP operate together in a continuous manner to ensure attainment and maintenance of the NAAQS. Therefore, Region 7 believes it is reasonable to conclude that

[19] *See* 80 FR at 33839.

[20] *See* 80 FR at 33874.

[21] *Sierra Club* at 1028.

[22] EPA can also set work practice standards under CAA section 112(h).

[23] The exemption to this general rule is when EPA promulgates a Federal Implementation Plan (FIP) under CAA section 110(c)(1) because a state or tribe has failed to make a required SIP submission, or such submission does not comply with the NAAQS.

[24] Under CAA section 110(a)(2)(A), each SIP shall include ''enforceable emission limitations and control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of this chapter.'' 42 U.S.C. 7410(a)(2)(A).

the *Sierra Club* decision's disapproval of SSM provisions should not be extended to CAA section 110.

If Region 7 adopts the policy outlined in this section based on the analysis contained in this document, we are proposing to change the finding of the SIP call issued to Iowa as part of the 2015 SSM SIP Action that a SIP provision contained in the Iowa SIP is substantially inadequate to meet CAA requirements. Specifically, if Region 7 adopts this alternative policy, we propose to find that the subject SIP provision is consistent with CAA requirements. If so adopted, the alternative SSM policy is a policy statement and would constitute guidance within Region 7 for Iowa. Such a guidance would not bind states, the EPA or other parties; it would only reflect Region 7's interpretation of the CAA requirements as applicable to the Iowa SIP. The evaluation of any SIP provision, and that provision's interaction with the SIP, must be done through a notice-and-comment process.

V. Region 7's Evaluation of the Iowa SIP

In proposing to conclude that the Iowa SIP in its entirety is protective of the NAAQS, Region 7 has identified numerous provisions of the SIP that, when taken as a whole, establish such a basis. First, the Iowa SIP details a series of overlapping requirements that provide for robust testing, reporting, and accountability for sources during periods of excess emissions. Such overlapping requirements enable Iowa Department of Natural Resources (IDNR) to implement the NAAQS, allowing IDNR to maintain oversight, work with sources to maintain compliant operation, and, if necessary, enforce against sources.

Although IAC 567–24.1(1) was SIP called in the EPA's 2015 SSM SIP Action, the provision contains limitations on whether SSM events are considered emission standard violations and requires that source owners or operators limit the duration and severity of SSM events. IAC 567–24.1(1) states:

24.1(1) Excess emission during a period of startup, shutdown, or cleaning of control equipment is not a violation of the emission standard if the startup, shutdown or cleaning is accomplished expeditiously and in a manner consistent with good practice for minimizing emissions. Cleaning of control equipment which does not require the shutdown of the process equipment shall be limited to one six-minute period per one-hour period.

While the subrule does allow for an exemption for excess emissions, it also provides for two key backstops that protect air quality and ensure attainment and maintenance of the NAAQS: (1) Startup, shutdown and cleaning is to be accomplished expeditiously; and, (2) startup, shutdown, and cleaning is to be accomplished in a way that is consistent with good practice for minimizing emissions. IAC 567–24.1(4) clarifies that an ''expeditious manner'' is the time necessary to determine the cause of the excess emissions and to correct it within a reasonable period of time. IAC 567–24.1(4) also states that a ''reasonable period of time'' is eight hours plus the period of time required to shut down the process without damaging the process or control equipment.

As detailed in the EPA's technical support document for Iowa's 2010 SO_2 iSIP approval, the director of the IDNR has the duty to ensure that the NAAQS is attained and maintained in accordance with Federal laws and regulations, and is granted broad oversight, authority, and discretion with which to do so.[25] Iowa has the requisite statutory authority that provides an adequate framework for attaining and maintaining the NAAQS.[26]

Iowa Code 455B.132 designates IDNR as the Agency to prevent, abate, or control air pollution. The Environmental Protection Commission (EPC) governs the environmental services of IDNR and has the duty to develop emission limits and compliance schedules in order to abate, control, and prevent air pollution.[27] The EPC adopts, amends, or repeals rules that are necessary to obtain approval of the State SIP under CAA section 110.[28] The EPC is also charged with adopting, amending, or repealing ambient air quality standards necessary to protect public health and welfare.[29] Furthermore, 455B.134(9) states that the director shall issue orders consistent with rules to cause the abatement or control of air pollution, or to secure compliance with permit conditions.

The IDNR director's duty to ensure the NAAQS is attained and maintained is reflected in specific provisions throughout Iowa's SIP, as detailed below. First, in adopting the NAAQS into its State regulations, IAC 567–28.1 requires that IDNR implement the NAAQS ''in a time frame and schedule consistent with implementation schedules in federal laws and regulations.'' For nonattainment areas, CAA section 172(c), among other relevant statutory provisions, requires state plans to provide for attainment as expeditiously as practicable and for the implementation of reasonable available control measures (RACM) as expeditiously as practicable. As mentioned previously, Iowa has a fully approved 2010 SO_2 infrastructure SIP, meaning that EPA has, through notice and comment rulemaking, found that the SIP provides for the implementation, maintenance, and enforcement of the NAAQS. Other than the Muscatine 2010 1-hr SO_2 nonattainment area, previously mentioned, there are no other nonattainment areas, for any criteria pollutant, in the State.[30] As can be seen via ambient air quality monitoring data for SO_2, air quality in the Muscatine area is well below the NAAQS of 75 parts per billion (ppb). The current three-year (2016–2018) SO_2 design value for the area is 34 ppb.[31]

Furthermore, the SIP provides for emergency powers comparable to that of the EPA Administrator under CAA section 303, and the State has a fully approved emergency episodes plan that meets the applicable requirements of 40 CFR part 51, subpart H, at IAC 567–26.1–4. IAC 567–28.1, in concert with IAC 567–26.1–4 and the state's statutory provisions detailed further below, lay out IDNR's responsibility and authority for ensuring that air quality is protected, and the NAAQS are attained and maintained in the state of Iowa, notwithstanding an exemption for excess emissions in the SIP. The attainment status of areas in the State as well as monitored air quality demonstrate successful implementation on the part of the State.

Third, the Iowa SIP provides IDNR with the specific discretion of whether to issue a construction permit for a source based solely on an analysis of that source's impact on attainment or maintenance of the NAAQS. Specifically, IAC 567–22.3(1) states:

A construction permit shall be issued when the director concludes that (. . .) the expected emissions from the proposed source or modification in conjunction with all other emissions will not prevent the attainment or maintenance of the ambient air quality standards specified in 567—Chapter 28.

[25] 83 FR 12486.

[26] 83 FR 12486.

[27] Iowa Code 455B.133.1 (''Duties''). The EPC is a panel of nine citizens who provide policy oversight over Iowa's environmental protection efforts. The EPC's members are appointed by the Governor and confirmed by vote of the Senate for four-year terms.

[28] Iowa Code 455B.133.2.

[29] Iowa Code 455B.133.4.

[30] The partial Pottawattamie County 2008 Lead NAAQS nonattainment area was redesignated to attainment in October 2018. See 83 FR 50024.

[31] At the time of this document, 2019 ambient air quality data had not been certified in the Air Quality System. Annual data certification is not required until May 1.

Additionally, IAC 567–22.3(5) provides IDNR with the discretion to modify ''an existing permit for a major stationary source or an emission limit contained in an existing permit for a major stationary source if necessary to attain or maintain an ambient air quality standard.'' Accordingly, these provisions provide the State air agency with the authority to limit the issuance of construction permits and modify existing permits to ensure that the NAAQS is attained and maintained. This authority, when considered along with the enforcement, maintenance, and oversight provisions discussed herein, ensures accountability for sources and, when taken as a whole, protects air quality and provides for attainment and maintenance of the NAAQS, even though the Iowa SIP allows exemptions for excess emissions during periods of startup, shutdown, and cleaning. Of note, the State has been implementing its SIP-approved construction program, which includes issuing construction permits with Condition 6, and has not monitored a NAAQS violation resulting in the need to revise a permit due solely on emissions from SSM events.

In addition to specific discretion afforded the IDNR director to ensure attainment and maintenance of the NAAQS, there are a number of direct requirements on sources in Iowa's approved SIP. IAC 567–24.1(2) details the initial report that a source owner or operator must submit when an emission limit is exceeded. Such incidences are to be reported to the appropriate IDNR regional office within eight hours of the onset of an incident. Reports are to be submitted via email, in person, or over the telephone. At a minimum, initial incident reports are to include the quantity, duration, cause and remedial steps taken for periods of excess emissions. IAC 567–24.1(3) requires that a written report is to be submitted as a follow-up to all required initial reports to the IDNR within seven days of the onset of the event. The written report is, at a minimum, to include the information required for initial reports under 24.1(2). In addition, written reports are to include, if the owner claims that the excess emission was due to malfunction, documentation to support such a claim.

IAC 567–25.1(6), (7), and (8) detail the testing and sampling requirements for owners and operators of pollution control equipment. Specifically, any facility required to install a continuous monitoring system shall provide regular reports to IDNR, including periods of excess emissions. Furthermore, IDNR is granted the authority to require sources to conduct compliance demonstrations, including testing, which ''may be required as necessary to determine actual emissions from a source where that source is believed to have a significant impact on the public health or ambient air quality of an area.'' IDNR may also conduct independent emission testing as deemed necessary. These provisions ensure that sources must report periods of excess emissions and could be required to conduct testing during such periods, thus ensuring that the State is aware of any such events and allowing the State to protect air quality and ensure attainment and maintenance of the NAAQS.

Owners or operators of any control equipment are also required to maintain and repair equipment or control equipment in such a way that minimizes and remedies any causes of excess emissions. IAC 567–24.2(1) details the maintenance and repair that owners or operators are required to undertake, including maintaining operations that minimize emissions, undertaking scheduled routine maintenance, and remedying any cause of excess emissions in an expeditious manner (''expeditious manner,'' as discussed above, is defined in IAC 567–24.1(4)). Furthermore, IAC 567–24.2(1)(c) states that owners or operators shall:

Minimize the amount and duration of any excess emission to the maximum extent possible during periods of such emissions. These measures may include but not be limited to the use of clean fuels, production cutbacks, or the use of alternate process units or, in the case of utilities, purchase of electrical power until repairs are completed.

IAC 567 24.2(2) provides IDNR with the authority to require owners and operators to develop maintenance plans where, ''in the judgement of the executive director a continued pattern of excess emissions indicative of inadequate operation and maintenance is occurring.'' Such maintenance plans have been required of sources over time as appropriate and are to include numerous maintenance and inspection requirements. Most notably, these plans are to include a contingency plan intended to minimize the frequency, duration, and severity of excess emission events.

Lastly, there are a number of Iowa-specific State regulations that help ensure attainment and maintenance of the NAAQS. Iowa Code 455B.139 states that, if the director has evidence that any person is causing air pollution that creates a public health and safety emergency, the director may, without notice, issue an emergency order requiring the immediate discontinuation of emissions. While not SIP-approved, and therefore not federally enforceable, these codes provide supplemental support to the assertion that the State has considerable oversight and discretion to enforce against sources and ensure attainment and maintenance of the NAAQS.

In light of the fact that Region 7 is considering an alternative policy relating to exemptions of excess emissions, and based on the above analysis of Iowa's SIP, Region 7 is simultaneously proposing to withdraw the SIP call issued as part of the 2015 SSM SIP Action and find that the subject SIP provision is not inconsistent with CAA requirements.

EPA's CAA regulations allow EPA Regions to take actions that are inconsistent with national policy when the Region seeks and obtains concurrence from the relevant EPA Headquarters office. Pursuant to EPA's regional consistency regulations at 40 CFR 56.5(b), the Region 7 Regional Administrator sought and obtained concurrence from the EPA's Office of Air and Radiation to propose an action that outlines an alternative policy that is inconsistent with the national EPA policy, most recently articulated in the 2015 SSM SIP Action, on provisions automatically exempting emissions exceeding otherwise applicable SIP limitations during periods of unit startup, shutdown, and malfunction and propose action consistent with that alternative policy. The concurrence request memorandum is included in the public docket for this action.

VI. Additional Modeling Information

During the public comment period for the SNPRM, the EPA received comment that the modeling for the Muscatine nonattainment area did not include receptors with adjacent property boundaries. The commenter asserted that these areas could be considered ''ambient air'' and that they therefore should have been included in the attainment demonstration modeling. The EPA agrees with the commenter that these areas, as noted in the Code of Federal Regulations at 40 CFR part 51, appendix W, Guideline on Air Quality Models (hereafter referred to as ''appendix W''), would be considered ambient air and should have model receptors included. To ensure a complete record for both the attainment plan approval action, and adherence to appendix W, the EPA performed modeling that evaluated the impacts on the properties of each of the modeled facilities-Grain Processing Corporation (GPC), Muscatine Power and Water (MPW), Monsanto, and Louisa Generating Station (LGS). The EPA used

the same model version (*i.e.,* AERMOD version 14134) and modeling inputs (*i.e.,* source characteristics and emissions rates, meteorological data, background value, etc.) that the State used in its attainment plan modeling demonstration. The only modification the EPA made for its evaluation was adding receptors at 50-meter spacing within each facility's boundary. The EPA modeled scenarios specific to each of the four facilities' property, which included receptors only on the property of the facility in question and has all emissions sources from that facility removed from the analysis. For example, a scenario to evaluate the impacts on GPC's facility property included receptors placed within GPC's facility fence line and with the emission sources from LGS, Monsanto, and MPW operating and GPC not operating.

Table 1 provides the results of EPA's modeling analysis, which showed no violations within each of the four facilities' property when emissions from the other facilities were considered. The greatest impacts occurred within Grain Processing Corporation's property with a modeled highest 4th high of 164 micrograms per cubic meter (μg/m³).

TABLE 1—THE HIGHEST-4TH-HIGH PREDICTED IMPACTS ON EACH FACILITY'S PROPERTY

[Including background]

Impacted facility	Model impacts (μg/m³)	1-hour SO_2 NAAQS (μg/m³)
Grain Processing Corporation	164	196
Muscatine Power and Water	110	
Monsanto	97	
Louisa Generating Station	110	

The EPA proposes that the modeling submitted by Iowa with its nonattainment area plan, in addition to the supplemental modeling performed by the EPA and described above, demonstrates that the area is attaining the NAAQS.

VII. What action is EPA Region 7 taking?

In this second supplemental notice of proposed rulemaking, the EPA is: (1) Considering adoption of an alternative policy regarding exemptions for excess emissions in the State of Iowa from the national policy detailed in the EPA's 2015 SSM SIP Action; (2) proposing simultaneously withdrawal of the SSM SIP call for Iowa if the alternative SSM policy for the State is adopted; and (3) proposing approval of Iowa's SIP for the 2010 1-hour SO_2 NAAQS for the Muscatine nonattainment area, including the attainment plan control strategy.

VIII. Statutory and Executive Order Reviews

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

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, SSM policy, Start-up, shutdown and malfunction, Sulfur oxides.

Dated: June 16, 2020.

James Gulliford,

Regional Administrator, Region 7.

[FR Doc. 2020–13380 Filed 6–19–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2020–0289; FRL–10010–55–Region 7]

Air Plan Approval; Missouri; Control of Emissions From Industrial Surface Coating Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Missouri State Implementation Plan (SIP) received on March 20, 2019. The submission revises a Missouri regulation that restricts emissions of volatile organic compounds (VOCs) from industrial surface coating operations in Clay, Jackson, and Platte Counties in Missouri. Specifically, the revisions to the rule remove unnecessary restrictive words, adds exemptions, including definitions specific to the rule, corrects test method references, removes obsolete requirements specific to sources that have closed, changes sections to the standard rule format, and makes minor clarifications and grammatical changes. The new exemptions are consistent with the Control Techniques Guidelines (CTG) for several types of surface coating or apply to activities that are regulated under other federal or state regulations that limit emissions of VOCs. The new exemptions are needed to make the rule consistent with the St. Louis version of this rule, *10 Code of State Regulation*

(CSR) 10–5.330 Industrial Surface Coating Operations. These exemptions are not expected to result in an emission increase.

The other revisions are administrative in nature and do not impact the stringency of the SIP or air quality. Approval of these revisions will ensure consistency between State and federally-approved rules.

DATES: Comments must be received on or before July 22, 2020.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–R07–OAR–2020–0289 to *https://www.regulations.gov.* Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received will be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the ''Written Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

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

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

Table of Contents

I. Written Comments

II. What is being addressed in this document?

III. Have the requirements for approval of a SIP revision been met?

IV. What action is the EPA taking?

V. Incorporation by Reference

VI. Statutory and Executive Order Reviews

I. Written Comments

Submit your comments, identified by Docket ID No. EPA–R07–OAR–2020–0289, at *https://www.regulations.gov.* Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

II. What is being addressed in this document?

The EPA is proposing to approve revisions to 10 CSR 10–2.230 ''Control of Emissions from Industrial Surface Coating Operations'', which restricts emissions of volatile organic compounds (VOCs) from industrial surface coating operations in Clay, Jackson, and Platte Counties in Missouri. These revisions are described in detail in the technical support document (TSD) included in the docket for this action.

Missouri received three comments from EPA during the comment period. Missouri responded to all three comments, as noted in the State submission included in the docket for this action. In response to EPA's comments, Missouri submitted a letter providing supplemental information regarding the revisions.

Therefore, the EPA is proposing to approve the revisions to this rule because it will not have a negative impact on air quality.

III. Have the requirements for approval of a SIP revision been met?

The State submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The state provided public notice of the revisions from August 1, 2018, to October 4, 2018, and held a public hearing on September 27, 2018. The state received and addressed eight comments. As explained in more detail in the TSD which is part of this docket, the SIP revision submission meets the substantive requirements of the CAA, including section 110 and implementing regulations.

IV. What action is the EPA taking?

The EPA is proposing to amend the Missouri SIP by approving the State's request to revise 10 CSR 10–2.230 ''Control of Emissions from Industrial Surface Coating Operations''. Approval of these revisions will ensure consistency between State and federally-approved rules. The EPA has determined that these changes will not adversely impact air quality.

The EPA is soliciting comment on the substantive and administrative revisions detailed in this proposal and the TSD. The EPA is not soliciting comment on existing rule text that has been previously approved by the EPA into the SIP. Final rulemaking will occur after consideration of any comments.

V. Incorporation by Reference

In this document, the EPA is proposing to include regulatory text in an EPA final rule that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the Missouri State Implementation Plan and Supplemental modeling analyses described in the proposed amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 7 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VI. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described

in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

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

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

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

• Is not subject to requirements of the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; and

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Volatile organic compounds.

Dated: June 10, 2020.

James Gulliford,

Regional Administrator, Region 7.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart AA—Missouri

■ 2. In § 52.1320, the table in paragraph (c) is amended by revising the entry ''10–2.230'' to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
*	*	*	*	*
Chapter 2—Air Quality Standards and Air Pollution Control Regulations for the Kansas City Metropolitan Area				
*	*	*	*	*
10–2.230	Control of Emissions from Industrial Surface Coating Operations.	3/30/2019	[Date of publication of the final rule in the **Federal Register**], [**Federal Register** citation of the final rule].	
*	*	*	*	*

* * * * *

[FR Doc. 2020–13049 Filed 6–19–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 282

[EPA–R06–UST–2018–0704; FRL–10009–04–Region 6]

Texas: Final Approval of State Underground Storage Tank Program Revisions and Incorporation by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to the Resource Conservation and Recovery Act (RCRA or Act), the Environmental Protection Agency (EPA) is proposing to approve revisions to the State of Texas Underground Storage Tank (UST) program submitted by the State. This action is based on EPA's determination that these revisions satisfy all requirements needed for program approval. This action also proposes to codify EPA's approval of Texas's State program and to incorporate by reference those provisions of the State regulations that we have determined meet the requirements for approval. The provisions will be subject to EPA's inspection and enforcement authorities under sections 9005 and 9006 of RCRA subtitle I and other applicable statutory and regulatory provisions.

DATES: Send written comments by July 22, 2020.

ADDRESSES: Submit any comments, identified by EPA–R06–UST–2018–0704 by one of the following methods:

1. *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the on-line instructions for submitting comments.

2. *Email: lincoln.audray@epa.gov.*

Instructions: Direct your comments to Docket ID No. EPA–R06–UST–2018–0704. EPA's policy is that all comments received will be included in the public docket without change and may be available online at *https://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *https://www.regulations.gov,* or email. The Federal *https://www.regulations.gov* website is an ''anonymous access'' system, which means the EPA will not

know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *https://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment. If the EPA cannot read your comment due to technical difficulties, and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional submission methods, please contact Audray Lincoln, 214–665–2239, *lincoln.audray@epa.gov.*

The index to the docket for this action is available electronically at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Audray Lincoln, (214) 665–2239, *lincoln.audray@epa.gov.* Out of an abundance of caution for members of the public and our staff, the EPA Region 6 office will be closed to the public to reduce the risk of transmitting COVID–19. We encourage the public to submit comments via *https://www.regulations.gov,* as there will be a delay in processing mail and no courier or hand deliveries will be accepted. Please call or email the contact listed above if you need alternative access to material indexed but not provided in the docket.

SUPPLEMENTARY INFORMATION: In the final rules section of this **Federal Register**, the EPA is approving the State's SIP submittal as a direct rule without prior proposal because the Agency views this as noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action no further activity is contemplated. If the EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. For additional information, see the direct final rule published in the ''Rules and Regulations'' section of this **Federal Register**.

List of Subjects

Environmental protection, Administrative practice and procedure, Confidential Business Information, Hazardous substances, Incorporation by reference, Insurance, Intergovernmental relations, Oil pollution, Penalties, Petroleum, Reporting and recordkeeping requirements, Surety bonds, Water pollution control, Water supply.

Authority: This rule is issued under the authority of Sections 2002(a), 9004, and 7004(b) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912, 6991c, 6991d, and 6991e.

Dated: May 5, 2020.

Kenley McQueen,

Regional Administrator, EPA Region 6.

[FR Doc. 2020–10066 Filed 6–19–20; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

42 CFR Part 136a

[Docket No. IHS–FRDOC–0001]

RIN 0917–AA13

Indian Health; Removal of Suspended Regulations

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) proposing the removal of regulations appearing in the Code of Federal Regulations. These regulations have never been implemented and were referred to as ''suspended'' in a 1999 **Federal Register** Notice.

DATES: Send comments on or before August 21, 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–AA13, 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 the regulations appearing at 42 CFR part 136a. These regulations were promulgated as a final rule in 1987 and were intended to replace the regulations appearing in the CFR at 42 CFR part 136. The new regulations, however, were never implemented and have since been referred to as ''suspended'' in the **Federal Register**. In the intervening years, the IHS has continued to follow the regulations appearing at 42 CFR part 136, and the IHS does not propose to alter this practice. Instead, the IHS proposes to remove the duplicative regulations at 42 CFR part 136a from the CFR. Given how much time has passed since these regulations were initially promulgated; the concern on the part of Congress regarding implementation of the regulations; and the confusion caused by having two sets of regulations addressing the same issue published in the CFR, the Agency proposes that the suspended regulations at 42 CFR part 136a be deleted in their entirety.

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 Code of Federal Regulations) 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 Code of Federal Regulations.

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 Part 136a

Government procurement, Government programs—education, Grant programs—education, Grant programs—health, Grant programs—Indians, Health care, Health professions, Indians, Penalties, Reporting and recordkeeping requirements, Scholarships and fellowships, Student aid.

PART 136a—[REMOVED]

For the reasons set forth above, and under the authority of the Snyder Act (25 U.S.C. 13) and the Transfer Act (42 U.S.C. 2001 *et seq.*), the Department of Health and Human Services proposes to remove 42 CFR part 136a from the Code of Federal Regulations.

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. 2020–12754 Filed 6–19–20; 8:45 am]

BILLING CODE 4165–16–P

Notices

Federal Register

Vol. 85, No. 120

Monday, June 22, 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 17, 2020.

The Department of Agriculture has submitted the following information collection requirement(s) to Office of Management and Budget (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; 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 22, 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.

Rural Utilities Service

Title: Electric System Emergency Restoration Plan.

OMB Control Number: 0572–0140.

Summary of Collection: Electric power systems have been identified in Presidential Decision Directive 63, May 1998, as one of the critical infrastructures of the United States. The term ''critical infrastructure'' is defined in section 1016(e) of the USA Patriot Act of 2001 (42 U.S.C. 5195c(e)). Rural Utilities Service (RUS) and, more importantly, RUS electric borrowers must be diligently proactive in electric infrastructure security. A substantial portion of the electric infrastructure of the United States resides in, and is maintained by, rural America. RUS is uniquely coupled with the electric infrastructure of rural America and its electric borrowers serving rural America. To ensure that the electric infrastructure in rural America is adequately protected, RUS requires that all current electric borrowers conduct a Vulnerability and Risk Assessment (VRA) of their respective systems and utilize the results of this assessment to enhance an existing Emergency Restoration Plan (ERP) or, create an ERP.

Need and Use of the Information: The ERP provides written procedures detailing response and restoration efforts in the event of a major system outage resulting from a natural or man-made disaster. RUS requires each electric borrower to provide annually a self-certification, in writing, that an ERP exists and that an initial VRA has been performed. If this information were not collected, vulnerabilities may exist in the electric system infrastructure. The result would be increased risk to public safety and may affect the Government loan security.

Description of Respondents: Not-for-profit institutions.

Number of Respondents: 625.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 313.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2020–13353 Filed 6–19–20; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Ketchikan Resource Advisory Committee

AGENCY: Forest Service, Department of Agriculture (USDA).

ACTION: Notice of meeting.

SUMMARY: The Ketchikan Resource Advisory Committee (RAC) will meet in Ketchikan, Alaska. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. RAC information can be found at the following website: *https://www.fs.usda.gov/main/pts.*

DATES: The meeting will be held on Thursday, July 16, 2020, at 6:00 p.m.

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held virtual only. A conference line is set up for those who would like to listen in by telephone. For the conference call number, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Ketchikan Misty Fjords Ranger District. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Penny L. Richardson, RAC Coordinator, by phone at 907–228–4105 or via email at *penny.richardson@usda.gov.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Update members on past RAC projects, and
2. Propose new RAC projects.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by July 13, 2020, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time to make oral comments must be sent to Penny L. Richardson, RAC Coordinator, Ketchikan Misty Fjords Ranger District, 3031 Tongass Avenue, Ketchikan, Alaska 99901; by email to *penny.richardson@usda.gov,* or via facsimile to 907–225–8738.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accomodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case-by-case basis.

Dated: June 17, 2020.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2020–13394 Filed 6–19–20; 8:45 am]

BILLING CODE 3411–15–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the New Jersey Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a planning meeting of the New Jersey Advisory Committee to the Commission will convene by conference call, on Friday, June 26, 2020 at 1:00 p.m. (EDT). The purpose of the meeting is to receive updates from the Forfeiture and Licensing Workgroups about suggestions for planning the Committee's briefing to examine its civil rights project on the collateral consequences that a criminal record has on criminal asset forfeitures and occupational licensing.

DATES: Friday, June 26, 2020, at 1:00 p.m. (EDT).

Public Call-In Information: Conference call number: 1–800–667–5617 and conference call ID number: 7386659.

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

SUPPLEMENTARY INFORMATION: Interested members of the public may listen to the discussion by calling the following toll-free conference call number: 1–800–667–5617 and conference call ID number: 7386659. Please be advised that before placing them into the conference call, the conference call operator may ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number herein.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1–800–877–8339 and providing the operator with the toll-free conference call number:1–800–667–5617and conference call ID number: 7386659.

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

Records and documents discussed during the meeting will be available for public viewing, as they become available at: *https://gsageo.force.com/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzjVAAQ* click the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meetings. Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Eastern Regional Office at the above phone number, email or street address.

Agenda: Friday, June 26, 2020 at 1:00 p.m. (EDT)

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

Exceptional Circumstance: Pursuant to 41 CFR 102–3.150, the notice for this meeting is given less than 15 calendar days prior to the meeting because of the exceptional circumstances of the immediacy of the subject matter.

Dated: June 16, 2020.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020–13329 Filed 6–19–20; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–129; A–552–830]

Certain Walk-Behind Lawn Mowers and Parts Thereof From the People's Republic of China and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable June 15, 2020.

FOR FURTHER INFORMATION CONTACT: Erin Kearney at (202) 482–0167; AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petitions

On May 26, 2020, the U.S. Department of Commerce (Commerce) received antidumping duty (AD) petitions concerning imports of certain walk-behind lawn mowers (lawn mowers) from the People's Republic of China (China) and the Socialist Republic of Vietnam (Vietnam) filed in proper form on behalf of the petitioner,[1] a domestic producer of lawn mowers.[2]

[1] The petitioner is MTD Products Inc.

[2] *See* Petitioner's Letter, ''Petitions for the Imposition of Antidumping Duties on Certain Walk-Behind Lawn Mowers from the People's Republic of China and the Socialist Republic of Vietnam and Countervailing Duties on Certain Walk-Behind Lawn Mowers from the People's Republic of China,'' dated May 26, 2020 (the Petitions).

The Petitions were accompanied by a countervailing duty (CVD) petition concerning imports of lawn mowers from China.[3]

On May 29, 2020, Commerce requested supplemental information pertaining to certain aspects of the Petitions in separate supplemental questionnaires.[4] On June 2, 2020, the petitioner filed responses to the supplemental questionnaires.[5]

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of lawn mowers from China and Vietnam are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Act, and that imports of such products are materially injuring, or threatening material injury to, the domestic lawn mower industry in the United States. Consistent with section 732(b)(1) of the Act, the Petitions are accompanied by information reasonably available to the petitioner supporting the allegations.

Commerce finds that the petitioner filed the Petitions on behalf of the domestic industry, because the petitioner is an interested party, as defined in section 771(9)(C) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support for the initiation of the requested AD investigations.[6]

Period of Investigation

Because China and Vietnam are non-market economy (NME) countries, pursuant to 19 CFR 351.204(b)(1), the period of investigation (POI) for the investigations is October 1, 2019 through March 31, 2020.

Scope of the Investigations

The products covered by these investigations are lawn mowers from China and Vietnam. For a full description of the scope of these investigations, *see* the appendix to this notice.

Comments on the Scope of the Investigations

On May 29, 2020, Commerce requested further information from the petitioner regarding the proposed scope to ensure that the scope language in the Petitions is an accurate reflection of the products for which the domestic industry is seeking relief.[7] On June 2, 2020, the petitioner revised the scope.[8] The description of the merchandise covered by these investigations, as described in the appendix to this notice, reflects these clarifications.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.,* scope).[9] Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determinations. If scope comments include factual information, all such factual information should be limited to public information.[10] To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit such comments by 5:00 p.m. Eastern Time (ET) on July 6, 2020, which is the next business day after 20 calendar days from the signature date of this notice.[11] Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on July 16, 2020, which is 10 calendar days from the initial comment deadline.[12]

Commerce requests that any factual information parties consider relevant to the scope of the investigations be submitted during this period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact Commerce and request permission to submit the additional information. All such submissions must be filed on the records of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically via Enforcement and Compliance's (E&C's) Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.[13] An electronically filed document must be received successfully in its entirety by the time and date it is due.

Comments on Product Characteristics

Commerce is providing interested parties an opportunity to comment on the appropriate physical characteristics of lawn mowers to be reported in response to Commerce's AD questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to report the relevant factors of production (FOPs) accurately, as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all product characteristics comments must be filed by 5:00 p.m. ET on July 6, 2020, which is the next business day after 20 calendar days from the signature date of this notice.[14] Any rebuttal comments

[3] *Id.*

[4] *See* Commerce's Letters, ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China and the Socialist Republic of Vietnam: General Issues Supplemental Questions'' (General Issues Supplemental); ''Petition for the Imposition of Antidumping Duties on Imports of Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China: Supplemental Questions''; and ''Petition for the Imposition of Antidumping Duties on Imports of Certain Walk-Behind Lawn Mowers and Parts Thereof from the Socialist Republic of Vietnam: Supplemental Questions,'' all dated May 29, 2020.

[5] *See* Petitioner's Letters, ''Petitions for the Imposition of Antidumping Duties on Imports of Certain Walk-Behind Lawn Mowers from the People's Republic of China and the Socialist Republic of Vietnam, and Countervailing Duties from the People's Republic of China: General Issues Supplemental Questions Response Volume I'' (General Issues Supplement); ''Petitions for the Imposition of Antidumping Duties on Imports of Certain Walk-Behind Lawn Mowers from the People's Republic of China: Supplemental Questionnaire Response Volume III'' (China AD Supplement); and ''Petitions for the Imposition of Antidumping Duties on Imports of Certain Walk-Behind Lawn Mowers from the Socialist Republic of Vietnam: Supplemental Questionnaire Response Volume III'' (Vietnam AD Supplement), all dated June 2, 2020.

[6] *See* the Petitions at section on ''Determination of Industry Support for the Petitions.''

[7] *See* General Issues Supplemental at 3–4.

[8] *See* General Issues Supplemental at Exhibit S–I–3.

[9] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

[10] *See* 19 CFR 351.102(b)(21) (defining ''factual information'').

[11] Commerce's practice dictates that where a deadline falls on a weekend or Federal holiday, the appropriate deadline is the next business day (in this instance, May 11, 2020). *See Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended,* 70 FR 24533 (May 10, 2005) (*Next Business Day Rule*).

[12] *See* 19 CFR 351.303(b).

[13] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance; Change of Electronic Filing System Name,* 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at *https://access.trade.gov/help.aspx* and a handbook can be found at *https://access.trade.gov/help/Handbook%20on%20Electronic%20Filling%20Procedures.pdf.*

[14] *See* 19 CFR 351.303(b). Commerce practice dictates that where a deadline falls on a weekend or Federal holiday (in this instance, July 5, 2020),

must be filed by 5:00 p.m. ET on July 16, 2020. All comments and submissions to Commerce must be filed electronically using ACCESS, as explained above, on the record of both of the AD investigations.

Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,[15] they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[16]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigations.[17] Based on our analysis of the information submitted on the record, we have determined that lawn mowers, as defined in the scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.[18]

On June 10, 2020, we received comments on industry support from Sumec Hardware & Tools Co., Ltd. (Sumec), a Chinese producer of subject merchandise, and Merotec Inc (Merotec), an importer of subject merchandise.[19] The petitioner responded to the industry support comments on June 11, 2020.[20] On June 12, 2020, we received surrebuttal comments from Sumec and Merotec with regard to the petitioner's June 11, 2020 comments.[21] The petitioner responded to these surrebuttal industry support comments on June 15, 2020.[22]

In determining whether the petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the ''Scope of the Investigations,'' in the appendix to this notice. To establish industry support, the petitioner provided its 2019 shipments of the domestic like product.[23] To estimate the 2019 shipments for the entire U.S. lawn mowers industry, the petitioner relied on 2019 shipment data reported by the Outdoor Power Equipment Institute and made certain adjustments to reflect total shipments by U.S. producers of lawn mowers.[24] The petitioner estimated the production of the domestic like product for the entire domestic industry based on shipment data, because production data for the entire domestic industry were not available to the petitioner, and shipments are a close approximation of production in the lawn mowers industry.[25] We relied on data provided by the petitioner for purposes of measuring industry support.[26] Accordingly, Commerce determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.[27]

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at LTFV. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[28]

The petitioner contends that the industry's injured condition is illustrated by a significant and increasing volume of subject imports; declining market share; underselling and price depression and suppression;

the appropriate deadline is the next business day. *See Next Business Day Rule,* 70 FR at 24533.

[15] *See* section 771(10) of the Act.

[16] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F. 2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989)).

[17] *See* Volume I of the Petitions at 18–24.

[18] For a discussion of the domestic like product analysis as applied to these cases and information regarding industry support, *see* the China and Vietnam AD Initiation Checklists at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain Walk-Behind Lawn Mowers from the People's Republic of China and the Socialist Republic of Vietnam (Attachment II). These checklists are dated concurrently with, and hereby adopted by, this notice and on file electronically via ACCESS.

[19] *See* Sumec and Merotec's Letter, ''Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China, Request to the Department to Poll the Industry,'' dated June 10, 2020.

[20] *See* Petitioner's Letter, ''Investigations on Certain Walk-Behind Lawn Mowers from the People's Republic of China and the Socialist Republic of Vietnam, and Countervailing Duties from the People's Republic of China, Inv. Nos. 731–1521–1522 and 701–TA–648 (Preliminary): Response to Sumec Hardware & Tools Co., Ltd.'s Request to the Department to Poll the Industry,'' dated June 11, 2019.

[21] *See* Sumec and Merotec's Letter, ''Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China, Reply to Petitioner's Response to the Request to Poll the Industry,'' dated June 12, 2020.

[22] *See* Petitioner's Letter, ''Investigations on Certain Walk-Behind Lawn Mowers from the People's Republic of China and the Socialist Republic of Vietnam, and Countervailing Duties from the People's Republic of China, Inv. Nos. 731–1521–1522 and 701–TA–648 (Preliminary): Response to Sumec Hardware & Tools Co., Ltd.'s Reply to Petitioner's Response to the Request to Poll the Industry,'' dated June 15, 2019.

[23] *See* Volume I of the Petitions at 4–5 and Exhibit I–2; *see also* General Issues Supplement at 7 and Exhibit S–I–5.

[24] *See* Volume I of the Petitions at 4–5 and Exhibits I–1, I–2, and I–23; *see also* General Issues Supplement at 7 and Exhibit S–I–5.

[25] *See* Volume I of the Petitions at 4–5 and Exhibit I–23.

[26] *See* Volume I of the Petitions at 4–5 and Exhibit I–2; *see also* General Issues Supplement at 7 and Exhibit S–I–5. For further discussion, *see* Attachment II of the China and Vietnam AD Initiation Checklists.

[27] *Id.*

[28] *See* Volume I of the Petitions at 24–25 and Exhibit I–8.

lost sales and revenues; declines in shipments, capacity utilization, and capital expenditures; plant closures and declines in employment variables; declining profitability; and the magnitude of dumping.[29] We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.[30]

Allegations of Sales at LTFV

The following is a description of the allegations of sales at LTFV upon which Commerce based its decision to initiate AD investigations of imports of lawn mowers from China and Vietnam. The sources of data for the deductions and adjustments relating to U.S. price and normal value (NV) are discussed in greater detail in the China and Vietnam AD Initiation Checklists.

U.S. Price

For both China and Vietnam, the petitioner based export price (EP) on two methodologies: (1) The average unit values (AUVs) of publicly-available import data adjusted to deduct foreign inland freight expenses; and (2) a transaction-specific AUV derived from official import data and tied to ship manifest data obtained from Datamyne.[31]

Normal Value

Commerce considers China and Vietnam to be NME countries.[32] In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by Commerce. Therefore, we continue to treat China and Vietnam as NME countries for purposes of the initiation of these investigations. Accordingly, NVs in China and Vietnam are appropriately based on FOPs valued in surrogate market economy countries, in accordance with section 773(c) of the Act.

With respect to China, the petitioner argues that the Republic of Turkey (Turkey) is an appropriate surrogate country because Turkey is a market economy country that is at a level of economic development comparable to that of China and is a significant producer of comparable merchandise.[33] The petitioner submitted publicly available information from Turkey to value all FOPs.[34] Based on the information provided by the petitioner, we determine that it is appropriate to use Turkey as a surrogate country for China for initiation purposes.

For Vietnam, the petitioner claims that India is an appropriate surrogate country because India is a market economy country that is at a level of economic development comparable to that of Vietnam and is a significant producer of comparable merchandise.[35] The petitioner provided publicly available information from India to value all FOPs.[36] Based on the information provided by the petitioner, we determine that it is appropriate to use India as a surrogate country for Vietnam for initiation purposes.

Interested parties will have the opportunity to submit comments regarding surrogate country selections and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOPs within 30 days before the scheduled date of the preliminary determination.

Factors of Production

For China and Vietnam, the petitioner used its own product-specific consumption rates as a surrogate to value Chinese and Vietnamese manufacturers' FOPs.[37] Additionally, the petitioner calculated factory overhead; selling, general and administrative expenses; and profit based on the experience of Turkish and Indian producers of comparable merchandise.[38]

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of lawn mowers from China and Vietnam are being, or are likely to be, sold in the United States at LTFV. Based on comparisons of EP to NV in accordance with sections 772 and 773 of the Act, the estimated dumping margins for lawn mowers from China are 274.29–313.58 percent, and 289.63–416.00 percent for lawn mowers from Vietnam.[39]

Initiation of LTFV Investigations

Based upon the examination of the Petitions and supplemental responses, we find that they meet the requirements of section 732 of the Act. Therefore, we are initiating AD investigations to determine whether imports of lawn mowers from China and Vietnam are being, or are likely to be, sold in the United States at LTFV. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Respondent Selection

In the Petitions, the petitioner named 46 companies in China and three companies in Vietnam as producers/exporters of lawn mowers.[40]

In accordance with our standard practice for respondent selection in AD investigations involving NME countries, Commerce selects respondents based on quantity and value (Q&V) questionnaires in cases where it has determined that the number of companies is large, and it cannot individually examine each company based upon its resources. Therefore, considering the number of producers and exporters identified in the Petitions, Commerce will solicit Q&V information that can serve as a basis for selecting exporters for individual examination in the event that Commerce decides to limit the number of respondents individually examined pursuant to section 777A(c)(2) of the Act. For Vietnam, because there are three producers and exporters identified in the Petitions, Commerce has determined

[29] *See* Volume I of the Petitions at 27–40 and Exhibits I–8 through I–11 and I–20 through I–22, and I–24; *see also* General Issues Supplement at 2 and Exhibit S–I–1.

[30] *See* the China and Vietnam AD Initiation Checklists at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China and the Socialist Republic of Vietnam (Attachment III).

[31] *See* the China and Vietnam AD Initiation Checklists.

[32] *See, e.g., Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination,* 82 FR 50858, 50861 (November 2, 2017), and accompanying Preliminary Decision Memorandum at ''China's Status as a Non-Market Economy,'' unchanged in *Certain Aluminum Foil from the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 83 FR 9282 (March 5, 2018); and *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results, and Final Results of No Shipments of the Antidumping Duty Administrative Review; 2016–2017,* 84 FR 18007 (April 29, 2019).

[33] *See* Volume II of the Petitions at 3 and Exhibit II–2.

[34] *Id.* at Exhibits II–3, II–14—II 16.

[35] *See* Volume III of the Petitions at 3–4 and Exhibit III–1.

[36] *Id.* at Exhibit III–11.

[37] *See* Volume II of the Petitions at 3 and Exhibits II–9 and II–10; and Volume III of the Petitions at 7 and Exhibits III–9 and III–10.

[38] *See* Volume II of the Petition at 9 and Exhibits II–3 and II–12; Volume III of the Petitions at 4–5 and Exhibit III–18; China AD Supplement at Exhibit S–II–3; and Vietnam AD Supplement at 2 and Exhibit S–III–3.

[39] *See* China AD Supplement at Exhibit S–II–6; and Vietnam AD Supplement at Exhibit S–III–4.

[40] *See* Volume I of the Petitions at 2 and Exhibit I–5.

that it will issue Q&V questionnaires to each potential respondent for which the petitioner has provided a complete address. However, because there are 46 producers and exporters for China identified in the Petitions, Commerce has determined to limit the number of Q&V questionnaires that it will send out to exporters and producers based on U.S. Customs and Border Protection (CBP) data for lawn mowers from China during the POI under the appropriate Harmonized Tariff Schedule of the United States number listed in the ''Scope of the Investigation,'' in the appendix. Accordingly, Commerce will send Q&V questionnaires to the largest producers and exporters that are identified in the CBP data for which there is address information on the record.

In addition, Commerce will post the Q&V questionnaire along with filing instructions on E&C's website at *http://www.trade.gov/enforcement/news.asp.* Producers/exporters of lawn mowers from China and Vietnam that do not receive Q&V questionnaires may still submit a response to the Q&V questionnaire and can obtain a copy of the Q&V questionnaire from E&C's website. In accordance with the standard practice for respondent selection in AD cases involving NME countries, in the event Commerce decides to limit the number of respondents individually investigated, Commerce intends to base respondent selection on the responses to the Q&V questionnaire that it receives.

Responses to the Q&V questionnaire must be submitted by the relevant Chinese and Vietnamese producers/exporters no later than 5:00 p.m. ET on July 1, 2020. All Q&V questionnaire responses must be filed electronically via ACCESS.

On June 10, 2020, Commerce released CBP data on imports of lawn mowers from China under administrative protective order (APO) to all parties with access to information protected by APO, and indicated that interested parties wishing to comment on the CBP data must do so within three business days of the publication date of the notice of initiation of this investigation.[41] We further stated that we will not accept rebuttal comments.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on E&C's website at *http://enforcement.trade.gov/apo.*

Comments must be filed electronically using ACCESS. An electronically filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET on the deadline noted above. Commerce intends to finalize its decisions regarding respondent selection within 20 days of publication of this notice.

Separate Rates

In order to obtain separate-rate status in an NME investigation, exporters and producers must submit a separate-rate application.[42] The specific requirements for submitting a separate-rate application in a China or Vietnam investigation are outlined in detail in the application itself, which is available on E&C's website at *http://enforcement.trade.gov/nme/nme-sep-rate.html.* The separate-rate application will be due 30 days after publication of this initiation notice.[43] Exporters and producers who submit a separate-rate application and have been selected as mandatory respondents will be eligible for consideration for separate-rate status only if they respond to all parts of Commerce's AD questionnaire as mandatory respondents. Commerce requires that companies from China or Vietnam submit a response to both the Q&V questionnaire and the separate-rate application by the respective deadlines in order to receive consideration for separate-rate status. Companies not filing a timely Q&V questionnaire response will not receive separate rate consideration.

Use of Combination Rates

Commerce will calculate combination rates for certain respondents that are eligible for a separate rate in an NME investigation. The Separate Rates and Combination Rates Bulletin states:

> {w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the {Commerce} will now assign in its NME Investigation will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of ''combination rates'' because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question *and* produced by a firm that supplied the exporter during the period of investigation.[44]

Distribution of Copies of the AD Petitions

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the Petitions have been provided to the governments of China and Vietnam via ACCESS. Furthermore, to the extent practicable, Commerce will attempt to provide a copy of the public version of the Petitions to each exporter named in the Petitions, as provided under 19 CFR 351.203(c)(2).

ITC Notification

Commerce will notify the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petitions were filed, whether there is a reasonable indication that imports of lawn mowers from China and/or Vietnam are materially injuring, or threatening material injury to, a U.S. industry.[45] A negative ITC determination for any country will result in the investigation being terminated with respect to that country.[46] Otherwise, these AD investigations will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the

[41] *See* Memorandum, ''Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China: Release of Customs Data from U.S. Customs and Border Protection,'' dated June 10, 2020.

[42] *See* Policy Bulletin 05.1: ''Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation involving NME Countries,'' (April 5, 2005), available at *http://enforcement.trade.gov/policy/bull05-1.pdf* (Policy Bulletin 05.1).

[43] Although in past investigations this deadline was 60 days, consistent with 19 CFR 351.301(a), which states that ''the Secretary may request any person to submit factual information at any time during a proceeding,'' this deadline is now 30 days.

[44] *See* Policy Bulletin 05.1 at 6 (emphasis added).

[45] *See* section 733(a) of the Act.

[46] *Id.*

information is being submitted[47] and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.[48] Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in these investigations.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013), available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these investigations.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[49] Parties must use the certification formats provided in 19 CFR 351.303(g).[50] Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, Commerce published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Parties wishing to participate in these investigations should ensure that they meet the requirements of these procedures (*e.g.,* the filing of letters of appearance as discussed at 19 CFR 351.103(d)). Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until July 17, 2020, unless extended.[51]

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: June 15, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix—Scope of the Investigations

The merchandise covered by these investigations consists of certain rotary walk-behind lawn mowers, which are grass-cutting machines that are powered by internal combustion engines. The scope of these investigations covers certain walk-behind lawn mowers, whether self-propelled or non-self-propelled, whether finished or unfinished, whether assembled or unassembled, and whether containing any additional features that provide for functions in addition to mowing.

Walk-behind lawn mowers within the scope of these investigations are only those powered by an internal combustion engine with a power rating of less than 3.7 kilowatts. These internal combustion engines are typically spark ignition, single or multiple cylinder, air cooled, internal combustion engines with vertical power take off shafts with a maximum displacement of 196cc. Walk-behind lawn mowers covered by this scope typically must be certified and comply with the Consumer Products Safety Commission Safety Standard For Walk-Behind Power Lawn Mowers under the 16 CFR part 1205. However, lawn mowers that meet the physical descriptions above, but are not certified under 16 CFR part 1205 remain subject to the scope of these proceedings.

The internal combustion engines of the lawn mowers covered by this scope typically must comply with and be certified under Environmental Protection Agency air pollution controls title 40, chapter I, subchapter U, part 1054 of the Code of Federal Regulations standards for small non-road spark-ignition engines and equipment. However, lawn mowers that meet the physical descriptions above but that do not have engines certified under 40 CFR part 1054 or other parts of subchapter U remain subject to the scope of these proceedings.

For purposes of these investigations, an unfinished and/or unassembled lawn mower means at a minimum, a sub-assembly comprised of an engine and a cutting deck shell attached to one another. A cutting deck shell is the portion of the lawn mower—typically of aluminum or steel—that houses and protects a user from a rotating blade. Importation of the subassembly whether or not accompanied by, or attached to, additional components such as a handle, blade(s), grass catching bag, or wheel(s) constitute an unfinished lawn mower for purposes of these investigations. The inclusion in a third country of any components other than the mower sub assembly does not remove the lawn mower from the scope. A lawn mower is within the scope of these investigations regardless of the origin of its engine.

The lawn mowers subject to these investigations are typically at subheading: 8433.11.0050. Lawn mowers subject to these investigations may also enter under Harmonized Tariff Schedule of the United States (HTSUS) 8407.90.1010 and 8433.90.1090. The HTSUS subheadings are provided for convenience and customs purposes only, and the written description of the merchandise under investigation is dispositive.

[FR Doc. 2020–13385 Filed 6–19–20; 8:45 am]

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[47] *See* 19 CFR 351.301(b).

[48] *See* 19 CFR 351.301(b)(2).

[49] *See* section 782(b) of the Act.

[50] *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[51] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 29615 (May 18, 2020).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–889, A–489–837]

Certain Quartz Surface Products From India and Turkey: Antidumping Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: Based on affirmative final determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC), Commerce is issuing antidumping duty orders on certain quartz surface products (quartz surface products) from India and the Republic of Turkey (Turkey).

DATES: Applicable June 22, 2020.

FOR FURTHER INFORMATION CONTACT: Charles Doss at (202) 482–4474 (India); and Laurel LaCivita at (202) 482–4243 (Turkey) or Kyle Clahane at (202) 482–5449 (Turkey); AD/CVD Operations,

Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

In accordance with sections 735(d) and 777(i)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.210(c), on May 1, 2020, Commerce published its affirmative final determinations in the less-than-fair-value (LTFV) investigations of quartz surface products from India and Turkey.[1] On June 15, 2020, the ITC notified Commerce of its final affirmative determinations that an industry in the United States is materially injured within the meaning of section 735(b)(1)(A)(i) of the Act, by reason of the LTFV imports of quartz surface products from India and Turkey.[2]

Scope of the Orders

The merchandise covered by these orders is quartz surface products from India and Turkey. For a complete description of the scope of the *Orders, see* the Appendix to this notice.

Antidumping Duty Orders

On June 15, 2020, in accordance with sections 735(b)(1)(A)(i) and 735(d) of the Act, the ITC notified Commerce of its final determinations that an industry in the United States is materially injured by reason of imports of quartz surface products from India and Turkey.[3] Therefore, Commerce is issuing these antidumping duty orders in accordance with sections 735(c)(2) and 736 of the Act. Because the ITC determined that imports of quartz surface products from India and Turkey are materially injuring a U.S. industry, unliquidated entries of such merchandise from India and Turkey, which are entered or withdrawn from warehouse for consumption, are subject to the assessment of antidumping duties.

As a result of the ITC's final affirmative determinations, in accordance with section 736(a)(1) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by Commerce, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price or constructed export price of the merchandise, for all relevant entries of quartz surface products from India and Turkey. Antidumping duties will be adjusted for export subsidies found in the final determinations of the companion countervailing duty investigations.[4] Antidumping duties will be assessed on unliquidated entries of quartz surface products from India and Turkey entered, or withdrawn from warehouse, for consumption on or after December 13, 2019, the date of publication of the *Preliminary Determinations,*[5] but will not include entries occurring after the expiration of the provisional measures period and before publication in the **Federal Register** of the ITC's injury determination, as further described below.

Additionally, because the estimated weighted-average dumping margin for Ermaş Madencilik Turizm Sanayi Ve Ticaret Anonim Şirketi (Ermaş) was determined to be zero in the LTFV investigation, Commerce is directing CBP to not suspend liquidation of entries of subject merchandise produced and exported by Ermaş. However, entries of subject merchandise in any other producer/exporter combination, *e.g.,* merchandise produced by a third party and exported by Ermaş, or produced by Ermaş and exported by a third party, are subject to the applicable cash deposit rates equal to the estimated weighted-average dumping margins noted below.

Continuation of Suspension of Liquidation

In accordance with section 736 of the Act, except for subject merchandise produced and exported by Ermaş, Commerce will instruct CBP to continue to suspend liquidation of quartz surface products from India and Turkey as described in the Appendix to this notice which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of the ITC's notice of final determination in the **Federal Register**. These instructions suspending liquidation will remain in effect until further notice.

We will also instruct CBP to require cash deposits equal to the amount as indicated below. Accordingly, effective on the date of publication of the ITC's final affirmative injury determination, CBP will require, at the same time as importers would normally deposit estimated duties on this subject merchandise, a cash deposit equal to the cash deposit rates listed below.[6] The all-others rate applies to all producers or exporters not specifically listed.

Estimated Weighted-Average Dumping Margins

The estimated weighted-average dumping margins for each antidumping duty order are as follows:

Exporter/producer	Weighted-average dumping margin (percent)	Cash deposit rate (adjusted for subsidy offset(s)) (percent)
India		
Antique Marbonite Private Limited; Shivam Enterprise; and Prism Johnson Limited	5.15	3.58
Pokarna Engineered Stone Limited	2.67	0.33
All Others	3.19	1.02
Turkey		
Belenco Diş Ticaret A.Ş. and Peker Yüzey Tasarımları Sanayi ve Ticaret A.Ş	5.17	5.13

[1] *See Certain Quartz Surface Products from India: Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances,* 85 FR 25391 (May 1, 2020); *see also Certain Quartz Surface Products from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances,* 85 FR 25389 (May 1, 2020) (and accompanying decision memoranda) (collectively, *Final Determinations*).

[2] *See* ITC's Letter, ''Notification of ITC Final Determinations,'' dated June 15, 2020 (ITC Notification Letter).

[3] *See* ITC Notification Letter.

[4] *See Final Determinations.*

[5] *See Certain Quartz Surface Products from India: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Negative Determination of Critical Circumstances, Postponement of Final Determination, and Extension of Provisional Measures,* 84 FR 68123 (December 13, 2019); *Certain Quartz Surface Products from the Republic of Turkey: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Negative Determination of Critical Circumstances, Postponement of Final Determination, and Extension of Provisional Measures,* 84 FR 68111 (December 13, 2019) (collectively, *Preliminary Determinations*).

[6] *See* section 736(a)(3) of the Act.

Exporter/producer	Weighted-average dumping margin (percent)	Cash deposit rate (adjusted for subsidy offset(s)) (percent)
All Others	5.17	5.13

Provisional Measures

Section 733(d) of the Act states that suspension of liquidation pursuant to an affirmative preliminary determination may not remain in effect for more than four months, except that Commerce may extend the four-month period to no more than six months at the request of exporters representing a significant proportion of exports of the subject merchandise. At the request of exporters that account for a significant proportion of quartz surface products from India and Turkey, we extended the four-month period to six months in the *Preliminary Determinations* published on December 13, 2019. Therefore, the extended period, beginning on the date of publication of the preliminary determination, ended on June 9, 2020. Pursuant to section 737(b) of the Act, the collection of cash deposits at the rates listed above will begin on the date of publication of the ITC's final injury determination.

Therefore, in accordance with section 733(d) of the Act and our practice, we will instruct CBP to terminate the suspension of liquidation and to liquidate, without regard to antidumping duties, unliquidated entries of quartz surface products from India and Turkey entered, or withdrawn from warehouse, for consumption on or after June 10, 2020, the first day provisional measures were no longer in effect, until and through the day preceding the date of publication of the ITC's final injury determination in the **Federal Register**. Suspension of liquidation will resume on the date of publication of the ITC's final determination in the **Federal Register**.

Notification to Interested Parties

This notice constitutes the antidumping duty orders with respect to quartz surface products from India and Turkey pursuant to section 736(a) of the Act. Interested parties can find a list of antidumping duty orders currently in effect at *http://enforcement.trade.gov/stats/iastats1.html.*

These orders are published in accordance with section 736(a) of the Act and 19 CFR 351.211(b).

Dated: June 16, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Orders

The merchandise covered by these Orders is certain quartz surface products. Quartz surface products consist of slabs and other surfaces created from a mixture of materials that includes predominately silica (*e.g.,* quartz, quartz powder, cristobalite, glass powder) as well as a resin binder (*e.g.,* an unsaturated polyester). The incorporation of other materials, including, but not limited to, pigments, cement, or other additives does not remove the merchandise from the scope of these Orders. However, the scope of these Orders only includes products where the silica content is greater than any other single material, by actual weight. Quartz surface products are typically sold as rectangular slabs with a total surface area of approximately 45 to 60 square feet and a nominal thickness of one, two, or three centimeters. However, the scope of these Orders includes surface products of all other sizes, thicknesses, and shapes. In addition to slabs, the scope of these Orders includes, but is not limited to, other surfaces such as countertops, backsplashes, vanity tops, bar tops, work tops, tabletops, flooring, wall facing, shower surrounds, fire place surrounds, mantels, and tiles. Certain quartz surface products are covered by these Orders whether polished or unpolished, cut or uncut, fabricated or not fabricated, cured or uncured, edged or not edged, finished or unfinished, thermoformed or not thermoformed, packaged or unpackaged, and regardless of the type of surface finish. In addition, quartz surface products are covered by these Orders whether or not they are imported attached to, or in conjunction with, non-subject merchandise such as sinks, sink bowls, vanities, cabinets, and furniture. If quartz surface products are imported attached to, or in conjunction with, such non-subject merchandise, only the quartz surface product is covered by the scope.

Subject merchandise includes material matching the above description that has been finished, packaged, or otherwise fabricated in a third country, including by cutting, polishing, curing, edging, thermoforming, attaching to, or packaging with another product, or any other finishing, packaging, or fabrication that would not otherwise remove the merchandise from the scope of these Orders if performed in the country of manufacture of the quartz surface products. The scope of these Orders does not cover quarried stone surface products, such as granite, marble, soapstone, or quartzite. Specifically excluded from the scope of these Orders are crushed glass surface products. Crushed glass surface products must meet each of the following criteria to qualify for this exclusion: (1) The crushed glass content is greater than any other single material, by actual weight; (2) there are pieces of crushed glass visible across the surface of the product; (3) at least some of the individual pieces of crushed glass that are visible across the surface are larger than 1 centimeter wide as measured at their widest cross-section (Glass Pieces); and (4) the distance between any single Glass Piece and the closest separate Glass Piece does not exceed three inches.

The products subject to the scope are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under the following subheading: 6810.99.0010. Subject merchandise may also enter under subheadings 6810.11.0010, 6810.11.0070, 6810.19.1200, 6810.19.1400, 6810.19.5000, 6810.91.0000, 6810.99.0080, 6815.99.4070, 2506.10.0010, 2506.10.0050, 2506.20.0010, 2506.20.0080, and 7016.90.1050. The HTSUS subheadings set forth above are provided for convenience and U.S. Customs purposes only. The written description of the scope is dispositive.

[FR Doc. 2020–13401 Filed 6–19–20; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–484–803]

Large Diameter Welded Pipe From Greece: Final Results of Antidumping Duty Changed Circumstances Reviews

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On May 6, 2020, the Department of Commerce (Commerce) published the preliminary results of the changed circumstances review (CCR) of the antidumping duty (AD) order on large diameter welded pipe (welded pipe) from Greece which revoked, in part, this order as it relates to certain specific welded pipe products. Commerce has adopted the scope exclusion language in these final results.

DATES: Applicable June 22, 2020.

FOR FURTHER INFORMATION CONTACT: Brittany Bauer, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3860.

SUPPLEMENTARY INFORMATION:

Background

On May 2, 2019, Commerce published the AD order on welded pipe from Greece.[1] On May 6, 2020, Commerce published the *Preliminary Results,*[2] in which Commerce preliminarily revoked, in part, the *Order* with respect to certain welded pipe products with specific combinations of grades, diameters, and wall thicknesses. These products have been incorporated into the exclusion language of the scope, below in bold.

Corinth Pipeworks Pipe Industry S.A. (Corinth) placed comments made by the petitioners, representing ''substantially all'' of the domestic industry,[3] in the CCRs of welded pipe from India on the record of this CCR. These comments indicate that the domestic industry does not currently produce the particular welded pipe products subject to this partial revocation request, and the investment needed to do so far exceeds the potential benefit of such investment. In addition, in these same comments, the domestic producers provided an explanation indicating that the commercial reality has changed since the *Order* was put in place.

Both in the CCRs of welded pipe from India and the *Preliminary Results,* we found that there was ''good cause'' to conduct the CCRs less than 24 months after the date of publication of notices of the final determinations in the investigations.[4] In addition, in the *Preliminary Results,* we provided all interested parties an opportunity to comment and to request a public hearing regarding our preliminary findings.[5] No interested party submitted comments.

Scope of the Order

The merchandise covered by this *Order* is welded carbon and alloy steel line pipe (other than stainless steel pipe), more than 406.4 mm (16 inches) in nominal outside diameter (large diameter welded line pipe), regardless of wall thickness, length, surface finish, grade, end finish, or stenciling. Large diameter welded pipe may be used to transport oil, gas, slurry, steam, or other fluids, liquids, or gases.

Large diameter welded line pipe is used to transport oil, gas, or natural gas liquids and is normally produced to the American Petroleum Institute (API) specification 5L. Large diameter welded line pipe can be produced to comparable foreign specifications, grades and/or standards or to proprietary specifications, grades and/or standards, or can be non-graded material. All line pipe meeting the physical description set forth above, including any dual- or multiple-certified/stenciled pipe with an API (or comparable) welded line pipe certification/stencil, is covered by the scope of the *Order.*

Subject merchandise also includes large diameter welded line pipe that has been further processed in a third country, including but not limited to coating, painting, notching, beveling, cutting, punching, welding, or any other processing that would not otherwise remove the merchandise from the scope of the *Order* if performed in the country of manufacture of the in-scope large diameter welded line pipe.

Excluded from the scope of the *Order* is structural pipe, which is produced only to American Society for Testing and Materials (ASTM) standards A500, A252, or A53, or other relevant domestic specifications, or comparable foreign specifications, grades and/or standards or to proprietary specifications, grades and/or standards. Also excluded is large diameter welded pipe produced only to specifications of the American Water Works Association (AWWA) for water and sewage pipe. Also excluded is large diameter welded pipe in the following combinations of grades, outside diameters, and wall thicknesses:

- Grade X60, X65, or X70, 18 inches outside diameter, 0.688 inches or greater wall thickness;
- Grade X60, X65, or X70, 20 inches outside diameter, 0.688 inches or greater wall thickness;
- Grade X60, X65, X70, or X80, 22 inches outside diameter, 0.750 inches or greater wall thickness; and
- Grade X60, X65, or X70, 24 inches outside diameter, 0.750 inches or greater wall thickness.

The large diameter welded line pipe that is subject to this *Order* is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7305.11.1030, 7305.11.1060, 7305.11.5000, 7305.12.1030, 7305.12.1060, 7305.12.5000, 7305.19.1030, 7305.19.1060, and 7305.19.5000. Merchandise currently classifiable under subheadings 7305.31.4000, 7305.31.6090, 7305.39.1000 and 7305.39.5000 and that otherwise meets the above scope language is also covered. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this *Order* is dispositive.

Final Results of CCR

Section 751(b) authorizes Commerce to modify the scopes of AD and CVD orders only for those orders in which we conduct a CCR.[6] Further, 19 CFR 351.216(c) states that ''good cause'' exists when Commerce conducts a CCR within 24 months of the publication of a final determination of an investigation. In the *Initiation,* Commerce found that ''good cause'' existed to initiate this CCR.[7] No parties submitted comments regarding the *Preliminary Results.* Therefore, for the reasons stated in the *Initiation* and *Preliminary Results,* Commerce continues to find that it is appropriate to revoke the *Order,* in part, in accordance with 19 CFR 351.222(g)(1) with respect to certain welded pipe products with specific combinations of grades, diameters, and wall thicknesses, as reflected in the ''Scope of the Order'' section of this notice.

We will instruct U.S. Customs and Border Protection to terminate the suspension of liquidation for all shipments of the products subject to this changed circumstances review that were entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice of revocation in the **Federal Register**. All entries of the revoked products that were suspended on or after the date of publication of this revocation notice will be liquidated without regard to antidumping duties (*i.e.,* refund all cash deposits).

Notification to Interested Parties

We are issuing this determination and publishing these final results and notice in accordance with sections 751(b)(1) and 777(i)(1) and (2) of the Act and 19

[1] *See Large Diameter Welded Pipe from Greece: Amended Final Affirmative Antidumping Determination and Antidumping Duty Order,* 84 FR 18769 (May 2, 2019) (*Order*).

[2] *See Large Diameter Welded Pipe from Greece: Preliminary Results of Antidumping Duty Changed Circumstances Review,* 85 FR 26924 (May 6, 2020) (*Preliminary Results*).

[3] *See* Corinth's Letter, ''Large Diameter Welded Pipe from Greece: Request for Changed Circumstances Review and Revocation, In Part,'' dated January 3, 2020, at Exhibits 2–4. Commerce has interpreted ''substantially all'' to mean at least 85 percent of the total production of the domestic like product covered by the order. *See, e.g., Supercalendered Paper from Canada: Final Results of Changed Circumstances Review and Revocation of Countervailing Duty Order,* 83 FR 32268 (July 12, 2018).

[4] *See* 19 CFR 351.216(c).

[5] *See Preliminary Results,* 85 FR at 26926.

[6] *See Carbon and Alloy Steel Wire Rod from the Republic of Korea: Final Results of Antidumping Duty Changed Circumstances Review,* 84 FR 13888 (April 8, 2019); *see also Certain Steel Nails from the People's Republic of China: Final Results of Antidumping Duty Changed Circumstances Review,* 84 FR 49508 (September 20, 2019).

[7] *See Large Diameter Welded Pipe from Greece: Initiation of Antidumping Duty Changed Circumstances Review,* 85 FR 10150, 10151 (*Initiation*).

CFR 351.216(e), 351.221(b) and (c)(3), and 351.222(g)(1) and (4).

Dated: June 16, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2020–13377 Filed 6–19–20; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–130]

Certain Walk-Behind Lawn Mowers and Parts Thereof From the People's Republic of China: Initiation of Countervailing Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable June 15, 2020.

FOR FURTHER INFORMATION CONTACT: Terre Keaton Stefanova or Jacob Garten, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1280 or (202) 482–3342, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On May 26, 2020, the U.S. Department of Commerce (Commerce) received a countervailing duty (CVD) petition concerning imports of certain walk-behind lawn mowers and parts thereof (lawn mowers) from the People's Republic of China (China) filed in proper form on behalf of MTD Products, Inc. (the petitioner).[1] The Petition was accompanied by an antidumping duty (AD) petition concerning imports of lawn mowers from China and the Socialist Republic of Vietnam.

On May 29, 2020, Commerce requested supplemental information pertaining to certain aspects of the Petition,[2] to which the petitioner filed responses on June 2, 2020.[3]

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that the Government of China (GOC) is providing countervailable subsidies, within the meaning of sections 701 and 771(5) of the Act, to producers of lawn mowers in China and that such imports are materially injuring, or threatening material injury to, the domestic industry producing lawn mowers in the United States. Consistent with section 702(b)(1) of the Act and 19 CFR 351.202(b), for those alleged programs on which we are initiating a CVD investigation, the Petition is supported by information reasonably available to the petitioner supporting its allegations.

Commerce finds that the petitioner filed the Petition on behalf of the domestic industry because the petitioner is an interested party as defined in section 771(9)(C) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the requested CVD investigation.[4]

Period of Investigation

Because the Petition was filed on May 26, 2020, the period of investigation (POI) is January 1, 2019 through December 31, 2019.[5]

Scope of the Investigation

The merchandise covered by this investigation is lawn mowers from China. For a full description of the scope of this investigation, *see* the appendix to this notice.

Comments on Scope of the Investigation

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.,* scope).[6] Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determination. If scope comments include factual information,[7] all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit scope comments by 5:00 p.m. Eastern Time (ET) on July 6, 2020, which is 20 calendar days from the signature date of this notice.[8] Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on July 16, 2020, which is 10 calendar days from the initial comment deadline.[9]

Commerce requests that any factual information the parties consider relevant to the scope of the investigation be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact Commerce and request permission to submit the additional information. All such comments must also be filed on the record of the concurrent AD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically using Enforcement and Compliance's (E&C's) Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.[10] An electronically filed document must be received successfully

[1] *See* Petitioner's Letter, ''Petitions for the Imposition of Antidumping Duties on Certain Walk-Behind Lawn Mowers from the People's Republic of China and the Socialist Republic of Vietnam and Countervailing Duties on Certain Walk-Behind Lawn Mowers from the People's Republic of China,'' dated May 26, 2020 (the Petition).

[2] *See* Commerce's Letters, ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China and the Socialist Republic of Vietnam: General Issues Supplemental Questions,'' and ''Petition for the Imposition of Countervailing Duties on Imports of Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China: Supplemental Questions,'' both dated May 29, 2020.

[3] *See* Petitioner's Letters, ''Petitions for the Imposition of Antidumping Duties on Imports of Certain Walk-Behind Lawn Mowers from the People's Republic of China and the Socialist Republic of Vietnam, and Countervailing Duties from the People's Republic of China: General Issues Supplemental Questions Response Volume I,'' (General Issues Supplement), and ''Petitions for the Imposition of Countervailing Duties on Imports of Certain Walk-Behind Lawn Mowers from the People's Republic of China: Supplemental Questionnaire Response Volume IV,'' both dated June 2, 2020.

[4] *See* ''Determination of Industry Support for the Petition'' section, *infra.*

[5] *See* 19 CFR 351.204(b)(2).

[6] *See Antidumping Duties; Countervailing Duties,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

[7] *See* 19 CFR 351.102(b)(21) (defining ''factual information'').

[8] Commerce's practice dictates that where a deadline falls on a weekend or Federal holiday, the appropriate deadline is the next business day (in this instance, May 11, 2020). *See Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended,* 70 FR 24533 (May 10, 2005).

[9] *See* 19 CFR 351.303(b).

[10] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance; Change of Electronic Filing System Name,* 79 FR 69046 (November 20, 2014), for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on using ACCESS can be found at *https://access.trade.gov/help.aspx* and a handbook can be found at *https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf.*

in its entirety by the time and date it is due.

Consultations

Pursuant to sections 702(b)(4)(A)(i) and (ii) of the Act, Commerce notified the GOC of the receipt of the Petition and provided it the opportunity for consultations with respect to the CVD Petition.[11] The GOC requested consultations, which were held on June 12, 2020.[12]

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,[13] they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[14]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation.[15] Based on our analysis of the information submitted on the record, we have determined that lawn mowers, as defined in the scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.[16]

On June 10, 2020, we received comments on industry support from Sumec Hardware & Tools Co., Ltd. (Sumec), a Chinese producer of subject merchandise, and Merotec Inc (Merotec), an importer of subject merchandise.[17] The petitioner responded to the industry support comments on June 11, 2020.[18] On June 12, 2020, we received surrebuttal comments from Sumec and Merotec with regard to the petitioner's June 11, 2020 comments.[19] The petitioner responded to these surrebuttal industry support comments on June 15, 2020.[20]

In determining whether the petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the ''Scope of the Investigation,'' in the appendix to this notice. To establish industry support, the petitioner provided its 2019 shipments of the domestic like product.[21] To estimate the 2019 shipments for the entire U.S. lawn mowers industry, the petitioner relied on 2019 shipment data reported by the Outdoor Power Equipment Institute and made certain adjustments to reflect total shipments by U.S. producers of lawn mowers.[22] The petitioner estimated the production of the domestic like product for the entire domestic industry based on shipment data, because production data for the entire domestic industry are not available, and shipments are a close approximation of production in the lawn mowers industry.[23] We relied on data provided by the petitioner for purposes of measuring industry support.[24]

Our review of the data provided in the Petition, the General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petition.[25] First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.,*

[11] *See* Commerce's Letter, ''Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China: Invitation for Consultation to Discuss the Countervailing Duty Petition,'' dated June 1, 2020.

[12] *See* Memorandum, ''Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China Countervailing Duty Petition: Consultations with the Government of the People's Republic of China,'' dated June 15, 2020.

[13] *See* section 771(10) of the Act.

[14] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F. 2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989)).

[15] *See* Volume I of the Petition at 18–24.

[16] For a discussion of the domestic like product analysis as applied to this case and information regarding industry support, *see* Countervailing Duty Investigation Initiation Checklist: Certain Walk-Behind Lawn Mowers from the People's Republic of China (China CVD Initiation Checklist) at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain Walk-Behind Lawn Mowers from the People's Republic of China and the Socialist Republic of Vietnam (Attachment II). This checklist is dated concurrently with this notice and on file electronically via ACCESS.

[17] *See* Sumec and Merotec's Letter, ''Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China, Request to the Department to Poll the Industry,'' dated June 10, 2020.

[18] *See* Petitioner's Letter, ''Investigations on Certain Walk-Behind Lawn Mowers from the People's Republic of China and the Socialist Republic of Vietnam, and Countervailing Duties from the People's Republic of China, Inv. Nos. 731–1521–1522 and 701–TA–648 (Preliminary): Response to Sumec Hardware & Tools Co., Ltd.'s Request to the Department to Poll the Industry,'' dated June 11, 2019.

[19] *See* Sumec and Merotec's Letter, ''Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China, Reply to Petitioner's Response to the Request to Poll the Industry,'' dated June 12, 2020.

[20] *See* Petitioner's Letter, ''Investigations on Certain Walk-Behind Lawn Mowers from the People's Republic of China and the Socialist Republic of Vietnam, and Countervailing Duties from the People's Republic of China, Inv. Nos. 731–1521–1522 and 701–TA–648 (Preliminary): Response to Sumec Hardware & Tools Co., Ltd.'s Reply to Petitioner's Response to the Request to Poll the Industry,'' dated June 15, 2019.

[21] *See* Volume I of the Petition at 4–5 and Exhibit I–2; *see also* General Issues Supplement at 7 and Exhibit S–I–5.

[22] *See* Volume I of the Petition at 4–5 and Exhibit I–1, I–2, and I–23; *see also* General Issues Supplement at 7 and Exhibit S–I–5.

[23] *See* Volume I of the Petition at 4–5 and Exhibit I–23.

[24] *Id.* at 4–5 and Exhibits I–1, I–2, and I–23; *see also* General Issues Supplement at 7 and Exhibit S–I–5. For further discussion, *see* Attachment II of the China CVD Initiation Checklist.

[25] *See* Attachment II of the China CVD Initiation Checklist.

polling).[26] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.[27] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.[28] Accordingly, Commerce determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.[29]

Injury Test

Because China is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from China materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[30]

The petitioner contends that the industry's injured condition is illustrated by a significant and increasing volume of subject imports; declining market share; underselling and price depression and suppression; lost sales and revenues; declines in shipments, capacity utilization, and capital expenditures; plant closures and declines in employment variables; and declining profitability.[31] We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.[32]

Initiation of CVD Investigation

Based upon our examination of the Petition and supplemental responses, we find that the Petition meets the requirements of section 702 of the Act. Therefore, we are initiating a CVD investigation to determine whether imports of lawn mowers from China benefit from countervailable subsidies conferred by the GOC. Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation on all but one of the alleged programs.[33] For a full discussion of the basis for our decision to initiate on each program, *see* China CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS. In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 65 days after the date of this initiation.

Respondent Selection

The petitioner named 46 companies in China as producers/exporters of lawn mowers.[34] Commerce intends to follow its standard practice in CVD investigations and calculate company-specific subsidy rates in this investigation. In the event Commerce determines that the number of companies is large and it cannot individually examine each company based upon Commerce's resources, where appropriate, Commerce intends to select mandatory respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of lawn mowers from China during the POI under the appropriate Harmonized Tariff Schedule of the United States numbers listed in the ''Scope of the Investigation,'' in the appendix.

On June 11, 2020, Commerce released CBP data on imports of lawn mowers from China under administrative protective order (APO) to all parties with access to information protected by APO and indicated that interested parties wishing to comment on the CBP data must do so within three business days of the publication date of the notice of initiation of this investigation.[35] We further stated that we will not accept rebuttal comments.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on E&C's website at *http://enforcement.trade.gov/apo.*

Comments must be filed electronically using ACCESS. An electronically filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET on the date noted above. Commerce intends to finalize its decisions regarding respondent selection within 20 days of publication of this notice.

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the GOC via ACCESS. Furthermore, to the extent practicable, Commerce will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided under 19 CFR 351.203(c)(2).

ITC Notification

Commerce will notify the ITC of its initiation, as required by section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of lawn mowers from China are materially injuring, or threatening material injury to, a U.S. industry.[36] A negative ITC determination will result in the investigation being terminated.[37] Otherwise, this investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19

[26] *Id.; see also* section 702(c)(4)(D) of the Act.

[27] *See* Attachment II of the China CVD Initiation Checklist.

[28] *Id.*

[29] *Id.*

[30] *See* Volume I of the Petition at 24–25 and Exhibit I–8.

[31] *Id.* at 27–40 and Exhibits I–8 through I–11, I–20 through I–22, and I–24; *see also* General Issues Supplement at 2 and Exhibit S–I–1.

[32] *See* China CVD Initiation Checklists at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China and the Socialist Republic of Vietnam (Attachment III).

[33] We are also limiting the investigation on two other programs for lack of supporting information as to certain aspects of the allegations.

[34] *See* Volume I of the Petition at 17.

[35] *See* Memorandum, ''Certain Walk-Behind Lawn Mowers, and Parts Thereof, from the People's Republic of China Countervailing Duty Petition: Release of Customs Data from U.S. Customs and Border Protection,'' dated June 11, 2020.

[36] *See* section 703(a)(1) of the Act.

[37] *Id.*

CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted [38] and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.[39] Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in this investigation.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301.[40] For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013), available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting extension requests or factual information in this investigation.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[41] Parties must use the certification formats provided in 19 CFR 351.303(g).[42] Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, Commerce published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (*e.g.,* the filing of letters of appearance as discussed at 19 CFR 351.103(d)). Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until July 17, 2020, unless extended.[43]

This notice is issued and published pursuant to sections 702 and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: June 15, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix—Scope of the Investigation

The merchandise covered by this investigation consists of certain rotary walk-behind lawn mowers, which are grass-cutting machines that are powered by internal combustion engines. The scope of the investigation cover certain walk-behind lawn mowers, whether self-propelled or non-self-propelled, whether finished or unfinished, whether assembled or unassembled, and whether containing any additional features that provide for functions in addition to mowing.

Walk-behind lawn mowers within the scope of this investigation are only those powered by an internal combustion engine with a power rating of less than 3.7 kilowatts. These internal combustion engines are typically spark ignition, single or multiple cylinder, air cooled, internal combustion engines with vertical power take off shafts with a maximum displacement of 196cc. Walk-behind lawn mowers covered by this scope typically must be certified and comply with the Consumer Products Safety Commission Safety Standard For Walk-Behind Power Lawn Mowers under the 16 CFR part 1205. However, lawn mowers that meet the physical descriptions above, but are not certified under 16 CFR part 1205 remain subject to the scope of this proceeding.

The internal combustion engines of the lawn mowers covered by this scope typically must comply with and be certified under Environmental Protection Agency air pollution controls title 40, chapter I, subchapter U, part 1054 of the Code of Federal Regulations standards for small non-road spark-ignition engines and equipment. However, lawn mowers that meet the physical descriptions above but that do not have engines certified under 40 CFR part 1054 or other parts of subchapter U remain subject to the scope of this proceeding.

For purposes of this investigation, an unfinished and/or unassembled lawn mower means at a minimum, a sub-assembly comprised of an engine and a cutting deck shell attached to one another. A cutting deck shell is the portion of the lawn mower—typically of aluminum or steel—that houses and protects a user from a rotating blade. Importation of the subassembly whether or not accompanied by, or attached to, additional components such as a handle, blade(s), grass catching bag, or wheel(s) constitute an unfinished lawn mower for purposes of this investigation. The inclusion in a third country of any components other than the mower sub-assembly does not remove the lawn mower from the scope. A lawn mower is within the scope of this investigation regardless of the origin of its engine.

The lawn mowers subject to this investigation are typically at subheading: 8433.11.0050. Lawn mowers subject to this investigation may also enter under Harmonized Tariff Schedule of the United States (HTSUS) 8407.90.1010 and 8433.90.1090. The HTSUS subheadings are provided for convenience and customs purposes only, and the written description of the merchandise under investigation is dispositive.

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[38] *See* 19 CFR 351.301(b).

[39] *See* 19 CFR 351.301(b)(2).

[40] *See* 19 CFR 351.302.

[41] *See* section 782(b) of the Act.

[42] *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* frequently asked questions regarding the *Final Rule,* available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[43] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 17006 (March 26, 2020); and *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 29615 (May 18, 2020).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–896]

Magnesium Metal From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2018–2019

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) continues to find that Tianjin Magnesium International, Co., Ltd. (TMI) and Tianjin Magnesium Metal, Co., Ltd. (TMM) had no shipments of subject merchandise covered by the antidumping duty order on magnesium metal from the People's Republic of China (China) for the period of review (POR) April 1, 2018 through March 31, 2019.

DATES: Applicable June 22, 2020.

FOR FURTHER INFORMATION CONTACT: Kyle Clahane, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5449.

SUPPLEMENTARY INFORMATION:

Background

On January 8, 2020, Commerce published the *Preliminary Results* of the administrative review of the antidumping duty order on magnesium metal from China for the POR.[1] We invited parties to submit comments on the *Preliminary Results.* No party submitted comments. Accordingly, the final results remain unchanged from the *Preliminary Results.*

Commerce conducted this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act). On April 24, 2020, Commerce tolled all deadlines in administrative reviews by 50 days, thereby extending the deadline for these results until June 26, 2020.[2]

Scope of the Order

The product covered by this antidumping duty order is magnesium metal from China, which includes primary and secondary alloy magnesium metal, regardless of chemistry, raw material source, form, shape, or size. Magnesium is a metal or alloy containing by weight primarily the element magnesium. Primary magnesium is produced by decomposing raw materials into magnesium metal. Secondary magnesium is produced by recycling magnesium-based scrap into magnesium metal. The magnesium covered by this order includes blends of primary and secondary magnesium.

The subject merchandise includes the following alloy magnesium metal products made from primary and/or secondary magnesium including, without limitation, magnesium cast into ingots, slabs, rounds, billets, and other shapes; magnesium ground, chipped, crushed, or machined into rasping, granules, turnings, chips, powder, briquettes, and other shapes; and products that contain 50 percent or greater, but less than 99.8 percent, magnesium, by weight, and that have been entered into the United States as conforming to an ''ASTM Specification for Magnesium Alloy''[3] and are thus outside the scope of the existing antidumping orders on magnesium from China (generally referred to as ''alloy'' magnesium).

The scope of this order excludes: (1) All forms of pure magnesium, including chemical combinations of magnesium and other material(s) in which the pure magnesium content is 50 percent or greater, but less than 99.8 percent, by weight, that do not conform to an ''ASTM Specification for Magnesium Alloy'';[4] (2) magnesium that is in liquid or molten form; and (3) mixtures containing 90 percent or less magnesium in granular or powder form by weight and one or more of certain non-magnesium granular materials to make magnesium-based reagent mixtures, including lime, calcium metal, calcium silicon, calcium carbide, calcium carbonate, carbon, slag coagulants, fluorspar, nephaline syenite, feldspar, alumina (Al203), calcium aluminate, soda ash, hydrocarbons, graphite, coke, silicon, rare earth metals/mischmetal, cryolite, silica/fly ash, magnesium oxide, periclase, ferroalloys, dolomite lime, and colemanite.[5]

The merchandise subject to this order is classifiable under items 8104.19.00, and 8104.30.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS items are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Final Determination of No Shipments

In the *Preliminary Results,* Commerce determined that TMI and TMM had no shipments of subject merchandise to the United States during the POR.[6] As we have not received any comments on our preliminary finding, we continue to find that TMI and TMM did not have any shipments of subject merchandise during the POR and intend to issue appropriate instructions that are consistent with our ''automatic assessment'' clarification, for these final results.[7]

Assessment Rates

Commerce determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with section 751(a)(2)(C) of the Act and 19 CFR 351.212(b). Commerce intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of this review.

Additionally, consistent with Commerce's refinement to its assessment practice in nonmarket economy cases, for TMI and TMM, the exporters under review, which we determined had no shipments of the subject merchandise during the POR, any suspended entries of subject merchandise from these companies (*i.e.,* made under TMI's case number at TMI's rate or made under TMM's name) will be liquidated at the China-wide rate.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of these final results of administrative review for shipments of subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) For previously investigated or reviewed Chinese and non-Chinese exporters that

[1] *See Magnesium Metal from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2018–19,* 85 FR 879 (January 8, 2020) (*Preliminary Results*).

[2] *See* Memorandum, ''Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews in Response to Operational Adjustments Due to COVID–19,'' dated April 24, 2020.

[3] The meaning of this term is the same as that used by the American Society for Testing and Materials in its Annual Book for ASTM Standards: Volume 01.02 Aluminum and Magnesium Alloys.

[4] The material is already covered by existing antidumping orders. *See Notice of Antidumping Duty Orders: Pure Magnesium from the People's Republic of China, the Russian Federation and Ukraine; Notice of Amended Final Determination of Sales at Less Than Fair Value: Antidumping Duty Investigation of Pure Magnesium from the Russian Federation,* 60 FR 25691 (May 12, 1995); and *Antidumping Duty Order: Pure Magnesium in Granular Form from the People's Republic of China,* 66 FR 57936 (November 19, 2001).

[5] This third exclusion for magnesium-based reagent mixtures is based on the exclusion for reagent mixtures in the 2000–2001 investigations of magnesium from China, Israel, and Russia. *See Final Determination of Sales at Less Than Fair Value: Pure Magnesium in Granular Form from the People's Republic of China,* 66 FR 49345 (September 27, 2001); *Final Determination of Sales at Less Than Fair Value: Pure Magnesium from Israel,* 66 FR 49349 (September 27, 2001); *Final Determination of Sales at Not Less Than Fair Value: Pure Magnesium from the Russian Federation,* 66 FR 49347 (September 27, 2001). These mixtures are not magnesium alloys, because they are not combined in liquid form and cast into the same ingot.

[6] *See Preliminary Results,* 85 FR at 881.

[7] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011); *see also* ''Assessment Rates'' section *infra.*

received a separate rate in a prior segment of this proceeding, including TMI, the cash deposit rate will continue to be the existing exporter-specific rate; (2) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, including TMM, the cash deposit rate will be the China-wide rate of 141.49 percent;[8] and (3) for all non-Chinese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Chinese exporter(s) that supplied that non-Chinese exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Orders

This notice also serves as a reminder to all parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

This notice is issued and published in accordance with sections 751(a) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4).

Dated: June 15, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

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[8] *See Notice of Antidumping Duty Order: Magnesium Metal from the People's Republic of China,* 70 FR 19928 (April 15, 2005).

DEPARTMENT OF COMMERCE

International Trade Administration

[C–489–838, C–533–890]

Certain Quartz Surface Products From India and the Republic of Turkey: Countervailing Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: Based on affirmative final determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC), Commerce is issuing countervailing duty orders on certain quartz surface products (quartz surface products) from India and the Republic of Turkey (Turkey).

DATES: Applicable June 22, 2020.

FOR FURTHER INFORMATION CONTACT: Kristen Johnson at (202–482–4793) (India) and Stephanie Berger at (202) 482–2483 (Turkey), AD/CVD Operations, Office III, Enforcement and Compliance, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

In accordance with section 705(d) of the Tariff Act of 1930, as amended (the Act), on May 1, 2020, Commerce published its affirmative final determinations that countervailable subsidies are being provided to producers and exporters of quartz surface products from India and Turkey.[1] On June 15, 2020, the ITC notified Commerce of its affirmative determinations that an industry in the United States is materially injured within the meaning of section 705(b)(1)(A)(i) of the Act, by reason of subsidized imports of subject merchandise from India and Turkey.[2]

Scope of the Orders

The scope of these orders covers quartz surface products from India and Turkey. For a complete description of the scope, *see* the Appendix to this notice.

[1] *See Certain Quartz Surface Products from India: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances, In Part,* 85 FR 25398 (May 1, 2020) (*Quartz Surface Products from India Final Determination*); *see also Certain Quartz Surface Products from the Republic of Turkey: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances, In Part,* 85 FR 25400 (May 1, 2020).

[2] *See* ITC's Letter, ''Notification of ITC Final Determinations,'' dated June 15, 2020.

Countervailing Duty Orders

On June 15, 2020, in accordance with sections 705(b)(1)(A)(i) and 705(d) of the Act, the ITC notified Commerce of its final determinations in these investigations, in which it found that an industry in the United States is materially injured by reason of imports of quartz surface products from India and Turkey, and that critical circumstances do not exist with respect to imports of subject merchandise from India and Turkey that are subject to Commerce's affirmative critical circumstances findings. Therefore, in accordance with section 705(c)(2) of the Act, Commerce is issuing these countervailing duty orders. Because the ITC determined that imports of quartz surface products from India and Turkey are materially injuring a U.S. industry, unliquidated entries of such merchandise from India or Turkey, entered or withdrawn from warehouse for consumption, are subject to the assessment of countervailing duties.

Therefore, in accordance with section 706(a) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by Commerce, countervailing duties for all relevant entries of quartz surface products from India and Turkey. Countervailing duties will be assessed on unliquidated entries of quartz surface products from India and Turkey entered, or withdrawn from warehouse, for consumption on or after October 11, 2019, the date of publication of the *Preliminary Determinations,*[3] but will not include entries occurring after the expiration of the provisional measures period and before publication of the ITC's final injury determination, as further described below, for all producers and exporters except Antique Marbonite Private Limited (Antique Marbonite). For Antique Marbonite, countervailing duties will be assessed on unliquidated entries of quartz surface products from India entered, or withdrawn from warehouse, for consumption on or after May 1, 2020, the date on which Commerce published the *Quartz Surface Products from India*

[3] *See Certain Quartz Surface Products from India: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, In Part, and Alignment of Final Determination With Final Antidumping Duty Determination,* 84 FR 54838 (October 11, 2019); *see also Certain Quartz Surface Products from the Republic of Turkey: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, and Alignment of Final Determination With Final Antidumping Duty Determination,* 84 FR 54841 (October 11, 2019) (collectively, *Preliminary Determinations*).

Final Determination in the **Federal Register**.[4]

Suspension of Liquidation

In accordance with section 706 of the Act, Commerce will instruct CBP to reinstitute the suspension of liquidation of quartz surface products from India and Turkey. We will also instruct CBP to require, pursuant to section 706(a)(1) of the Act, countervailing duties for each entry of the subject merchandise in an amount based on the net countervailable subsidy rates for the subject merchandise. These instructions suspending liquidation will remain in effect until further notice.

Company	Subsidy rate (percent)
India:	
Antique Marbonite Private Limited[5]	1.57
Pokarna Engineered Stone Limited[6]	2.34
All Others	2.17
Turkey:	
Belenco Diş Ticaret A.Ş. and Peker Yüzey Tasarımları Sanayi ve Ticaret A.Ş[7]	2.43
All Others	2.43

Critical Circumstances

With regard to the ITC's negative critical circumstances determination on imports of quartz surface products from India and Turkey, we will instruct CBP to lift suspension and to refund any cash deposits made to secure the payment of estimated countervailing duties with respect to entries of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after July 13, 2019 (*i.e.,* 90 days prior to the date of the publication of the *Preliminary Determinations*), but before October 11, 2019 (*i.e.,* the date of publication of the *Preliminary Determinations*).

Provisional Measures

Section 703(d) of the Act states that instructions issued pursuant to an affirmative preliminary determination may not remain in effect for more than four months. In the underlying investigations, Commerce published the *Preliminary Determinations* on October 11, 2019. Therefore, the four-month period beginning on the date of the publication of the *Preliminary Determinations* ended on February 8, 2020.

In accordance with section 703(d) of the Act and our practice, we instructed CBP to terminate the suspension of liquidation and to liquidate, without regard to countervailing duties, unliquidated entries of quartz surface products from India and Turkey entered, or withdrawn from warehouse, for consumption after February 8, 2020, the date the provisional measures expired, until and through the day preceding the date of publication of the ITC's final injury determination in the **Federal Register**. Suspension of liquidation will resume on the date of publication of the ITC's final determination in the **Federal Register**, for all producers and exporters except Antique Marbonite for whom suspension of liquidation began on May 1, 2020, the date on which Commerce published the *Quartz Surface Products from India Final Determination* in the **Federal Register**.[8]

Notifications to Interested Parties

This notice constitutes the countervailing duty orders with respect to quartz surface products from India and Turkey pursuant to section 706(a) of the Act. Interested parties can find a list of countervailing duty orders currently in effect at *http://enforcement.trade.gov/stats/iastats1.html.*

These orders are issued and published in accordance with section 706(a) of the Act and 19 CFR 351.211(b).

Dated: June 16, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix—Scope of the Orders

Quartz surface products consist of slabs and other surfaces created from a mixture of materials that includes predominately silica (*e.g.,* quartz, quartz powder, cristobalite, glass powder) as well as a resin binder (*e.g.,* an unsaturated polyester). The incorporation of other materials, including, but not limited to, pigments, cement, or other additives does not remove the merchandise from the scope of the orders. However, the scope of the orders only includes products where the silica content is greater than any other single material, by actual weight. Quartz surface products are typically sold as rectangular slabs with a total surface area of approximately 45 to 60 square feet and a nominal thickness of one, two, or three centimeters. However, the scope of these orders includes surface products of all other sizes, thicknesses, and shapes. In addition to slabs, the scope of these orders includes, but is not limited to, other surfaces such as countertops, backsplashes, vanity tops, bar tops, work tops, tabletops, flooring, wall facing, shower surrounds, fire place surrounds, mantels, and tiles. Certain quartz surface products are covered by the orders whether polished or unpolished, cut or uncut, fabricated or not fabricated, cured or uncured, edged or not edged, finished or unfinished, thermoformed or not thermoformed, packaged or unpackaged, and regardless of the type of surface finish.

In addition, quartz surface products are covered by the orders whether or not they are imported attached to, or in conjunction with, non-subject merchandise such as sinks, sink bowls, vanities, cabinets, and furniture. If quartz surface products are imported attached to, or in conjunction with, such non-subject merchandise, only the quartz surface product is covered by the scope.

Subject merchandise includes material matching the above description that has been finished, packaged, or otherwise fabricated in a third country, including by cutting, polishing, curing, edging, thermoforming, attaching to, or packaging with another product, or any other finishing, packaging, or fabrication that would not otherwise remove the merchandise from the scope of the orders if performed in the country of manufacture of the quartz surface products.

The scope of the orders does not cover quarried stone surface products, such as granite, marble, soapstone, or quartzite. Specifically excluded from the scope of the orders are crushed glass surface products. Crushed glass surface products must meet each of the following criteria to qualify for this exclusion: (1) The crushed glass content is greater than any other single material, by actual weight; (2) there are pieces of crushed glass visible across the surface of the product; (3) at least some of the individual pieces of crushed glass that are visible across the surface are larger than 1 centimeter wide as measured at their widest cross-section (''Glass Pieces''); and (4) the distance between any single Glass Piece and the closest separate Glass Piece does not exceed three inches.

The products subject to the scope are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under the following subheading: 6810.99.0010. Subject merchandise may also enter under subheadings 6810.11.0010, 6810.11.0070, 6810.19.1200, 6810.19.1400, 6810.19.5000, 6810.91.0000, 6810.99.0080, 6815.99.4070, 2506.10.0010, 2506.10.0050, 2506.20.0010, 2506.20.0080, and 7016.90.1050. The HTSUS subheadings set forth above are provided for convenience and U.S. Customs purposes only. The written description of the scope is dispositive.

[FR Doc. 2020–13374 Filed 6–19–20; 8:45 am]

BILLING CODE 3510–DS–P

[4] *See Quartz Surface Products from India Final Determination.*

[5] The company's legal name is Antique Marbonite Private Limited and trade name is Antique Marbonite Pvt. Ltd. Commerce found the following companies to be cross owned with Antique Marbonite Private Limited: Antique Granito Shareholders Trust, Prism Johnson Limited, and Shivam Enterprise.

[6] Commerce found Pokarna Engineered Stone Limited to be cross owned with Pokarna Limited.

[7] Commerce found the following company to be cross owned with Belenco Diş Ticaret A.Ş.: Peker Yüzey Tasarımları Sanayi ve Ticaret A.Ş.

[8] *See Quartz Surface Products from India Final Determination.*

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XW026]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits; West Coast Pelagic Conservation Group

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

ACTION: Notice; request for comments.

SUMMARY: The Regional Administrator, West Coast Region, NMFS, has made a preliminary determination that an application for an Exempted Fishing Permit warrants further consideration. The application, submitted by the West Coast Pelagic Conservation Group (a non-profit fishing industry group), requests an exemption from the expected prohibition on primary directed fishing for Pacific sardine for the 2020–2021 fishing year to collect Pacific sardine as part of an industry-based scientific survey. NMFS requests public comment on the application.

DATES: Comments must be received by July 7, 2020.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2020–0069, by the following method:

Electronic Submissions: Submit all public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2020-0069,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments. The Exempted Fishing Permit application will be available under Supporting and Related Materials through the same link.

Instructions: Comments must be submitted by the above method to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information *(e.g.,* name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Lynn Massey, West Coast Region, NMFS, (562) 436–2462, *lynn.massey@noaa.gov.*

SUPPLEMENTARY INFORMATION: This action is authorized by the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP) and regulations at 50 CFR 600.745, which allow NMFS Regional Administrators to authorize exempted fishing permits (EFPs) to test fishing activities that would otherwise be prohibited.

On May 27, 2020, NMFS published a proposed rule (85 FR 31733) to implement Pacific sardine harvest specifications for the 2020–2021 fishing year off the U.S. West Coast. This proposed rule included a 4,288 metric ton (mt) annual catch limit (ACL), a 4,000-mt annual catch target (ACT) and a prohibition on directed fishing for Pacific sardine off the coasts of Washington, Oregon, and California, except as part of the live bait or minor directed fisheries, or as part of EFP fishing activities.

On April 21, 2020, the West Coast Pelagic Conservation Group (WCPCG) submitted an EFP application to NMFS requesting to directly harvest up to 5 mt of Pacific sardine as part of their ''Collaborative ''Proof of Concept Project'' for Nearshore Surveillance Acoustic Trawl Methodology Survey of North West Coastal Waters'' survey during the 2020–2021 fishing year. At the April 2020 Pacific Fishery Management Council (Council) meeting, although formal Council review and approval of EFPs was removed from the Council's agenda, the Council expressed support for this EFP proposal during their discussion of sardine management measures.

Since 2017, the WCPCG has been working with NMFS Southwest Fisheries Science Center (SWFSC) and the Washington Department of Fish and Wildlife to survey CPS in nearshore Oregon/Washington coastal waters. The purpose of the EFP is to collect biological samples in areas inshore of the 2020 NMFS SWFSC acoustic trawl survey to better assess species composition and CPS distribution and abundance. The collections under the EFP would take place in nearshore waters of Oregon and Washington over a 14-day period between approximately mid-June through August, 2020. Any harvest under this EFP would count against the 2020–2021 ACL and ACT for Pacific sardine. If NMFS does not issue this EFP, then this 5-mt portion of the ACL would be available for harvest by other permissible fishing activities.

After publication of this document in the **Federal Register**, NMFS may approve and issue permits to participating vessels after the close of the public comment period. NMFS will consider comments submitted in deciding whether to approve the application as requested. NMFS may approve the application in its entirety or may make any alterations needed to achieve the goals of the EFP project.

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

Dated: June 17, 2020.

Hélène M.N. Scalliet,

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

[FR Doc. 2020–13378 Filed 6–19–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA237]

Endangered Species; File Nos. 21111, 23683, and 23851

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

ACTION: Notice; receipt of applications for permits and a permit modification.

SUMMARY: Notice is hereby given that three applicants have applied in due form for a permit or permit modification to take green (*Chelonia mydas*), hawksbill (*Eretmochelys imbricata*), Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), loggerhead (*Caretta caretta*), and olive ridley (*L. olivacea*) sea turtles for purposes of scientific research.

DATES: Written, telefaxed, or email comments must be received on or before July 22, 2020.

ADDRESSES: Each application and related documents are available for review by selecting ''Records Open for Public Comment'' from the Features box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting the applicable File No. from the list of available applications. These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone: (301) 427–8401; fax: (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on the application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Amy Hapeman or Erin Markin, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permits and permit modification are requested under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

File No. 21111–02: NMFS, Southwest Fisheries Science Center, 8901 La Jolla Shores Drive, La Jolla, California 92037, (Responsible Party: Robin LeRoux), proposes to modify Permit No. 21111–01. The permit, originally issued on February 15, 2018 (83 FR 13731, March 30, 2018), authorizes researchers to conduct long-term monitoring of leatherback sea turtles off the coasts of California, Oregon, and Washington. Researchers may conduct vessel-based research on leatherbacks including captures, observation, transmitter attachment, marking, measurements, imaging, and biological sampling. The permit holder requests authorization to (1) use a manned 'spotter' aircraft and unmanned aircraft system (UAS) to assist leatherback capture efforts, (2) increase the number of animals captured from 15 to 20 animals annually in line 1 of the take table, (3) attach an acoustic tag to animals to evaluate fine-scale leatherback movements and habitat use, (4) analyze the microbiome of collected cloacal and fecal samples to evaluate leatherback health and body condition, and (5) add personnel to conduct the request aerial methods. The permit is valid through September 30, 2027.

File No. 23683: Guam Division of Aquatic and Wildlife Resources, 163 Dairy Road, Mangilao, Guam 96913, (Responsible Party: Jay Gutierrez), proposes to obtain information on green and hawksbill sea turtle movement, distribution, abundance, genetics, and health status in waters around Guam. Up to 45 green and 10 hawksbill sea turtles would be captured by hand or tangle net, tagged (flipper, passive integrated transponder [PIT]), biologically sampled (skin), measured, weighed, and photographed/videoed, annually, prior to release. A subset of turtles may receive a satellite tag (epoxy attachment). The permit would be valid for 10 years from the date of issuance.

File No. 23851: Michael Arendt, South Carolina Department of Natural Resources, Marine Resources, 217 Fort Johnson Road, Charleston, South Carolina, proposed to assess the abundance, distribution, demographic structure, genetics, and health of green, Kemp's ridley, leatherback, loggerhead, and olive ridley sea turtles in waters off the coasts of South Carolina, Georgia, and northern Florida. Up to 3 green, 30 Kemp's ridley, 1 leatherback, 130 loggerhead, and 2 olive ridley sea turtles would be captured by trawl, tagged (flipper, PIT), biologically sampled (blood, lesion, scute), measured, weighed, and photographed/videoed, annually, prior to release. A subset of turtles may receive a satellite or acoustic tag (epoxy attachment). Up to 12 green, 1 Kemp's ridley, and 1 loggerhead sea turtles may be captured under another authority, tagged (flipper, PIT), biologically sampled (blood, lesion, scute), measured, weighed, photographed/videoed, and receive a satellite or acoustic tag (epoxy attachment), annually, prior to release. Unintentional mortality of one green, one Kemp's ridley, one leatherback, and two loggerhead sea turtles could happen over the life of the permit. The permit would be valid for up to 10 years from the date of issuance.

Dated: June 16, 2020.

Julia Marie Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2020–13358 Filed 6–19–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XW025]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Coastal Pelagic Species Fishery; Application for Exempted Fishing Permits; California Wetfish Producers Association

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

ACTION: Notice; request for comments.

SUMMARY: The Regional Administrator, West Coast Region, NMFS, has made a preliminary determination that an application for an Exempted Fishing Permit warrants further consideration. The application, submitted by the California Wetfish Producers Association, requests an exemption from the expected prohibition on primary directed fishing for Pacific sardine for the 2020–2021 fishing year to collect Pacific sardine as part of an industry-based scientific survey. NMFS requests public comment on the application.

DATES: Comments must be received by July 7, 2020.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2020–0067, by the following method:

Electronic Submissions: Submit all public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2020-0067,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments. The EFP application will be available under Supporting and Related Materials through the same link.

Instructions: Comments must be submitted by the above method to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Lynn Massey, West Coast Region, NMFS, (562) 436–2462, *lynn.massey@noaa.gov.*

SUPPLEMENTARY INFORMATION: This action is authorized by the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP) and regulations at 50 CFR 600.745, which allow NMFS Regional Administrators to authorize exempted fishing permits

(EFPs) to test fishing activities that would otherwise be prohibited.

On May 27, 2020, NMFS published a proposed rule (85 FR 31733) to implement Pacific sardine harvest specifications for the 2020–2021 fishing year off the U.S. West Coast, which begins on July 1. This proposed rule included a 4,288 metric ton (mt) annual catch limit (ACL), a 4,000-mt annual catch target (ACT), and a prohibition on directed fishing for Pacific sardine off the coasts of Washington, Oregon, and California, except as part of the live bait or minor directed fisheries, or as part of EFP fishing activities.

On April 6, 2020, the California Wetfish Producers Association (CWPA) submitted an EFP application to NMFS requesting to directly harvest up to 400 mt of Pacific sardine as part of their CPS Nearshore Cooperative Survey (CPS–NCS) during the 2020–2021 fishing year. At the April 2020 Pacific Fishery Management Council (Council) meeting, although formal Council review and approval of EFPs was removed from the Council's agenda, the Council expressed support for this EFP proposal during their discussion of sardine management measures.

Since 2012 the California Department of Fish and Wildlife, in partnership with the CWPA, has been conducting aerial surveys to estimate the biomass and distribution of sardine and certain other CPS in nearshore waters in the Southern California Bight, and in the Monterey-San Francisco area since the summer of 2017. Currently, there is uncertainty in the biomass estimates from aerial spotter pilots. The CPS–NCS survey associated with the proposed EFP is part of research to quantify that level of uncertainty by capturing CPS schools identified by aerial spotter pilots and validating the biomass and species composition of the schools. A portion of each point set (*i.e.,* an individual haul of fish captured with a purse seine net) will be retained for biological sampling, and the remainder will be sold by the participating fishermen and processors to offset research costs and avoid unnecessary discard. This research contributes to broader efforts to understand CPS biomass in shallow, nearshore areas that NMFS' CPS offshore acoustic trawl survey is unable to access.

If NMFS issues this EFP, the CPS–NCS will survey nearshore waters of the Southern California Bight for 7–10 days between July 1, 2020 and June 30, 2021. Any harvest under this EFP would count against the 2020–2021 ACL and ACT for Pacific sardine. If NMFS does not issue this EFP, then this 400 mt-portion of the ACL would be available for harvest by other permissible fishing activities.

After publication of this document in the **Federal Register**, NMFS may approve and issue permits to participating vessels after the close of the public comment period. NMFS will consider comments submitted in deciding whether to approve the application as requested. NMFS may approve the application in its entirety or may make any alterations needed to achieve the goals of the EFP project.

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

Dated: June 17, 2020.

Hélène M.N. Scalliet,

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

[FR Doc. 2020–13369 Filed 6–19–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Global Intellectual Property Academy (GIPA) Surveys

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The United States Patent and Trademark Office (USPTO), in accordance with the Paperwork Reduction Act of 1995, invites comments on the extension and revision of an existing information collection: 0651–0065 (Global Intellectual Property Academy (GIPA) Surveys). The purpose of this notice is to allow 60 days for public comment preceding submission of the information collection to OMB.

DATES: To ensure consideration, comments regarding this information collection must be received on or before August 21, 2020.

ADDRESSES: Interested persons are invited to submit written comments by any of the following methods. Do not submit Confidential Business Information or otherwise sensitive or protected information.

- *Email: InformationCollection@uspto.gov.* Include ''0651–0065 comment'' in the subject line of the message.
- *Federal Rulemaking Portal: http://www.regulations.gov.*
- *Mail:* Kimberly Hardy, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to J. David Binsted, Program Manager, Global Intellectual Property Academy, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272–1500; or by email at *james.binsted@upsto.gov.* Additional information about this information collection is also available at *htttp://www.reginfo.gov* under ''Information Collection Review.''

SUPPLEMENTARY INFORMATION:

I. Abstract

The United States Patent and Trademark Office (USPTO) surveys international and domestic participants of the USPTO's Global Intellectual Property Academy (GIPA) training programs to obtain feedback from the participants on the effectiveness of the various services provided to them in the training programs. GIPA was established in 2006 to offer training programs on the enforcement of intellectual property rights, patents, trademarks, and copyright. The training programs offered by GIPA are designed to meet the specific needs of foreign government officials (including judges; prosecutors; police; customs officials; patent, trademark, and copyright officials; and policymakers) concerning various intellectual property topics, such as global intellectual property rights protection, enforcement, and strategies to handle the protection and enforcement issues in their respective countries.

This information collection contains three surveys directed to separate audiences: Overseas-program participants, post-program participants, and alumni. The Overseas-Program survey is designed for international participants at the conclusion of the GIPA training program conducted overseas. This survey replaces the existing Pre-Program survey and is a shortened version of the Post-Program survey. The Post-Program survey is used to analyze the overall effectiveness of the program and is conducted at the conclusion of training programs held at US locations. The Alumni Survey is used to determine the benefit of the GIPA training program for the future job performance of the participant. The data obtained from these 3 participation surveys will be used to evaluate the percentage of foreign officials trained by GIPA who have increased their expertise in intellectual property,

enhanced their professional abilities and future job performance, and developed their own nation's intellectual property program. All the surveys have updated questions and answer options.

The GIPA surveys are voluntary surveys and will be kept private, to the extent provided by law. The USPTO does not intend to collect any personally identifying data from the participants and intends to maintain the contact information for the participants in a separate file for the quantitative data.

II. Method of Collection

Items in this information collection may be submitted via online electronic submissions, and occasional in-person surveys.

III. Data

OMB Control Number: 0651–0065.

Form Number(s): None.

Type of Review: Revision of a currently approved information collection.

Affected Public: Federal Government (Foreign Government).

Estimated Number of Respondents: 750 respondents per year.

Estimated Time per Response: The USPTO estimates that it takes the public approximately 15 minutes (0.25 hours) to complete the surveys in this information collection. This includes the time to gather the necessary information, respond to the survey, and submit it to the USPTO.

Estimated Total Annual Respondent Burden Hours: 188 hours.

Estimated Total Annual Respondent Cost Burden: $15,512.

TABLE 1—TOTAL HOURLY BURDEN FOR FOREIGN GOVERNMENT RESPONDENTS

Item No.	Item	Estimated annual responses (b)	Estimated time for response (hours) (a)	Estimated annual burden hours (a) × (b) = (c)	Rate [1] ($/hr) (d)	Estimated annual burden (c) × (d) = (e)
1	Overseas-Program Survey	225	0.25	56	$82.51	$4,621
2	Post-Program Survey	150	0.25	38	82.51	3,135
3	Alumni Survey	375	0.25	94	82.51	7,756
	Totals	750		188		15,512

[1] Bureau of Labor Statistics Occupation Employment Statistics wage 23–1021. *https://www.bls.gov/oes/current/oes231021.htm.* The hourly rate is $63.47 which results in a fully burdened rate of $82.51 (salary plus 30% for estimated overhead and benefits).

Estimated Total Annual Non-Hour Respondent Cost Burden: $0 per year. There are no maintenance, operation, capital start-up, postage, or recordkeeping costs associated with this information collection.

Respondent's Obligation: Voluntary.

IV. Request for Comments

The USPTO is soliciting public comments to:

(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 agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected; and

(d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

All comments submitted in response to this notice are a matter of public record. USPTO will include or summarize each comment in the request to OMB to approve this information collection. Before including your address, phone number, email address, or other personal identifying information in a comment, you should be aware that the entire comment—including personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public view, USPTO cannot guarantee that it will be able to do so.

Kimberly Hardy,

Information Collections Officer, Office of the Chief Administrative Officer, United States Patent and Trademark Office.

[FR Doc. 2020–13292 Filed 6–19–20; 8:45 am]

BILLING CODE 3510–16–P

DENALI COMMISSION

Denali Commission Fiscal Year 2021 Draft Work Plan

AGENCY: Denali Commission.

ACTION: Notice.

SUMMARY: The Denali Commission (Commission) is an independent Federal agency based on an innovative Federal-state partnership designed to provide critical utilities, infrastructure and support for economic development and training in Alaska by delivering Federal services in the most cost-effective manner possible. The Commission is required to develop an annual work plan for future spending which will be published in the **Federal Register**, providing an opportunity for a 30-day period of public review and written comment. This **Federal Register** notice serves to announce the 30-day opportunity for public comment on the Denali Commission Draft Work Plan for Federal Fiscal Year 2021 (FY 2021).

DATES: Comments and related material to be received by July 31, 2020.

ADDRESSES: Submit comments to the Denali Commission, Attention: Elinda Hetami, 510 L Street, Suite 410, Anchorage, AK 99501.

FOR FURTHER INFORMATION CONTACT: Elinda Hetami, Denali Commission, 510 L Street, Suite 410, Anchorage, AK 99501. Telephone: (907) 271–3415. Email: *ehetemi@denali.gov*

SUPPLEMENTARY INFORMATION: *Background:* The Denali Commission's mission is to partner with tribal, Federal, state, and local governments and collaborate with all Alaskans to improve the effectiveness and efficiency of government services, to build and ensure the operation and maintenance of Alaska's basic infrastructure, and to develop a well-trained labor force employed in a diversified and sustainable economy.

By creating the Commission, Congress mandated that all parties involved partner together to find new and

innovative solutions to the unique infrastructure and economic development challenges in America's most remote communities. Pursuant to the Denali Commission Act, the Commission determines its own basic operating principles and funding criteria on an annual Federal fiscal year (October 1 to September 30) basis. The Commission outlines these priorities and funding recommendations in an annual work plan. The FY 2021 Work Plan was developed in the following manner.

- A workgroup comprised of Denali Commissioners and Commission staff developed a preliminary draft work plan.
- The preliminary draft work plan was published on Denali.gov for review by the public in advance of public testimony.
- A public hearing was held to record public comments and recommendations on the preliminary draft work plan.
- Written comments on the preliminary draft work plan were accepted for another ten days after the public hearing.
- All public hearing comments and written comments were provided to Commissioners for their review and consideration.
- Commissioners discussed the preliminary draft work plan in a public meeting and then voted on the work plan during the meeting.
- The Commissioners forwarded their recommended work plan to the Federal Co-Chair, who then prepared the draft work plan for publication in the **Federal Register** providing a 30-day period for public review and written comment. During this time, the draft work plan will also be disseminated to Commission program partners including, but not limited to, the Bureau of Indian Affairs (BIA), the Economic Development Administration (EDA), Department of Agriculture—Rural Utilities Service (USDA/RUS), and the State of Alaska.
- At the conclusion of the **Federal Register** Public comment period Commission staff provides the Federal Co-Chair with a summary of public comments and recommendations, if any, on the draft work plan.
- If no revisions are made to the draft, the Federal Co-Chair provides notice of approval of the work plan to the Commissioners, and forwards the work plan to the Secretary of Commerce for approval; or, if there are revisions the Federal Co-Chair provides notice of modifications to the Commissioners for their consideration and approval, and upon receipt of approval from Commissioners, forwards the work plan to the Secretary of Commerce for approval.
- The Secretary of Commerce approves the work plan.
- The Federal Co-Chair then approves grants and contracts based upon the approved work plan.

FY 2021 Appropriations Summary

The Commission has historically received Federal funding from several sources. The two primary sources at this time include the Energy & Water Appropriation Bill (''base'' or ''discretionary'' funds) and an annual allocation from the Trans-Alaska Pipeline Liability (TAPL) fund. The proposed FY 2021 Work Plan assumes the Commission will receive $15,000,000 of base funds, which is the amount referenced in the reauthorization of the Commission passed by Congress in 2016 (ref: Pub. L. 114–322), and a $2,917,000 TAPL allocation based on discussions with the Office of Management and Budget (OMB). Approximately $4,000,000 of the base funds will be used for administrative expenses and non-project program support, leaving $11,000,000 available for program activities. The total base funding shown in the Work Plan also includes an amount typically available from project closeouts and other de-obligations that occur in any given year. Approximately $117,000 of the TAPL funds will be utilized for administrative expenses and non-project program support, leaving $2,800,000 available for program activities. Absent any new specific direction or limitations provided by Congress in the current Energy & Water Appropriations Bill, these funding sources are governed by the following general principles, either by statute or by language in the Work Plan itself:

- Funds from the Energy & Water Appropriation are eligible for use in all programs.
- TAPL funds can only be used for bulk fuel related projects and activities.
- Appropriated funds may be reduced due to Congressional action, rescissions by OMB, and other Federal agency actions.
- All Energy & Water and TAPL investment amounts identified in the work plan, are ''up to'' amounts, and may be reassigned to other programs included in the current year work plan, if they are not fully expended in a program component area or a specific project.
- Energy & Water and TAPL funds set aside for administrative expenses that subsequently become available, may be used for program activities included in the current year work plan.

DENALI COMMISSION FY 2021 FUNDING SUMMARY

Energy & Water Funds:	
FY 2021 Energy & Water Appropriation [1]	$11,000,000
Subtotal	11,000,000
TAPL Funds:	
FY 2021 Annual Allocation	2,800,000
Grand Total	13,800,000

Notes:
[1] If the final appropriation is less than $15 million the Federal Co-Chair shall reduce investments to balance the FY 2021 Work Plan.

	Base	TAPL	Total
Energy Reliability and Security:			
Diesel Power Plants and Interties	$2,900,000		$2,900,000
Wind, Hydro, Biomass, Other Proven Renewables and Emerging Technologies	750,000		750,000
Audits, TA, & Community Energy Efficiency Improvements	375,000		375,000
RPSU Maintenance and Improvement Projects	900,000		900,000
Subtotal	4,925,000		4,925,000
Bulk Fuel Safety and Security:			
New/Refurbished Facilities		1,500,000	1,500,000
Maintenance and Improvement Projects		700,000	700,000
Subtotal	0	2,200,000	2,200,000
Village Infrastructure Protection	500,000		500,000
Transportation	1,000,000		1,000,000
Sanitation:			

	Base	TAPL	Total
Village Water, Wastewater and Solid Waste	1,500,000		1,500,000
Subtotal	1,500,000		1,500,000
Health Facilities	750,000		750,000
Housing	500,000		500,000
Broadband	750,000		750,000
Workforce Development:			
Energy and Bulk Fuel	375,000	600,000	975,000
Other	700,000		700,000
Subtotal	1,075,000	600,000	1,675,000
Totals	11,000,000	2,800,000	13,800,000

Dated: June 3, 2020.

John Torgerson,

Interim Federal Co-Chair.

[FR Doc. 2020–13393 Filed 6–19–20; 8:45 am]

BILLING CODE 3300–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Out-of-School Time Career Pathway Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education is issuing a notice inviting applications from State educational agencies (SEAs) as the lead applicant and fiscal agent of a partnership for an Out-of-School Time Career Pathway program under the national activities authority in the Nita M. Lowey 21st Century Community Learning Centers (21st CCLC) program, Catalog of Federal Domestic Assistance (CFDA) number 84.287D.

DATES:

Applications Available: June 22, 2020.

Deadline for Notice of Intent to Apply: July 22, 2020.

Deadline for Transmittal of Applications: September 21, 2020.

Deadline for Intergovernmental Review: November 19, 2020.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768), and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf.*

FOR FURTHER INFORMATION CONTACT: Erin Shackel, U.S. Department of Education, 400 Maryland Avenue SW, Room 3W111, LBJ, Washington, DC 20202. Telephone: (202) 453–6423. Email: *21stCCLCcompetition@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: Consistent with the purposes of the 21st CCLC program, the Out-of-School Time Career Pathway program will make grants to SEAs that, in partnership with eligible entities (as defined in section 4201(b)(3) of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act (ESEA)) in the State, will provide students expanded options to participate in a career pathway (as defined in this notice) program, outside regular school hours or as part of an expanded learning program,[1] that leads to a recognized postsecondary credential, such as an industry-recognized certification or a certification of completion of an apprenticeship in an in-demand industry sector or occupation. Such program should be aligned with an existing program of study (as defined in this notice) for students so that in-school and out-of-school time activities complement each other and maximize student preparedness for postsecondary education or a career. An SEA must propose to use grant funds to support an existing partnership or a partnership that has been formed during the application period and will continue to exist if awarded this grant funding. The partnership must consist of the SEA as the lead applicant and fiscal agent, a currently funded 21st CCLC subgrantee (*i.e.,* funded as of the application closing date for the competition outlined in this notice), and an employer in an in-demand industry sector or occupation. Although not required, the SEA may want the partnership to include an institution of higher education (IHE) when developing a student progression along a career pathway continuum, in addition to an employer in an in-demand industry sector or occupation and a 21st CCLC program subgrantee. The goal of this partnership must be to serve students by expanding existing, or building new, career pathway programs. In addition, the partnership must disseminate information about its grant activities to a national audience that includes, but is not limited to, 21st CCLC program coordinators.

Background: In June 2017, President Trump issued Executive Order 13801, ''Expanding Apprenticeships in America,'' calling for both a new emphasis on Federal support for apprenticeships and broader efforts to improve workforce preparation that will help students obtain the skills necessary to secure high-paying jobs in today's workforce. The President's National Council for the American Worker was also established to raise awareness of the skills gap in science, technology, engineering, and mathematics (STEM), including computer science; help expand apprenticeships; and encourage investment in worker education. The 21st CCLC program supports efforts to establish or expand opportunities for academic enrichment and other activities, including career and technical education programs and internship or apprenticeship programs linked to in-demand industry sectors or occupations for high school students that are designed to reinforce and complement the regular academic program of participating students.

Subgrantees under the 21st CCLC program provide services to students primarily during non-school hours and are ideally positioned to support expanded access to career pathway

[1] An Out-of-School Time Career Pathway program may operate during the regular school day as part of an expanded learning program if the State determines that the statutory requirements in ESEA section 4204(a)(2) for 21st CCLC expanded learning program activities are met, including the requirement that such activities supplement but do not supplant regular school day requirements.

opportunities for high school students and, if appropriate, students in middle school. The Out-of-School Time Career Pathway program will fund demonstration partnership grants to SEAs to expand options for students to participate in a career pathway program outside regular school hours or as part of an expanded learning program that leads to recognized postsecondary credential, such as an industry-recognized certification or a certificate of completion of an apprenticeship, in an in-demand industry sector or occupation.

Given the impact that the coronavirus disease 2019 (COVID–19) has had, and continues to have, on the Nation, workforce preparation is increasingly important. Students will benefit from this program by building skills and earning credentials that will support their transition into the workforce. Employers will have the opportunity to work with apprentices or interns. Partnerships like these will help rebuild the economy as the Nation recovers from COVID–19.

This competition includes a competitive preference priority aligned with the aims of the Federal Government's five-year strategic plan for STEM education entitled, *Charting A Course for Success: America's Strategy for STEM Education* (plan),[2] published in December 2018. The plan is responsive to the requirements of section 101 of the America COMPETES Reauthorization Act of 2010 (42 U.S.C. 6621) and strengthens the Federal commitment to equity and diversity, evidence-based practices, and engagement with the national STEM community through a nationwide collaboration with learners, families, educators, community leaders, and employers. Beyond guiding Federal agency actions over the next five years, the plan is intended to serve as a ''North Star'' for the STEM community as it charts a course for collective success. The Federal Government encourages STEM education stakeholders from across the Nation to support the goals of this plan through their own actions. The STEM strategic plan is based on a vision for a future where all Americans have lifelong access to high-quality STEM education and the United States is the global leader in STEM literacy, innovation, and employment. To achieve this vision, the plan provides for the following three goals:

- Build strong foundations for STEM literacy.
- Increase diversity, equity, and inclusion in STEM.
- Prepare the STEM workforce for the future.

This competition also includes a competitive preference priority for serving students in rural local educational agencies, since these areas may be underserved in terms of access to out-of-school time career pathways programs that lead to a recognized postsecondary credential, such as an industry-recognized certification or a certification of completion of an apprenticeship in an in-demand industry sector or occupation.

Priorities: This notice contains one absolute priority and two competitive preference priorities. We are establishing the absolute priority for the FY 2020 grant competition and any subsequent year in which we make awards from the list of unfunded applications from this competition, in accordance with section 437(d)(1) of the General Education Provisions Act (GEPA) (20 U.S.C. 1232(d)(1)). In accordance with 34 CFR 75.105(b)(2)(ii), competitive preference priority 1 is from the Department's notice of Final Supplemental Priorities and Definitions for Discretionary Grant Programs (Supplemental Priorities) published in the **Federal Register** on March 2, 2018 (83 FR 9096), and competitive preference priority 2 is from the Department's Administrative Priorities for Discretionary Grant Programs published in the **Federal Register** on March 9, 2020 (85 FR 13640).

Absolute Priority: This priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

This priority is:

Out-of-School Time Career Pathway Program

To receive a grant under this competition, an SEA must—

a. Provide evidence (*e.g.,* a memorandum of understanding (MOU) or other written agreement) of a partnership—with the SEA serving as the lead applicant and fiscal agent—that includes at least one employer in an in-demand industry sector or occupation, and one existing 21st CCLC subgrantee;

b. Provide evidence that the partnership will build or expand options for students to participate in a career pathway program outside regular school hours or as part of an expanded learning program that leads to a recognized postsecondary credential, such as an industry-recognized certification or a certificate of completion of an apprenticeship, in an in-demand industry sector or occupation; and

c. Assure that it will give priority (*e.g.,* award bonus points) to eligible entities that propose to build or expand career pathway programs, including programs that lead to recognized postsecondary credentials, in each of its competitions under which it awards new subgrants of 21st CCLC funds during the project period of the grant awarded under this competition.

Competitive Preference Priorities: For FY 2020 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i) we award up to an additional five points for Competitive Preference Priority 1 to an application, depending on how well the application meets the competitive preference priority, and an additional ten points for applicants that meet Competitive Preference Priority 2. An applicant must clearly indicate in the abstract section of its application which competitive preference priority or priorities it addresses, including any relevant evidence (*e.g.,* the relevant National Center for Education Statistics (NCES) school district identification number and corresponding locale code for Competitive Preference Priority 2).

These priorities are:

Competitive Preference Priority 1: Promoting Science, Technology, Engineering, or Math (STEM) Education, With a Particular Focus on Computer Science (Up to 5 points)

Projects designed to improve student achievement or other educational outcomes in one or more of the following areas: Science, technology, engineering, math, or computer science (as defined in this notice). These projects must address supporting programs that lead to recognized postsecondary credentials (as defined in section 3(52) of the Workforce Innovation and Opportunity Act (WIOA))[3] that align with the needs of industries in the State or regional economy involved for careers in STEM fields, including computer science.

Competitive Preference Priority 2: Rural Applicants (0 or 10 points)

[2] The White House, National Science and Technology Council, ''Charting A Course For Success: America's Strategy For STEM Education,'' *www.whitehouse.gov/wp-content/uploads/2018/12/STEM-Education-Strategic-Plan-2018.pdf* (December 2018).

[3] The term ''recognized postsecondary credential'' is defined in section 3(52) of WIOA as a credential consisting of an industry-recognized certificate or certification, a certificate of completion of an apprenticeship, a license recognized by the State involved or Federal Government, or an associate or baccalaureate degree. (29 U.S.C. 3102(52)).

Under this priority, an applicant must demonstrate that it proposes to serve students in a community that is served by one or more LEAs with a locale code of 32, 33, 41, 42, or 43. Note: Applicants are encouraged to retrieve locale codes from the NCES School District search tool (*https://nces.ed.gov/ccd/districtsearch/*), where LEAs can be looked up individually to retrieve locale codes.

Requirements: We are establishing these requirements for the FY 2020 grant competition and any subsequent year in which we make awards from the list of unfunded applications from this competition, in accordance with section 437(d)(1) of GEPA (20 U.S.C. 1232(d)(1)).

Application Requirements: Each application for funds must include the following:

(1) A description of how the partnership will use grant funds to expand options for students to participate in a career pathway (as defined in this notice) program outside regular school hours or as part of an expanded learning program that leads to an to a recognized postsecondary credential, such as an industry-recognized certification or a certificate of completion of an apprenticeship, in an in-demand industry sector or occupation.

(2) A written partnership agreement (*e.g.,* an MOU or other written agreement) describing how the SEA, as the lead applicant and fiscal agent, will partner with at least one existing 21st CCLC subgrantee and at least one employer in an in-demand industry sector or occupation as determined by the State.

(3) If an applicant is seeking points under Competitive Preference Priority 2, the applicant must specify which rural LEA(s) the project will serve by including the National Center for Education Statistics (NCES) LEA identification number in the project abstract.

(4) A description of how the partnership assessed the need for the particular career pathway (as defined in this notice) program(s) for which it is requesting funding.

(5) A description of how the partnership will disseminate information about its grant activities to a national audience, including, but not limited to, 21st CCLC program coordinators.

(6) A description of the ways the partnership will inform potential participating students and their parents about the career pathway (as defined in this notice) programs and components of such programs, such as credentialing, apprenticeships, and internships, offered through this project.

(7) An assurance that the SEA and each of its partners will cooperate with any evaluation conducted or facilitated by the Department or its designees, which may require minimal time and effort at the grantee's expense after the end of the awarded grant's project period.

(8) An assurance that the funds will be used to supplement, and not supplant, other Federal, State, and local public funds expended to provide programs and activities authorized under the 21st CCLC program.

(9) An assurance that the project will target students who primarily attend schools eligible for schoolwide programs under section 1114 of the ESEA, and the families of such students, to the extent feasible and appropriate.

Program Requirements: Grantees under this program must—

(1) Explain their career pathway (as defined in this notice) program(s) and share results of participating students (*e.g.,* the extent to which participating students earned or are on the path to earning recognized postsecondary credentials) at the Department's annual meeting of 21st CCLC State coordinators;

(2) Disseminate information about its career pathway(s) (as defined in this notice) program(s) and results of the participating students (*e.g.,* the extent that participating students earned or are on the path to earning industry-recognized credentials or, as appropriate, completed internships or apprenticeships) to a national audience (*e.g.,* at the 21st CCLC summer symposium, at another national conference, or via a webinar).

Definitions: For the FY 2020 grant competition and any subsequent year in which we make awards from the list of unfunded applications from this competition, we are establishing definitions for the terms ''career pathway'' and ''rural local educational agency (LEA)'' in accordance with section 437(d)(1) of GEPA (20 U.S.C. 1232(d)(1)). The definition of ''career pathway'' is based on the definition of the term in section 3 of WIOA (29 U.S.C. 3102(7)). The definition of ''computer science'' is from the Supplemental Priorities. The definition of ''program of study'' is from section 3 of the Carl D. Perkins Career and Technical Education Act of 2006, as amended (20 U.S.C. 2302). The definition of ''State'' is from ESEA section 8101(48), and the definition of ''State educational agency'' is from section ESEA section 8101(49).

Career pathway means a combination of rigorous and high-quality education, training, and other services that—

(a) Aligns with the skill needs of industries in the economy of the State or regional economy involved;

(b) Prepares an individual to be successful in any of a full range of secondary or postsecondary education options, including apprenticeships registered under the Act of August 16, 1937;

(c) Includes counseling to support an individual in achieving the individual's education and career goals;

(d) Includes, as appropriate, education offered concurrently with and in the same context as workforce preparation activities and training for a specific occupation or occupational cluster;

(e) Organizes education, training, and other services to meet the particular needs of an individual in a manner that accelerates the educational and career advancement of the individual to the extent practicable;

(f) Helps an individual enter or advance within a specific occupation or occupational cluster;

(g) May lead, as appropriate, to at least one industry-recognized credential.

Computer science means the study of computers and algorithmic processes and includes the study of computing principles and theories, computational thinking, computer hardware, software design, coding, analytics, and computer applications.

Computer science often includes computer programming or coding as a tool to create software, including applications, games, websites, and tools to manage or manipulate data; or development and management of computer hardware and the other electronics related to sharing, securing, and using digital information.

In addition to coding, the expanding field of computer science emphasizes computational thinking and interdisciplinary problem-solving to equip students with the skills and abilities necessary to apply computation in our digital world.

Computer science does not include using a computer for everyday activities, such as browsing the internet; use of tools like word processing, spreadsheets, or presentation software; or using computers in the study and exploration of unrelated subjects.

Program of study means a coordinated, non-duplicative sequence of academic and technical content at the secondary and postsecondary level that—

(a) Incorporates challenging State academic standards, including those adopted by a State under section 1111(b)(1) of the ESEA;

(b) Addresses both academic and technical knowledge and skills, including employability skills;

(c) Is aligned with the needs of industries in the economy of the State, region, Tribal community, or local area;

(d) Progresses in specificity (beginning with all aspects of an industry or career cluster and leading to more occupation-specific instruction);

(e) Has multiple entry and exit points that incorporate credentialing; and

(f) Culminates in the attainment of a recognized postsecondary credential.

State means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

State educational agency means the agency primarily responsible for the State supervision of public elementary schools and secondary schools.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (5 U.S.C. 553), the Department generally offers interested parties the opportunity to comment on proposed priorities, definitions, requirements, and selection criteria. Section 437(d)(1) of GEPA, however, allows the Secretary to exempt from rulemaking requirements regulations governing the first grant competition under a new or substantially revised program authority. This is the first grant competition for this program under section 4202(a)(2) of the ESEA (20 U.S.C. 7172(a)(2)) and, therefore, the priorities, requirements, and definitions established in this notice qualify for this exemption. In order to ensure timely grant awards, the Secretary has decided to forgo public comment on the priorities, requirements, and definitions established in accordance with section 437(d)(1) of GEPA.

Program Authority: Title IV, Part B of the ESEA, Section 4202(a)(2), 20 U.S.C. 7172(a)(2).

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 76, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The Supplemental Priorities.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $1,500,000.00 each year for five years for a total investment of $7,500,000.00.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in subsequent years from the list of unfunded applications from this competition.

Estimated Range of Awards: $375,000–$625,000 per year for five years.

Estimated Average Size of Awards: $500,000 per year for five years.

Estimated Number of Awards: 2–4.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* SEAs in partnership (as described in this notice) with, at a minimum, an existing 21st CCLC subgrantee and an employer in an in-demand industry sector or occupation, as determined by the State. An SEA may submit more than one application; each application must propose to build or expand one project only, though one project may serve multiple sites.

Note: For purposes of this program, the Bureau of Indian Education (BIE) is considered to be an SEA, and the outlying areas (American Samoa, the Commonwealth of Northern Mariana Islands, Guam, and the Virgin Islands) are eligible only to the extent that they are using funds from the Consolidated Grants to Insular Areas to implement a 21st CCLC program under Title IV, Part B of the ESEA and have current 21st CCLC subgrantees.

2. a. *Cost Sharing or Matching:* This competition does not require cost sharing or matching.

b. *Supplement-Not-Supplant:* This program involves supplement-not-supplant funding requirements.

3. *Subgrantees:* Under 34 CFR 75.708(b) and (c), an SEA grantee under this competition may award subgrants—to directly carry out project activities described in its application—to eligible entities (as defined in section 4201(b)(3) of the ESEA): LEAs, community-based organizations, Indian Tribes or Tribal organizations (as such terms are defined in section 4 of the Indian Self-Determination and Education Act (25 U.S.C. 450b)), other public or private entities, or consortia of two or more such agencies, organizations, or entities. The SEA grantee may award subgrants to eligible entities it has identified in an approved application.

4. *Equitable Services:* A grantee under this program is required to provide for the equitable participation of private school children, in accordance with section 8501 of the ESEA (20 U.S.C. 7881).

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf,* which contain requirements and information on how to submit an application.

Grants.gov has relaxed the requirement for applicants to have an active registration in the System for Award Management (SAM) in order to apply for funding during the COVID–19 pandemic. An applicant that does not have an active SAM registration can still register with *Grants.gov*, but must contact the *Grants.gov* Support Desk, toll-free, at 1–800–518–4726, in order to take advantage of this flexibility.

2. *Submission of Proprietary Information:* Given the types of projects that may be proposed in applications for the Out-of-School Time Career Pathway program, your application may include business information that you consider proprietary. In 34 CFR 5.11 we define ''business information'' and describe the process we use in determining whether any of that information is proprietary and, thus, protected from disclosure under Exemption 4 of the Freedom of Information Act (5 U.S.C. 552, as amended).

Because we plan to make successful applications available to the public, you may wish to request confidentiality of business information.

Consistent with Executive Order 12600, please designate in your application any information that you believe is exempt from disclosure under Exemption 4. In the appropriate Appendix section of your application, under ''Other Attachments Form,'' please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal

Programs under Executive Order 12372 is in the application package for this competition.

4. *Notice of Intent to Apply:* The Department will be able to review grant applications more efficiently if we know the approximate number of applicants that intend to apply. Therefore, we strongly encourage each potential applicant to notify us of its intent to submit an application. To do so, please email the program contact person listed under **FOR FURTHER INFORMATION CONTACT** with the subject line ''Intent to Apply,'' and include the applicant's name and a contact person's name and email address. Applicants that do not submit a notice of intent to apply may still apply for funding; applicants that do submit a notice of intent to apply are not bound to apply or bound by the information provided.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 and are as follows:

(a) *Significance.* (Up to 15 points).

(1) The Secretary considers the significance of the proposed project.

(2) In determining the significance of the proposed project, the Secretary considers the following factors:

(i) The extent to which the proposed project is likely to yield findings that may be utilized by other appropriate agencies and organizations. (3 points).

(ii) The extent to which the proposed project is likely to build local capacity to provide, improve, or expand services that address the needs of the target population. (5 points).

(iii) The extent to which the proposed project involves the development or demonstration of promising new strategies that build on, or are alternatives to, existing strategies. (3 points).

(iv) The extent to which the results of the proposed project are to be disseminated in ways that will enable others to use the information or strategies. (4 points).

(b) *Quality of the project design.* (Up to 20 points).

(1) The Secretary considers the quality of the design of the proposed project.

(2) In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable. (5 points).

(ii) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs. (5 points).

(iii) The extent to which there is a conceptual framework underlying the proposed research or demonstration activities and the quality of that framework. (5 points).

(iv) The extent to which the proposed project will integrate with or build on similar or related efforts to improve relevant outcomes (as defined in 34 CFR 77.1(c)), using existing funding streams from other programs or policies supported by community, State, and Federal resources. (5 points).

(c) *Quality of project services.* (Up to 30 points).

(1) The Secretary considers the quality of the services to be provided by the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the following factors:

(i) The quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. (5 points).

(ii) The extent to which the services to be provided by the proposed project reflect up-to-date knowledge from research and effective practice. (10 points).

(iii) The likely impact of the services to be provided by the proposed project on the intended recipients of those services. (15 points).

(d) *Adequacy of resources.* (Up to 21 points).

(1) The Secretary considers the adequacy of resources for the proposed project.

(2) In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(i) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization. (7 points).

(ii) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project. (7 points).

(iii) The potential for continued support of the project after Federal funding ends, including, as appropriate, the demonstrated commitment of appropriate entities to such support. (7 points).

(e) *Quality of the management plan.* (Up to 14 points).

(1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks. (7 points).

(ii) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate. (7 points).

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose specific conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.205(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under

Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit annual performance reports that provide the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case the Secretary establishes a data collection period.

5. *Performance Measures:* The Department has established the following Government Performance and Results Act of 1993 performance measures for the Out-of-School Time Career Pathway program:

(a) The cumulative, unduplicated number of students participating in a program supported by this grant.

(b) The cumulative number of program participants who receive an industry-recognized credential, and the cumulative number of credentials received, as a result of a program supported by this grant.

(c) The cumulative number of program participants who complete an internship as a result of a program supported by this grant.

(d) The cumulative number of program participants who complete an apprenticeship as a result of a program supported by this grant.

(e) The cumulative percentage of program participants that received a credential or completed an internship or apprenticeship.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Frank T. Brogan,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2020–13304 Filed 6–19–20; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2020–SCC–0101]

Agency Information Collection Activities; Comment Request; Protection and Advocacy of Individual Rights Program Assurances

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), 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 21, 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–0101. 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 Samuel Pierre, 202–245–6488.

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: Protection and Advocacy of Individual Rights Program Assurances.

OMB Control Number: 1820–0625.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 57.

Total Estimated Number of Annual Burden Hours: 9.

Abstract: Section 509 of the Rehabilitation Act of 1973 (Rehabilitation Act), as amended by the Title IV of Workforce Innovation and Opportunity Act (WIOA) and its implementing Federal Regulations at 34 CFR part 381, require the PAIR grantees to submit an application to the RSA Commissioner in order to receive assistance under Section 509 of the Rehabilitation Act. The Rehabilitation Act requires that the application contain Assurances to which the grantees must comply. Section 509(f) of the Rehabilitation Act specifies the Assurances. All 57 PAIR grantees are required to be part of the protection and advocacy system in each State established under the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 6041 *et seq.*).

Dated: June 17, 2020.

Kate Mullan,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer.

[FR Doc. 2020–13344 Filed 6–19–20; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Bonneville Power Administration

[BPA File No.: BP–20E]

Suspension of the Financial Reserves Policy Surcharge for the Remainder of the BP–20 Rate Period; Public Hearing and Opportunities for Public Review and Comment

AGENCY: Bonneville Power Administration (Bonneville), Department of Energy (DOE).

ACTION: Suspension of the Financial Reserves Policy Surcharge for the remainder of the BP–20 rate period.

SUMMARY: Bonneville is holding an expedited rate proceeding pursuant to Section 7(i) of the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act) to suspend the application of the Financial Reserves Policy Surcharge (FRP Surcharge) for the remainder of the BP–20 rate period. The Northwest Power Act requires that Bonneville's rates be established based on the record of a formal hearing. By this notice, Bonneville announces the commencement of an expedited rate proceeding, designated as the ''BP–20E'' proceeding, for the limited purpose of suspending the FRP Surcharge for the remainder of the BP–20 rate period. As explained in Part IV.C, the effective date would depend on the timing of approval by the Federal Energy Regulatory Commission.

DATES: *Prehearing Conference:* The BP–20E proceeding begins with a prehearing conference at 1:00 p.m. on Thursday, June 25, 2020, which will be held telephonically. Interested parties may obtain the call-in information by accessing Bonneville's BP–20E rate case web page at *https://www.bpa.gov/goto/BP20E* or by contacting the Hearing Clerk at *BP20Eclerk@gmail.com.*

Intervention and Notice of Objection: Anyone intending to become a party to the BP–20E expedited proceeding must file a petition to intervene on Bonneville's secure website no later than 4:30 p.m. on June 24, 2020. In addition, any person or entity that intends to object to Bonneville's proposal must include a notice of objection in its petition to intervene. *See* Part III in **SUPPLEMENTARY INFORMATION** for details on requesting access to the secure website and filing a petition to intervene.

Participant Comments: Written comments by non-party participants must be received by June 26, 2020, to be considered in the Administrator's

Record of Decision (ROD). *See* Part III in **SUPPLEMENTARY INFORMATION** for details on submitting participant comments.

FOR FURTHER INFORMATION CONTACT: Ms. Heidi Helwig, Bonneville Communications, by phone at (503) 230–3458, or by email at *hyhelwig@bpa.gov.*

The Hearing Clerk for this proceeding can be reached via email at *BP20Eclerk@gmail.com.*

Please direct questions regarding Bonneville's secure website to the BP–20E Rate Hearing Coordinator via email at *cwgriffen@bpa.gov* or, if the question is time-sensitive, via telephone at (503) 230–5107.

Responsible Officials: Mr. Daniel H. Fisher, Power Rates Manager, is the official responsible for the development of Bonneville's power rates, and Ms. Rebecca E. Fredrickson, Deputy Vice President of Transmission Marketing and Sales, is the official responsible for the development of Bonneville's transmission rates.

SUPPLEMENTARY INFORMATION:

Table of Contents

Part I. Introduction and Procedural Matters
Part II. Scope of BP–20E Rate Proceeding
Part III. Public Participation in BP–20E
Part IV. Rate Proposal
Part V. Proposed Rate Schedules

Part I—Introduction and Procedural Matters

A. Introduction and Expedited Process

Bonneville's proposal to suspend the Power and Transmission FRP Surcharge for the remainder of the BP–20 rate period is expected to result in a reduction of Bonneville's current power rates, providing rate relief to millions of Pacific Northwest ratepayers during the COVID–19 pandemic. In FY 2021, this proposal would reduce power rates, as the FRP Surcharge triggered in FY 2020 and is expected to again trigger in FY 2021. The proposal should not impact transmission rates as the FRP Surcharge did not trigger in FY 2020 and is not expected to trigger in FY 2021. In compliance with the procedures for the establishment of Bonneville rates set forth in Section 7(i) of the Northwest Power Act, Bonneville is conducting the hearing process for the review of this proposal on an expedited basis in an effort to provide the opportunity for timely rate relief.

The Rules of Procedure that govern Bonneville's rate proceedings were published in the **Federal Register**, 83 FR 39993 (Aug. 13, 2018), and posted on Bonneville's website at *https://www.bpa.gov/Finance/RateCases/RulesProcedure/Pages/default.aspx.* Sections 1010.4(b)(4) and 1010.22 of the Rules of Procedure provide for expedited rate processes such as the BP–20E proceeding. An expedited proceeding is necessary in this case in order to enable prompt implementation of the proposal, which would result in a reduction to power rates and assurance transmission rates would not go up. In order to facilitate the expedited process, pursuant to Section 1010.1(e) of the Rules of Procedure, the Administrator authorizes the Hearing Officer to waive any procedural requirements of the rules for the purpose of developing the record and completing the proceeding on an expedited basis.

B. Proposed Expedited Procedural Schedule

The purpose of this proceeding is narrow, with the suspension of the FRP Surcharge the only issue within its scope. Bonneville publicly announced its proposal to suspend the FRP Surcharge on May 29, 2020, and held a public meeting on June 5, 2020, to discuss its proposal and the use of an expedited process and schedule. The Hearing Officer is directed to use this schedule if no objections to the proposal are submitted with any of the petitions to intervene, as required by Part III.B of this notice.

Initial proposal released	**Federal Register** notice publication date
Deadline for Petitions to Intervene and Notices of Objection	June 24, 2020.
Prehearing Conference	June 25, 2020.
Close of Participant Comments	June 26, 2020.
Final Record of Decision	June 29, 2020.

If an objection is raised in a petition to intervene, the Hearing Officer is directed to adopt an alternative procedural schedule at the Prehearing Conference to establish an expedited process for the rest of the proceeding. If an objection is raised, Bonneville will hold a telephonic Scheduling Conference with prospective parties on June 25, 2020, at 9:00 a.m. to attempt to develop an alternative procedural schedule to propose to the Hearing Officer at the Prehearing Conference. Any procedural schedule adopted by the Hearing Officer must provide for issuance of the Administrator's Record of Decision no later than 90 days after publication of this **Federal Register** Notice. The Hearing Officer is strongly encouraged to conclude the proceeding in less than 90 days and may circumscribe or reduce the timing or availability of any procedural activities in the case as he or she determines are unnecessary or overly burdensome in consideration of the limited scope and purpose of this case. The Administrator does not intend to hold oral argument or issue a draft Record of Decision in this proceeding, so the Hearing Officer is directed to exclude those steps and any briefs on exception from the procedural schedule.

C. Ex Parte Communications

Section 1010.5 of the Rules of Procedure prohibits *ex parte* communications. *Ex parte* communications include any oral or written communication (1) relevant to the merits of any issue in the proceeding; (2) that is not on the record; and (3) with respect to which reasonable prior notice has not been given. The *ex parte* rule applies to communications with all Bonneville and DOE employees and contractors, the Hearing Officer, and the Hearing Clerk during the proceeding. Except as provided, any communications with persons covered by the rule regarding the merits of any issue in the proceeding by other executive branch agencies, Congress, existing or potential Bonneville customers, nonprofit or public interest groups, or any other non-DOE parties are prohibited. The rule explicitly excludes and does not prohibit communications (1) relating to matters of procedure; (2) otherwise authorized by law or the Rules of Procedure; (3) from or to the Federal Energy Regulatory Commission (Commission); (4) that all litigants agree may be made on an *ex parte* basis; (5) in the ordinary course of business, about information required to be exchanged under contracts, or in information responding to a Freedom of Information Act request; (6) between the Hearing Officer and Hearing Clerk; (7) in meetings for which prior notice has been given; or (8) as otherwise specified

in Section 1010.5(b) of the Rules of Procedure. The prohibition on *ex parte* communications applies from the date of publication of this notice and remains in effect until the Administrator's Record of Decision is issued.

Part II—Scope of BP–20E Rate Proceeding

The scope of the BP–20E rate proceeding is limited to consideration of the proposal to suspend the FRP Surcharge for the remainder of the BP–20 rate period. Bonneville may revise the scope of the proceeding to include new issues that arise as a result of circumstances or events occurring outside the proceeding that are substantially related to the rates under consideration in the proceeding. *See* Rules of Procedure, Section 1010.4(b)(8)(iii), (iv). If Bonneville revises the scope of the proceeding to include new issues, Bonneville will provide public notice on its website, present testimony or other information regarding such issues, and provide a reasonable opportunity to intervene and respond to Bonneville's testimony or other information. *Id.*

Pursuant to Section 1010.4(b)(8) of the Rules of Procedure, the Administrator directs the Hearing Officer to exclude from the record all argument, testimony, or other evidence that challenges the appropriateness or reasonableness of any other matter, issue, topic, or policy that is not directly related to suspension of the FRP Surcharge for the remainder of the BP–20 rate period.

Part III—Public Participation in BP–20E

A. Distinguishing Between ''Participants'' and ''Parties''

Bonneville distinguishes between ''participants in'' and ''parties to'' the hearings. Separate from the formal hearing process, Bonneville will receive written comments, views, opinions, and information from participants who may submit comments without being subject to the duties of, or having the privileges of, parties. Participants do not have the same procedural rights and are not subject to the same procedural requirements as parties. Bonneville customers whose rates are subject to this proceeding, or their affiliated customer groups, may not submit participant comments. Members or employees of organizations that have intervened in the proceeding may submit participant comments as private individuals (that is, not speaking for their organizations) but may not use the comment procedures to address specific issues raised by their intervenor organizations.

Written comments by participants will be included in the record and considered by the Administrator if they are received by June 26, 2020. Participants should submit comments through Bonneville's website at *https://www.bpa.gov/comment.* All comments should contain the designation ''BP–20E'' in the subject line.

B. Interventions and Notices of Objections

1. Intervention

Any entity or person intending to become a party to in the BP–20E rate proceeding must file a petition to intervene through Bonneville's secure website (*https://www.bpa.gov/secure/Ratecase/*). A first-time user of Bonneville's secure website must create a user account to submit an intervention. Returning users may request access to the BP–20E rate proceeding through their existing accounts, and may submit interventions once their permissions have been updated. The secure website contains a link to the user guide, which provides step-by-step instructions for creating user accounts, generating filing numbers, submitting filings, and uploading interventions. Please contact the Rate Hearing Coordinator via email at *cwgriffen@bpa.gov* or, if the question is time-sensitive, via telephone at (503) 230–5107 with any questions regarding the submission process. A petition to intervene must conform to the format and content requirements set forth in Sections 1010.6 and 1010.11 of the Rules of Procedure and must be uploaded to the BP–20E rate proceeding secure website by June 24, 2020.

Pursuant to Section 1010.1(e) of the Rules of Procedure, the Administrator is modifying the procedures for objections to petitions to intervene provided under Section 1010.6(d). For the BP–20E proceeding, objections to a petition to intervene must be raised at the Prehearing Conference. All petitions and any objections will be ruled on by the Hearing Officer at the Prehearing Conference. Late interventions are strongly disfavored. Opposition to an untimely petition to intervene must be filed within two business days after service of the petition.

2. Notice of Objections to BP–20E Proposal

A petition to intervene must also affirmatively state whether the entity intends to object to the proposal in this **Federal Register** Notice or the expedited process and schedule. A petition to intervene that does not state a position will be deemed to have made no objection.

C. Developing the Record

The hearing record will include, among other things, the transcripts of the hearing, written evidence and argument entered into the record by Bonneville and the parties, written comments from participants, and other material accepted into the record by the Hearing Officer. The Hearing Officer will review the record and certify the record to the Administrator.

The Administrator will make a final determination on the issue in this proceeding based on the record and such other materials and information as may have been submitted to or developed by the Administrator. The Final ROD will be made available to all parties. Bonneville will submit the Final ROD and the hearing record to the Commission for confirmation and approval after issuance of the Final ROD (see Part IV.C of this notice).

Part IV—Rate Proposal

A. Background on the FRP Surcharge

The FRP Surcharge collects additional revenue through adjustments to rates when Bonneville's financial reserves (cash and cash equivalents) fall below certain identified financial thresholds. The surcharge is a component of the Financial Reserves Policy, which was developed in the BP–18 rate proceeding. The Financial Reserves Policy is designed to support the long-term financial health of the agency by ensuring Bonneville maintains a minimum level of financial reserves for liquidity and risk mitigation. The Financial Reserves Policy provides for each of Bonneville's business units (Power and Transmission) to maintain a minimum balance of financial reserves calculated as the equivalent to 60 days of operating cash. For Power, 60 days cash is approximately $300 million; for Transmission, 60 days cash is approximately $100 million. If a business unit's financial reserves falls below the identified threshold, the FRP Surcharge triggers, increasing that business unit's rates up to a specified amount for the fiscal year. Power and Transmission financial reserves are evaluated each fiscal year, with the application of the FRP Surcharge (if any) beginning with the December billing cycle.

The FRP Surcharge for the FY 2020–2021 rate period was established in the BP–20 rate proceeding. The BP–20 rates received final Commission approval on April 17, 2020. For FY 2020, the FRP Surcharge for the Power business unit

triggered, resulting in a $30 million increase to power rates beginning in December 2019. Based on current end-of-year projections, the FRP Surcharge is expected to again trigger for the Power business unit in FY 2021. The FRP Surcharge for the Transmission business unit did not trigger in FY 2020 and is not expected to trigger in FY 2021.

B. Background on National Emergency

On March 13, 2020, the President declared the outbreak of COVID–19 in the United States a national emergency. Since then, much of the United States has been under stay-at-home orders. The impacts of COVID–19 on the national economy are only beginning to be understood. With near-record unemployment in many regional communities, Bonneville's utility customers have had to lay off staff, rely on cash reserves, and/or use short-term credit to maintain operations. Throughout the pandemic, Bonneville has cooperatively worked with its customers to ensure that they are able to continue to provide essential utility services to regional homes and businesses. As part of these discussions, customers requested Bonneville to consider offering immediate rate relief through the suspension of the FRP Surcharge.

C. Rate Proposal: Suspension of the FRP Surcharge

Bonneville proposes to suspend the FRP Surcharge for the remainder of the BP–20 rate period. Specifically, the General Rate Schedule Provisions for the Power and Transmission FRP Surcharges currently in effect would be replaced by the rate schedules identified at *https://www.bpa.gov/goto/BP20E.*

Bonneville intends to seek Commission approval effective on the first day of the month following the issuance of the Administrator's Final ROD. If the BP–20E proceeding follows the procedural schedule included in Part I.B of this notice, Bonneville would seek Commission approval effective July 1, 2020. If the Commission were to grant approval of this proposal effective on any day other than the first day of the month, then the rate relief would be effective beginning the first day of the following month.

Suspension of the Power FRP Surcharge would also require small changes to the Load Shaping Charge True-Up Rate and PF Melded Equivalent Scalar for Fiscal Year 2020, both of which would be adjusted depending upon the effective date provided by the Commission.

Part V—Proposed Rate Schedules

Bonneville's proposed General Rate Schedule Provisions for the Power and Transmission Financial Reserves Policy Surcharges for the remainder of the BP–20 rate period are a part of this notice and are available for viewing and downloading on Bonneville's website at *https://www.bpa.gov/goto/BP20E.*

Signing Authority

This document of the Department of Energy was signed on June 15, 2020, by Elliot E. Mainzer, Administrator and Chief Executive Officer of the Bonneville Power Administration, 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 16, 2020.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2020–13248 Filed 6–19–20; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Secretary of Energy Advisory Board

AGENCY: Office of the Secretary, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces an open meeting of the Secretary of Energy Advisory Board (SEAB). This notice is provided in accordance with the Federal Advisory Committee Act.

DATES: Tuesday, July 28, 2020; 10:00 a.m.–3:00 p.m. (EDT).

ADDRESSES: Building 922 Conference Center, National Energy Technology Laboratory, 1538 Wallace Road, South Park Township, Pennsylvania 15129.

FOR FURTHER INFORMATION CONTACT: Kurt Heckman, SEAB Designated Federal Officer, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585; Phone: (202) 586–1212; email: *seab@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Board was established to provide advice and recommendations to the Secretary on the Administration's energy policies; the Department's basic and applied research and development activities; economic and national security policy; and other activities as directed by the Secretary.

Purpose of the Meeting: This meeting is the fifth meeting of existing and new members under Secretary Perry, and now Secretary Brouillette.

Tentative Agenda: The meeting will start at 10:00 a.m. on July 28th. The tentative meeting agenda includes: Introduction of SEAB's members, briefings from the Under Secretaries, discussion on agency branding, and an opportunity for comments from the public. The meeting will conclude at 3:00 p.m.

Public Participation: The meeting is open to the public. Individuals who would like to attend must RSVP to Kurt Heckman no later than 5:00 p.m. on Wednesday, July 22, 2020, by email at: *seab@hq.doe.gov.*

Individuals and representatives of organizations who would like to offer comments and suggestions may do so during the meeting. Approximately 15 minutes will be reserved for public comments. Time allotted per speaker will depend on the number who wish to speak but will not exceed five minutes. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Those wishing to speak should register to do so via email, *seab@hq.doe.gov,* no later than 5 p.m. on Wednesday, July 22, 2020.

Those not able to attend the meeting or who have insufficient time to address the committee are invited to send a written statement to Kurt Heckman, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585, or email to: *seab@hq.doe.gov.*

Minutes: The minutes of the meeting will be available on the SEAB website or by contacting Mr. Heckman. He may be reached at the above postal address or email address, or by visiting SEAB's website at *www.energy.gov/seab.*

Signed in Washington, DC, on June 17, 2020.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2020–13395 Filed 6–19–20; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Nevada

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of open virtual meeting.

SUMMARY: This notice announces an online virtual meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Nevada. The Federal Advisory Committee Act requires that public notice of this online virtual meeting be announced in the **Federal Register**.

DATES: Wednesday, July 15, 2020; 4:00 p.m.—6:30 p.m.

ADDRESSES: Online Virtual Meeting. To attend, please send an email to: *nssab@emcbc.doe.gov* by no later than 4:00 p.m. PST, on Monday, July 13, 2020.

To Submit Public Comments: Public comments will be accepted via email prior to and after the meeting. Comments received by no later than 4:00 p.m. PST on Monday, July 13, 2020, will be read aloud during the virtual meeting. Comments will also be accepted after the meeting, by no later than 4:00 p.m. PST on Friday, July 31, 2020. Please submit comments to *nssab@emcbc.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Barbara Ulmer, Board Administrator, by Phone: (702) 523–0894 or Email: *nssab@emcbc.doe.gov.*

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

1. Briefing for Engine Maintenance Assembly and Disassembly Path Forward—Work Plan Item #6.

2. Follow-up to Waste Verification Strategy—Work Plan Item #1.

Public Participation: Written statements may be filed with the Board either before or after the meeting as there will not be opportunities for live public comment during this online virtual meeting. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to submit public comments should email them as directed above.

Minutes: Minutes will be available by writing or calling Barbara Ulmer, NSSAB Administrator, U.S. Department of Energy, EM Nevada Program, 100 North City Parkway, Suite 1750, Las Vegas, NV 89106; Phone: (702) 523–0894. Minutes will also be available at the following website: *http://www.nnss.gov/NSSAB/pages/MM_FY20.html.*

Signed in Washington, DC, on June 16, 2020.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2020–13307 Filed 6–19–20; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Number: PR20–52–001.
Applicants: ETC Katy Pipeline, Ltd.
Description: Tariff filing per 284.123(b),(e)+(g): ETC Katy Pipeline, LLC Revised SOC Effective April 1, 2020 to be effective 4/1/2020.
Filed Date: 6/12/2020.
Accession Number: 202006125200.
Comments Due: 5 p.m. ET 7/2/2020.
284.123(g) Protests Due: 5 p.m. ET 7/2/2020.

Docket Numbers: RP20–956–000.
Applicants: Texas Eastern Transmission, LP.
Description: Pre-Arranged/Pre-Agreed (Settlement Agreement) Filing of Texas Eastern Transmission, LP under RP20–956.
Filed Date: 6/12/20.
Accession Number: 20200612–5265.
Comments Due: 5 p.m. ET 6/24/20.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified date(s). Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 16, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–13355 Filed 6–19–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG20–189–000.
Applicants: Orbit Bloom Energy, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Orbit Bloom Energy, LLC.
Filed Date: 6/16/20.
Accession Number: 20200616–5130.
Comments Due: 5 p.m. ET 7/7/20.

Docket Numbers: EG20–190–000.
Applicants: Antelope Expansion 3A, LLC.
Description: Self-Certification of Antelope Expansion 3A, LLC.
Filed Date: 6/16/20.
Accession Number: 20200616–5142.
Comments Due: 5 p.m. ET 7/7/20.

Docket Numbers: EG20–191–000.
Applicants: Antelope Expansion 3B, LLC.
Description: Self-Certification of EG of Antelope Expansion 3B, LLC.
Filed Date: 6/16/20.
Accession Number: 20200616–5146.
Comments Due: 5 p.m. ET 7/7/20.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER19–1073–001; ER11–3942–019; ER13–1139–018; ER13–1346–010; ER14–2630–001; ER19–1074–001; ER19–1075–001; ER19–1076–001; ER19–529–001.
Applicants: Alta Wind VIII, LLC, Brookfield Energy Marketing Inc., Brookfield Energy Marketing LP, Brookfield Renewable Energy Marketing US, Brookfield Renewable Trading and Marketi, Mesa Wind Power Corporation, Windstar Energy LLC, Imperial Valley Solar 1, LLC, Regulus Solar, LLC.
Description: Supplement to June 28, 2019 Updated Market Power Analysis for the Southwest Region of the Brookfield Companies and the TerraForm Companies.
Filed Date: 5/29/20.
Accession Number: 20200529–5526.
Comments Due: 5 p.m. ET 7/7/20.

Docket Numbers: ER19–1132–001.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.19a(b): Refund Report_NRG Cottonwood Tennant to be effective N/A.
Filed Date: 6/16/20.

Accession Number: 20200616–5035.
Comments Due: 5 p.m. ET 7/7/20.

Docket Numbers: ER20–1313–000.
Applicants: GridLiance High Plains LLC.
Description: Motion to Intervene and Consolidate and Formal Challenge of Xcel Energy Services Inc., on behalf of Southwestern Public Service Company to March 16, 2020 Annual Informational Filing by GridLiance High Plains LLC.
Filed Date: 4/15/20.
Accession Number: 20200415–5211.
Comments Due: 5 p.m. ET 7/7/20.

Docket Numbers: ER20–1395–000.
Applicants: ND OTM LLC.
Description: Second Supplement to March 26, 2020 ND OTM LLC tariff filing.
Filed Date: 6/15/20.
Accession Number: 20200615–5367.
Comments Due: 5 p.m. ET 7/6/20.

Docket Numbers: ER20–1600–000.
Applicants: Cubico Huntley Lessee, LLC.
Description: Report Filing: Refund Report to be effective N/A.
Filed Date: 6/15/20.
Accession Number: 20200615–5190.
Comments Due: 5 p.m. ET 7/6/20.

Docket Numbers: ER20–1601–000.
Applicants: Huntley Solar, LLC.
Description: Report Filing: Refund Report to be effective N/A.
Filed Date: 6/15/20.
Accession Number: 20200615–5191.
Comments Due: 5 p.m. ET 7/6/20.

Docket Numbers: ER20–2059–000.
Applicants: DTE Garden Wind Farm, LLC.
Description: Baseline eTariff Filing: DTE Garden Wind Farm LLC SFA Filing to be effective 8/1/2020.
Filed Date: 6/15/20.
Accession Number: 20200615–5257.
Comments Due: 5 p.m. ET 7/6/20.

Docket Numbers: ER20–2060–000.
Applicants: MPH Rockaway Peakers, LLC.
Description: Baseline eTariff Filing: Application for Market-Based Rate Authority to be effective 6/26/2020.
Filed Date: 6/15/20.
Accession Number: 20200615–5266.
Comments Due: 5 p.m. ET 7/6/20.

Docket Numbers: ER20–2061–000.
Applicants: Public Service Electric and Gas Company.
Description: Petition for Waiver of Tariff Revisions, et al of Public Service Electric and Gas Company.
Filed Date: 6/15/20.
Accession Number: 20200615–5355.
Comments Due: 5 p.m. ET 6/25/20.

Docket Numbers: ER20–2062–000,
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2020–06–16_SA 3041 Consumers Energy-METC 1st Rev GIA (G934) to be effective 6/2/2020.
Filed Date: 6/16/20,
Accession Number: 20200616–5040,
Comments Due: 5 p.m. ET 7/7/20.

Docket Numbers: ER20–2063–000.
Applicants: Trafigura Trading LLC.
Description: Baseline eTariff Filing: Baseline New to be effective 6/17/2020.
Filed Date: 6/16/20.
Accession Number: 20200616–5098.
Comments Due: 5 p.m. ET 7/7/20.

Docket Numbers: ER20–2064–000.
Applicants: High Majestic Wind I, LLC.
Description: Baseline eTariff Filing: High Majestic Wind I, LLC Appplication for MBR Authority to be effective 8/15/2020.
Filed Date: 6/16/20.
Accession Number: 20200616–5105.
Comments Due: 5 p.m. ET 7/7/20.

Docket Numbers: ER20–2065–000.
Applicants: Antelope Expansion 3A, LLC.
Description: Baseline eTariff Filing: Antelope Expansion 3A, LLC MBR Tariff to be effective 6/17/2020.
Filed Date: 6/16/20.
Accession Number: 20200616–5107.
Comments Due: 5 p.m. ET 7/7/20.

Docket Numbers: ER20–2066–000.
Applicants: Antelope Expansion 3B, LLC.
Description: Baseline eTariff Filing: Antelope Expansion 3B, LLC MBR Tariff to be effective 6/17/2020.
Filed Date: 6/16/20.
Accession Number: 20200616–5108.
Comments Due: 5 p.m. ET 7/7/20.

Docket Numbers: ER20–2067–000.
Applicants: AEP Texas Inc.
Description: § 205(d) Rate Filing: AEPTX-Brightside Solar Interconnection Agreement to be effective 6/11/2020.
Filed Date: 6/16/20.
Accession Number: 20200616–5117.
Comments Due: 5 p.m. ET 7/7/20.

Docket Numbers: ER20–2068–000.
Applicants: Renewable Energy Asset Management Group, LLC
Description: Tariff Cancellation: Notice of Cancellation of Market-Based Rate Tariff to be effective 6/30/2020.
Filed Date: 6/16/20.
Accession Number: 20200616–5156.
Comments Due: 5 p.m. ET 7/7/20.

Docket Numbers: ER20–2069–000.
Applicants: Wheatridge Wind Energy, LLC.
Description: Baseline eTariff Filing: Wheatridge Wind Energy, LLC Application for MBR Authority to be effective 8/16/2020.
Filed Date: 6/16/20.
Accession Number: 20200616–5159.
Comments Due: 5 p.m. ET 7/7/20.

Docket Numbers: ER20–2070–000.
Applicants: Wheatridge Wind II, LLC.
Description: Baseline eTariff Filing: Wheatridge Wind II, LLC Application for MBR Authority to be effective 8/16/2020.
Filed Date: 6/16/20.
Accession Number: 20200616–5161.
Comments Due: 5 p.m. ET 7/7/20.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES20–44–000.
Applicants: Monongahela Power Company.
Description: Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of Monongahela Power Company.
Filed Date: 6/16/20.
Accession Number: 20200616–5109.
Comments Due: 5 p.m. ET 7/7/20.

Take notice that the Commission received the following electric reliability filings:

Docket Numbers: RR20–4–000.
Applicants: North American Electric Reliability Corporation.
Description: Petition of the North American Electric Reliability Corporation for Approval of Amended Compliance and Certification Committee Charter.
Filed Date: 6/12/20.
Accession Number: 20200612–5273.
Comments Due: 5 p.m. ET 7/6/20.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 16, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–13354 Filed 6–19–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Pacific Northwest-Pacific Southwest Intertie Project—Rate Order No. WAPA–192

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of proposed extension of transmission service rates.

SUMMARY: Western Area Power Administration (WAPA) proposes to extend its existing transmission service rates for the Pacific Northwest-Pacific Southwest Intertie Project (Intertie) through September 30, 2023. The proposed rates are unchanged from the existing transmission service rates under Rate Schedules INT–FT5 and INT–NFT4 that expire on September 30, 2020.

DATES: A consultation and comment period will begin June 22, 2020 and end July 22, 2020. WAPA will accept written comments anytime during the consultation and comment period.

ADDRESSES: Written comments and requests to be informed of Federal Energy Regulatory Commission (FERC) actions concerning the proposed transmission service rate extension submitted by WAPA to FERC should be sent to: Ms. Tracey LeBeau, Regional Manager, Desert Southwest Customer Service Region, Western Area Power Administration, P.O. Box 6457, Phoenix, Arizona 85005–6457, or email: *dswpwrmrk@wapa.gov.* WAPA will post information about the proposed transmission service rate extension and the written comments it receives to its website at: *https://www.wapa.gov/regions/DSW/Rates/Pages/intertie-rates.aspx.*

FOR FURTHER INFORMATION CONTACT: Ms. Tina Ramsey, Rates Manager, Desert Southwest Customer Service Region, Western Area Power Administration, P.O. Box 6457, Phoenix, Arizona 85005–6457, (602) 605–2565, or email: *dswpwrmrk@wapa.gov.*

SUPPLEMENTARY INFORMATION: On August 22, 2013, FERC approved and confirmed Rate Schedules INT–FT5 and INT–NFT4 under Rate Order No. WAPA–157 for a 5-year period through April 30, 2018.[1] WAPA's Administrator, under his authority, subsequently approved the use of the existing Intertie transmission service rates for short-term sales for the period between May 1, 2018, and September 21, 2018. The Deputy Secretary of Energy thereafter approved the transmission service rates on an interim basis from September 21, 2018, through December 3, 2018.[2] On December 3, 2018, FERC approved and confirmed the extension of Rate Schedules INT–FT5 and INT–NFT4 under Rate Order No. WAPA–181 through September 30, 2020.[3] In accordance with 10 CFR 903.23(a),[4] WAPA is proposing to extend the existing Intertie transmission service rates under Rate Schedules INT–FT5 and INT–NFT4 through September 30, 2023.

Extending these rate schedules through September 30, 2023, will provide WAPA and its customers time to evaluate the potential benefits of combining transmission service rates on Federal projects located within WAPA's Colorado River Storage Project Management Center (CRSP) and Desert Southwest Region (DSW). Ongoing efforts made towards combining transmission rates, which up to this time have been solely focused within DSW, have been expanded to include CRSP transmission system rates. Combining rates may lead to more efficient use of Federal transmission systems, diversify the customers who use those systems, and be financially advantageous. If, after a thorough evaluation, WAPA determines that combining transmission service rates will produce material benefits, it would initiate a public process before making a decision to combine the rates.

Additionally, repayments for federally funded project investments are due to Treasury at the end of fiscal years 2021, 2022, and 2023. Project repayment is consistent with the cost recovery criteria set forth in DOE Order RA 6120.2. The existing rates provide sufficient revenue to pay these required payments and all annual costs including interest expense.

Legal Authority

By Delegation Order No. 00–037.00B, effective November 19, 2016, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to WAPA's Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to FERC. By Delegation Order No. 00–002.00S, effective January 15, 2020, the Secretary of Energy also delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Under Secretary of Energy. By Redelegation Order No. 00–002.10E, effective February 14, 2020, the Under Secretary of Energy further delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Assistant Secretary for Electricity.

In accordance with 10 CFR 903.23(a), WAPA has determined that it is not necessary to hold public information or public comment forums for this rate action but is initiating a 30-day consultation and comment period to give the public an opportunity to comment on the proposed extension. WAPA will review and consider all timely comments at the conclusion of the consultation and comment period and make adjustments to the proposal as appropriate.

Signing Authority

This document of the Department of Energy was signed on June 16, 2020, by Mark A. Gabriel, Administrator, 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 17, 2020.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2020–13363 Filed 6–19–20; 8:45 a.m.]

BILLING CODE 6450–01–P

[1] Order Confirming and Approving Rate Schedules on a Final Basis, FERC Docket No. EF13–4–000, 144 FERC ¶ 61,143 (2013).

[2] 83 FR 47921 (Sept. 21, 2018)

[3] Order Confirming and Approving Rate Schedules on a Final Basis, FERC Docket No. EF18–5–000, 165 FERC ¶ 62,137 (2018).

[4] 50 FR 37835 (Sept. 18, 1985) and 84 FR 5347 (Feb. 21, 2019).

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1256; FRS 16873]

Information Collection Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before July 22, 2020.

ADDRESSES: Comments should be sent to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Your comment must be submitted into *www.reginfo.gov* per the above instructions for it to be considered. In addition to submitting in *www.reginfo.gov* also send a copy of your comment on the proposed information collection to Nicole Ongele, FCC, via email to *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

OMB Control Number: 3060–1256.

Title: Application for Connect America Fund Phase II and Rural Digital Opportunity Fund Auction Support.

Form Number: FCC Form 683.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities, Not-for-profit institutions, and State, Local or Tribal governments.

Number of Respondents and Responses: 530 respondents and 1,060 responses.

Time per Response: 2–12 hours (on average).

Frequency of Response: Annual reporting requirements, on occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection 47 U.S.C. 154, 214, 254 and 303(r) of the Communications Act of 1934, as amended.

Estimated Total Annual Burden: 7,420 hours.

Total Annual Cost: No Cost.

Nature and Extent of Confidentiality: Although most information collected in FCC Form 683 will be made available for public inspection, the Commission will withhold certain information collected in FCC Form 683 from routine public inspection. Specifically, the Commission will treat certain financial and technical information submitted in FCC Form 683 as confidential. In addition, an applicant may use the abbreviated process under 47 CFR 0.459(a)(4) to request confidential treatment of the audited financial statements that are submitted during the post-selection review process. However, if a request for public inspection for this technical or financial information is made under 47 CFR 0.461, and the applicant has any objections to disclosure, the applicant will be notified and will be required to justify continued confidential treatment. To the extent that an applicant seeks to have other information collected in FCC Form 683 or during the post-selection review process withheld from public inspection, the applicant may request confidential treatment pursuant to 47 CFR 0.459.

Privacy Act Impact Assessment: No impact(s).

Needs and Uses

Connect America Fund Phase II Auction

The Commission is requesting the Office of Management and Budget (OMB) approval for this revised information collection. On November 18, 2011, the Commission released the *USF/ICC Transformation Order and Further Notice of Proposed Rulemaking,* WC Docket No. 10–90 et al., FCC 11–161 (*USF/ICC Transformation Order and/or FNPRM*), which comprehensively reformed and modernized the high-cost program within the universal service fund to focus support on networks capable of providing voice and broadband services. Among other things, the Commission created the Connect America Fund (CAF) and concluded that support in price cap areas would be provided through a combination of ''a new forward-looking model of the cost of constructing modern multi-purpose networks'' and a competitive bidding process (CAF Phase II auction or Auction 903). The Commission also sought comment in the accompanying *USF/ICC Transformation FNPRM* on proposed rules governing the CAF Phase II auction, including basic auction design and the application process.

In the CAF Phase II auction, service providers competed to receive support of up to $1.98 billion over 10 years to offer voice and broadband service in unserved high-cost areas. The information collection requirements reported under this collection are the result of several Commission decisions to implement the reform adopted in the

USF/ICC Transformation Order and move forward with conducting the CAF Phase II auction. In the *April 2014 Connect America Order,* WC Docket No. 10–90 et al., FCC 14–54, the Commission adopted various rules regarding participation in the CAF Phase II auction, the term of support, and the eligible telecommunications carrier (ETC) designation process. In the *Phase II Auction Order,* WC Docket No. 10–90 et al., FCC 16–64, the Commission adopted rules to govern the CAF Phase II auction, including the adoption of a two-stage application process, which includes a pre-auction short-form application to be submitted by parties interested in bidding in the CAF Phase II auction and a post-auction long-form application that must be submitted by winning bidders seeking to become authorized to receive CAF Phase II auction support. The Commission concluded, based on its experience with auctions and consistent with the record, that this two-stage application process balances the need to collect information essential to conducting a successful auction and authorizing CAF Phase II support with administrative efficiency.

On January 30, 2018, the Commission adopted a public notice that established the final procedures for the CAF Phase II auction, including the long-form application disclosure and certification requirements for winning bidders seeking to become authorized to receive CAF Phase II auction support. *See Phase II Auction Procedures Public Notice,* WC Docket No. 17–182 et al., FCC 18–6. The Commission also adopted the *Phase II Auction Order on Reconsideration,* WC Docket No. 10–90 et al., FCC 18–5, which modified the Commission's letter of credit rules to provide some additional relief for CAF Phase II auction support recipients by reducing the costs of maintaining a letter of credit.

The Commission proposes to reduce the number of respondents that are subject to this collection now that the CAF Phase II auction winning bidders have been announced.

Rural Digital Opportunity Fund Auction

On February 7, 2020 the Commission released the *Rural Digital Opportunity Fund Order,* WC Docket Nos. 19–126, 10–90, FCC 20–5 which will commit up to $20.4 billion over the next decade to support up to gigabit speed broadband networks in rural America. The funding will be allocated through a multi-round, reverse, descending clock auction that favors faster services with lower latency and encourages intermodal competition in order to ensure that the greatest possible number of Americans will be connected to the best possible networks, all at a competitive cost.

To implement the Rural Digital Opportunity Fund auction (or Auction 904), the Commission adopted new rules for the Rural Digital Opportunity Fund auction, including the adoption of a two-stage application process. Like with the CAF Phase II auction, this process includes a pre-auction short-form application to be submitted by parties interested in bidding in the Rural Digital Opportunity Fund auction (FCC Form 183) and a post-auction long-form application that must be submitted by winning bidders (or their designees) seeking to become authorized to receive Rural Digital Opportunity Fund support (FCC Form 683). The Commission is seeking approval for the short-form application (FCC Form 183) in a separate collection under the OMB control number 3060–1252.

This proposed revision seeks approval of the disclosures and certifications adopted by the Commission that must be made by winning bidders seeking to become authorized for Rural Digital Opportunity Fund support. The Commission plans to submit at a later date additional revisions or new collections for OMB review to address other reforms adopted in the above-referenced Order.

The Commission therefore proposes to revise this information collection to reflect these requirements to determine the recipients of Connect America Phase II auction and Rural Digital Opportunity Fund auction support.

Federal Communications Commission.

Cecilia Sigmund,

Federal Register Liaison Officer.

[FR Doc. 2020–13306 Filed 6–19–20; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[FRS 16872]

Hospital Robocall Protection Group; Announcement of First Meeting

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice announces, and provides a preliminary agenda for the first meeting of the Federal Communications Commission's (Commission) Hospital Robocall Protection Group (HRPG).

DATES: Monday, July 27, 2020, beginning at 10:00 a.m. EDT.

ADDRESSES: Federal Communications Commission, 445 12th Street SW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Donna Cyrus, Designated Federal Officer (DFO), at: (202) 418–7325 (voice) or email at: *Donna.Cyrus@fcc.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Agenda: The agenda for the meeting will include introducing members of the HRPG, including the Committee Chair and Vice Chair, and establishing working groups that will assist the HRPG in carrying out its work. This agenda may be modified at the discretion of the HRPG Chair and the DFO. As will be discussed, the HRPG's mission is to issue best practices concerning (1) how voice service providers can better combat unlawful robocalls made to hospitals; (2) how hospitals can better protect themselves from such calls, including by using unlawful robocall mitigation techniques; and (3) how the Federal Government and State governments can help combat such calls. The meeting is being moved to a wholly electronic format in light of continuing travel restrictions affecting members of the HRPG related to public health concerns arising from the coronavirus (COVID–19) pandemic.

The July 27th meeting will be open to members of the general public via live broadcast over the internet from the FCC Live web page at *http://www.fcc.gov/live/.* The public may also follow the meeting on Twitter @fcc or via the Commission's Facebook page at *www.facebook.com/fcc.* Members of the public may submit any questions that arise during the meeting to *livequestions@fcc.gov.*

Open captioning will be provided for the live stream. Other reasonable accommodations for people with disabilities are available upon request. To request an accommodation, or for materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). Such requests should include a detailed description of the accommodation needed. In addition, please include a way for the Commission to contact the requester if more information is needed to fulfill the request. Please allow at least five days' advance notice; last-minute requests will be accepted but may not be possible to accommodate.

Federal Communications Commission.

Gregory Haledjian,

Legal Advisor, Office of the Bureau Chief, Consumer and Governmental Affairs Bureau.

[FR Doc. 2020–13372 Filed 6–19–20; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[GN Docket No. 18–122; DA 20–609; FRS 16871]

Order Denying Stay Petition

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Federal Communications Commission (Commission) denies the Joint Petition for Stay of Report and Order and Order of Proposed Modification Pending Judicial Review of ABS Global Ltd., Empresa Argentina de Soluciones Satelitales S.A., and Hispamar Satélites S.A., and Hispasat S.A.

DATES: The Order Denying Stay Petition (DA 20–609) was released on June 10, 2020.

ADDRESSES: Federal Communications Commission, 445 12th Street SW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Anna Gentry of the Wireless Telecommunications Bureau, Mobility Division, at (202) 418–7769 or *Anna.Gentry@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Order Denying Stay Petition (DA 20–609) released on June 10, 2020. The complete text of the Order is available for viewing via the Commission's ECFS website by entering the docket number, GN Docket No. 18–122. The complete text of the Order is also available for public inspection and copying from 8:00 a.m. to 4:30 p.m. Eastern Time (ET) Monday through Thursday or from 8:00 a.m. to 11:30 a.m. ET on Fridays in the FCC Reference Information Center, 445 12th Street SW, Room CY–B402, Washington, DC 20554, telephone 202–488–5300, fax 202–488–5563, or you may contact BCPI at its website: *http://www.BCPIWEB.com.* When ordering documents from BCPI, please provide the appropriate FCC document number, for example, DA 20–609.

Synopsis

On May 15, 2020, ABS Global Ltd., Empresa Argentina de Soluciones Satelitales S.A., and Hispamar Satélites S.A., and Hispasat S.A. filed a Joint Petition for Stay Pending Judicial Review of the Commission's Report and Order and Order of Proposed Modification in the above-captioned proceeding. Petitioners asked the Commission to stay the C-band auction and transition process while their challenges to the *3.7 GHz Report and Order* are pending before the United States Court of Appeals for the District of Columbia. In their Stay Petition, Petitioners argue that the *3.7 GHz Report and Order* will trigger a chain of events—beginning with the May 29, 2020 election by eligible space station operators to relocate on an accelerated basis—that may be irreversible and that will harm them by benefiting competing space station operators that are eligible for relocation and accelerated relocation payments and depriving them of spectrum access rights without compensation. They argue that the Commission exceeded its authority to modify their spectrum access rights, allocated too much money available to certain space station incumbents in the form of accelerated relocation payments and reimbursement of relocation costs associated with new satellites, and arbitrarily excluded Petitioners from receiving any relocation payments.

The Commission denies the Stay Petition. First, Petitioners have not shown that they will suffer irreparable harm. The harm that Petitioners allege is not imminent, is conjectural, and consists of economic injuries that are not severe enough to be cognizable as irreparable harm. Second, Petitioners have not shown a likelihood of success on the merits. The Commission addressed Petitioners' principal arguments at length in the *3.7 GHz Report and Order.* The Stay Petition does not persuade the Commission that the Petitioners' arguments are likely to succeed in court any more than they did before the agency. Third, Petitioners have not shown that the equities favor a stay. Petitioners have not met their burden of showing that the public interest militates in favor of a stay and that others would not be harmed by a stay. Moreover, Petitioners have not shown that the public interest would favor grant of the stay. The Commission's actions to repurpose the C-band are an indispensable element of its overall strategy of promoting the deployment of fifth generation (5G) wireless services, with millions of jobs, and billions of dollars in economic growth and other public benefits, at stake. Grant of a stay pending judicial review would significantly delay the auction and transition process and harm multiple stakeholders, including prospective bidders and the diverse incumbents involved in the transition process. The cost of such delay and disruption could be enormous. In addition to the public interest harms, grant of a stay would undercut the specific goal of U.S. leadership in 5G and the general goals of the auction program. Accordingly, we conclude that a stay of the Order and Order and Proposed Modification Pending Judicial Review is not warranted.

Federal Communications Commission.

Amy Brett,

Associate Division Chief, Competition and Infrastructure Policy Division, Wireless Telecommunications Bureau.

[FR Doc. 2020–13314 Filed 6–19–20; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

[Docket No. 20–10; Petition No. P1–20]

Investigation Into Conditions Created by Canadian Ballast Water Regulations in the U.S./Canada Great Lakes Trade

AGENCY: Federal Maritime Commission.

ACTION: Notice of investigation and request for comments.

SUMMARY: The Federal Maritime Commission has initiated an investigation into the allegations made in a petition filed by the Lake Carriers' Association that conditions created by the Government of Canada are unfavorable to shipping in the United States/Canada trade.

DATES: Submit comments on or before July 22, 2020.

ADDRESSES: You may submit comments, identified by Docket No. 20–10, by the following method:

• *Email: secretary@fmc.gov.* For comments, include in the subject line: ''Docket No. 20–10, Comments on Conditions Created by Canadian Ballast Water Regulations in the U.S./Canada Great Lakes Trade.'' Comments should be attached to the email as a Microsoft Word or text-searchable PDF document.

Docket: For access to the docket to read background documents or public comments received, go to the Commission's Electronic Reading Room at: *www2.fmc.gov/readingroom/proceeding/20-10/.*

Unless otherwise directed by the commenter, all comments will be treated as confidential under 46 U.S.C. 42105 and 46 CFR 550.104.

FOR FURTHER INFORMATION CONTACT: For questions regarding submitting comments or the treatment of confidential information, contact Rachel E. Dickon, Secretary; Phone: (202) 523–

5725; Email: *secretary@fmc.gov.* For technical questions, contact: Peter J. King, Deputy Managing Director; Phone (202) 523–5800; Email: *OMD@fmc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

On March 6, 2020, the Lake Carriers' Association (Petitioner), a trade association made up of U.S. owners and operators of vessels serving the Great Lakes (Lakers), filed a petition alleging that conditions created by Transport Canada, an agency of the Government of Canada, are unfavorable to shipping in the United States/Canada trade, pursuant to Section 19(1)(b) of the Merchant Marine Act, 1920 (Section 19) codified in 46 U.S.C. 42101. Section 19 authorizes the Federal Maritime Commission (Commission) to investigate these conditions and to adopt regulations to adjust or meet such conditions. In this instance, Petitioner requests that the Commission adopt regulations in order to remedy a condition it alleges will result in irreparable harm to Petitioner's members.

II. Summary of Petition

Petitioner argues that Transport Canada's proposed regulations to require the installation of ballast water management systems (BWMS) on Laker vessels will effectively drive out U.S.-flag vessels from the cross-lakes U.S. export trade to Canada. These regulations, which were proposed by Transport Canada on June 8, 2019, would require Canadian vessels and vessels in waters under Canadian jurisdiction to develop and implement a ballast water management plan and comply with a performance standard that would limit the number of organisms discharged, with a compliance date of September 8, 2024. *Ballast Water Regulations,* Canada Gazette, Part 1, Vol. 153, No. 23 at 15.

The proposed regulations would exempt vessels of a non-signatory party to the International Maritime Organization (IMO) International Convention on the Management of Ships' Ballast Water and Sediments, such as the United States, if those vessels operate exclusively within the Great Lakes Basin and do not load ballast water from or release ballast water into Canadian waters. Petitioner alleges that this exemption would not apply to its members' vessels because they need to load ballast water after offloading export cargo at Canadian ports, and that in order for its members' vessels to comply with the proposed regulations, they would need to install a BWMS on each vessel.

Petitioner argues that because of the vessel type and age differences between the Canadian and U.S. fleets, the respective costs of implementing the proposed regulations will be very different. Transport Canada estimates the cost of implementing the requirements on all Canadian vessels currently serving the trade would be approximately 632 million Canadian dollars. Petitioner argues that implementing these same regulations on all U.S. vessels currently serving the trade would cost nearly 1.132 billion Canadian dollars. Ultimately, Petitioner argues the proposed regulations will essentially double the U.S. Laker cost of participating in the trade while Canadian carriers would experience a less than 1 Canadian dollar per ton cost increase.

Petitioner argues that its members cannot comply with the regulations because of the prohibitive cost, and they cannot avoid the regulations and continue to carry United States exports to Canada because they must load ballast water as they offload cargo at Canadian ports. Petitioner also states that its members cannot operate their vessels outside of the Great Lakes and St. Lawrence River because of their ship design and current U.S. Coast Guard certification is restricted to service on the Great Lakes and St. Lawrence River. Should the regulations be finalized and if U.S. vessels were thereby forced out of the trade, Petitioner contends that Canadian vessels would enjoy a monopoly on the cross-lakes U.S. export trade to Canada.

Petitioner argues that prohibiting the loading of ballast water without a BWMS serves no environmental purpose because, unlike discharging ballast water, loading ballast water in Canadian waters does not result in the potential introduction of nonnative organisms into Canadian waters. Petitioner asserts that the regulations serve no environmental purpose and the cost of compliance is prohibitively high for U.S. vessels, and suggests that the real purpose of the regulations is to drive out U.S. vessels from this trade.

Petitioner is asking the Commission to issue a regulation to meet the unfair competitive conditions created by Transport Canada. Petitioner has provided a proposed regulation that would assess a fee of 300,000.00 U.S. dollars each time a Canadian vessel enters any U.S. port.

III. Investigation and Initial Request for Comments

The Commission has reviewed the Petition and determined that it meets the threshold requirements for consideration under the Commission's regulations. *See* 46 CFR part 550, subpart D. The Commission has therefore determined to initiate an investigation into whether the proposed Transport Canada regulations create unfavorable conditions to shipping in the foreign trade of the United States. To that end, the Commission has designated the Deputy Managing Director to lead an investigation into the Petitioner's allegations and to prepare a report on the investigation's findings and recommendations for Commission consideration.

As an initial step in the investigation, interested persons are requested to submit views, arguments and/or data on the Petition. Comments may address any aspect of the Petition.

As the Commission proceeds with this investigation, it may determine the need to request additional comment or gather information through other means as authorized under 46 U.S.C. 42104 and 46 CFR part 550.

By the Commission.

Rachel Dickon,

Secretary.

[FR Doc. 2020–13313 Filed 6–19–20; 8:45 am]

BILLING CODE 6730–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket No. NIOSH 278]

Board of Scientific Counselors, National Institute for Occupational Safety and Health (BSC, NIOSH)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting and request for comment.

SUMMARY: In accordance with the Federal Advisory Committee Act, the CDC announces the following virtual meeting of the Board of Scientific Counselors, National Institute for Occupational Safety and Health (BSC, NIOSH). This meeting is open to the public, limited only by the availability of telephone ports and webinar capacity. Time will be available for public comment. If you wish to attend by webcast or teleconference, please register at the NIOSH website *http://www.cdc.gov/niosh/bsc/* or call (404–498–2581) at least five business days in advance of the meeting.

DATES: The meeting will be held on August 4, 2020, from 1:00 p.m.–5:00 p.m., EDT.

Written comments received by July 27, 2020 will be provided to the Board prior to the meeting. Docket number NIOSH–278, will close August 4, 2020, and will be considered by the National Firefighter Registry Program when developing the final protocol.

ADDRESSES: You may submit comments, identified by Docket No. NIOSH–278 by mail. CDC does not accept comment by email.

• *Mail:* Docket number NIOSH–278 c/o Sherri Diana, NIOSH Docket Office, National Institute for Occupational Safety and Health, 1090 Tusculum Avenue, MS C–34, Cincinnati, Ohio 45226.

Instructions: All submissions received must include the Agency name and Docket Number. Written public comments submitted by August 4, 2020 will be provided to the BSC, NIOSH prior to the meeting. Docket number NIOSH–278 will close August 4, 2020 and will be considered by the National Firefighter Registry Program when developing the final protocol.

FOR FURTHER INFORMATION CONTACT: Emily J.K. Novicki, M.A., M.P.H., Executive Secretary, BSC, NIOSH, CDC, 1600 Clifton Road, MS V24–4, Atlanta, GA, 30329, telephone (404) 498–2581, or email at *enovicki@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Purpose: The Secretary, the Assistant Secretary for Health, and by delegation the Director, Centers for Disease Control and Prevention, are authorized under Sections 301 and 308 of the Public Health Service Act to conduct directly or by grants or contracts, research, experiments, and demonstrations relating to occupational safety and health and to mine health. The Board of Scientific Counselors provides guidance to the Director, National Institute for Occupational Safety and Health on research and prevention programs. Specifically, the Board provides guidance on the Institute's research activities related to developing and evaluating hypotheses, systematically documenting findings and disseminating results. The Board evaluates the degree to which the activities of the National Institute for Occupational Safety and Health: (1) Conform to appropriate scientific standards, (2) address current, relevant needs, and (3) produce intended results.

Meeting Information: Adobe Connect webcast will be available at *https://odniosh.adobeconnect.com/nioshbsc/*, and teleconference is available toll-free at (855) 644–0229, Participant Pass Code 9777483. This meeting is open to the public, limited only by the number of Adobe license seats available, which is 100.

Public Participation

Comments received are part of the public record and are subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure. If you include your name, contact information, or other information that identifies you in the body of your comments, that information will be on public display. CDC will review all submissions and may choose to redact, or withhold, submissions containing private or proprietary information such as Social Security numbers, medical information, inappropriate language, or duplicate/near duplicate examples of a mass-mail campaign. CDC will carefully consider all comments submitted into the docket. CDC does not accept comment by email.

Oral Public Comment: The public is welcome to participate during the public comment period, from 2:00 p.m. to 2:15 p.m. EDT on August 4, 2020. Please note that the public comment period ends at the time indicated above. Comments should be specifically related to the National Firefighter Registry protocol draft report which can be found in docket number NIOSH–278 or by visiting the subcommittee website: *https://www.cdc.gov/niosh/bsc/nfrs/*. Each commenter will be provided up to five minutes for comment. A limited number of time slots are available and will be assigned on a first come-first served basis.

Procedure for Oral Public Comment: Members of the public who wish to address the NIOSH BSC are requested to contact the Executive Secretary for scheduling purposes (see contact information above).

Written Public Comment: Written comments will also be accepted from those unable to attend the public session per the instructions provided in the address section above. Written comments received in advance of the meeting will be included in the official record of the meeting.

Matters to be Considered: The agenda for the meeting addresses occupational safety and health issues related to: The Board of Scientific Counselors Subcommittee for the National Firefighter Registry (the Subcommittee) report pertaining to the protocol including the questionnaire, enrollment process, and data sharing. The Subcommittee will present their report and recommendations to BSC, who will then discuss and finalize the report and recommendations to the NIOSH Director. Agenda items are subject to change as priorities dictate. For more information on the meeting agenda visit the NIOSH website (*http://www.cdc.gov/niosh/bsc/*).

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2020–13300 Filed 6–19–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended, and the Determination of the Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, CDC, pursuant to Public Law 92–463. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—RFA–CE–20–005, Rigorously Evaluating Approaches to Prevent Adult-Perpetrated Child Sex Abuse (CSA).

Date: July 22–23, 2020.

Time: 8:30 a.m.–5:30 p.m., EDT.

Place: Zoom Video Conference/Teleconference.

Agenda: To review and evaluate grant applications.

For Further Information Contact: Kimberly Leeks, Ph.D., M.P.H., Scientific Review Official, National Center for Injury Prevention and Control, CDC, 4770 Buford Highway NE, Building 106, MS S106–9, Atlanta, Georgia 30341, Telephone (770) 488–6562, *KLeeks@cdc.gov.*

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2020–13370 Filed 6–19–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers CMS–10261, CMS–10398, CMS–359/360 and CMS–10706]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by August 21, 2020.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10261 Part C Medicare Advantage Reporting Requirements and Supporting Regulations in 42 CFR 422.516(a)

CMS–10398 Generic Clearance for Medicaid and CHIP State Plan, Waiver, and Program Submissions

CMS–359/360 Comprehensive Outpatient Rehabilitation Facility (CORF) Certification and Survey Forms

CMS–10706 Generic Clearance for the Center for Clinical Standards and Quality IT Product and Support Teams

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Revision with change of a previously approved collection; *Title:* Part C Medicare Advantage Reporting Requirements and Supporting Regulations in 42 CFR 422.516(a); *Use:* Section 1852(m) of the Social Security Act (the Act) and CMS regulations at 42 CFR 422.135 allow Medicare Advantage (MA) plans the ability to provide ''additional telehealth benefits'' to enrollees starting in plan year 2020 and treat them as basic benefits. MA additional telehealth benefits are limited to services for which benefits are available under Medicare Part B but which are not payable under section 1834(m) of the Act. In addition, MA additional telehealth benefits are services that been identified by the MA plan for the applicable year as clinically appropriate to furnish through electronic information and telecommunications technology (or ''electronic exchange'') when the physician (as defined in section 1861(r) of the Act) or practitioner (as defined in section 1842(b)(18)(C) of the Act) providing the service is not in the same location as the enrollee. Per § 422.135(d), MA plans may only furnish MA additional telehealth benefits using contracted providers.

The data collected in this measure will provide CMS with a better understanding of the number of organizations utilizing Telehealth per contract and to also capture those specialties used for both in-person and Telehealth. This data will allow CMS to improve its policy and process surrounding Telehealth. In addition, the

specialist and facility data we are collecting aligns with some of the provider and facility specialty types that organizations are required to include in their networks and to submit on their HSD tables in the Network Management Module in Health Plan Management System. *Form Number:* CMS–10261 (OMB control number: (OMB 0938–1054); *Frequency:* Annual; *Affected Public:* Private Sector: Business or other for-profits; *Number of Respondents:* 681; *Total Annual Responses:* 5,448; *Total Annual Hours:* 205,662. (For policy questions regarding this collection contact Maria Sotirelis at 410-786–0552.)

2. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Generic Clearance for Medicaid and CHIP State Plan, Waiver, and Program Submissions; *Use:* State Medicaid and CHIP agencies are responsible for developing submissions to CMS, including state plan amendments and requests for waivers and program demonstrations. States use templates when they are available and submit the forms to review for consistency with statutory and regulatory requirements (or in the case of waivers and demonstrations whether the proposal is likely to promote the objectives of the Medicaid program). If the requirements are met, we approve the states' submissions giving them the authority to implement the flexibilities. For a state to receive Medicaid Title XIX funding, there must be an approved Title XIX state plan.

The development of streamlined submissions forms enhances the collaboration and partnership between states and CMS by documenting our policy for states to use as they are developing program changes. Streamlined forms improve efficiency of administration by creating a common and user-friendly understanding of the information we need to quickly process requests for state plan amendments, waivers, and demonstration, as well as ongoing reporting. *Form Number:* CMS–10398 (OMB control number: 0938–1148); *Frequency:* Collection-specific, but generally the frequency is yearly, once, and occasionally; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 56; *Total Responses:* 1,540; *Total Hours:* 154,104 (3-year total). (For policy questions regarding this collection contact Annette Pearson at 410–786–6858.)

3. *Type of Information Collection Request:* Extension of a currently approved information collection; *Title of Information Collection:* Comprehensive Outpatient Rehabilitation Facility (CORF) Certification and Survey Forms; *Use:* The form CMS–359 is an application for health care providers that seek to participate in the Medicare program as a Comprehensive Outpatient Rehabilitation Facility (CORF). The form initiates the process for facilities to become certified as a CORF and it provides the CMS Location and State Survey Agency (SA) staff identifying information regarding the applicant that is stored in the Automated Survey Processing Environment (ASPEN) system.

The form CMS–360 is a survey tool used by the SAs to record information in order to determine a provider's compliance with the CORF Conditions of Participation (COPs) and to report this information to the Federal government. The form includes basic information on the COP requirements, check boxes to indicate the level of compliance, and a section for recording notes. CMS has the responsibility and authority for certification decisions which are based on provider compliance with the COPs and this form supports this process. *Form Number:* CMS–359/360 (OMB control number: 0938–0267); *Frequency:* Occasionally; *Affected Public:* Private Sector (Business or other for-profits); *Number of Respondents:* 49; *Number of Responses:* 8; *Total Annual Hours:* 74. (For questions regarding this collection contact Caroline Gallaher (410) 786–8705.)

4. *Type of Information Collection Request:* New collection (Request for a new OMB control number); *Title of Information Collection:* Generic Clearance for the Center for Clinical Standards and Quality IT Product and Support Teams; *Use:* The Health Information Technology for Economic and Clinical Health (HITECH) Act is part of the American Reinvestment and Recovery Act (ARRA) of 2009. As noted in the HITECH Act, CMS is responsible for defining ''meaningful use'' of certified electronic health record (EHR) technology and developing incentive payment programs for Medicare and Medicaid providers. CMS is continually implementing and updating information systems as legislation and requirements change. To support this initiative, CCSQ IT Product and Support Teams (CIPST) must have the capacity for engagement with users in an ongoing variety of research, discovery, and validation activities to create and refine systems that do not place an undue burden on users and instead are efficient, usable, and desirable.

The Center for Clinical Standards and Quality (CCSQ) is responsible for administering appropriate information systems so that the public can submit healthcare-related information. While beneficiaries ultimately benefit, the primary users of (CIPST) are healthcare facility employees and contractors. They are responsible for the collection and submission of appropriate beneficiary data to CMS to receive merit-based compensation.

The generic clearance will allow a rapid response to inform CMS initiatives using a mixture of qualitative and quantitative consumer research strategies (including formative research studies and methodological tests) to improve information systems that serve CMS audiences. CMS implements human-centered methods and activities for the improvement of policies, services, and products. As information systems and technologies are developed or improved upon, they can be tested and evaluated for end-user feedback regarding utility, usability, and desirability. The overall goal is to apply a human-centered engagement model to maximize the extent to which CMS CIPST product teams can gather ongoing feedback from consumers. Feedback helps engineers and designers arrive at better solutions, therefore minimizing the burden on consumers and meeting their needs and goals.

The activities under this clearance involve voluntary engagement with target CIPST users to receive design and research feedback. Voluntary end-users from samples of self-selected customers, as well as convenience samples, with respondents selected either to cover a broad range of customers or to include specific characteristics related to certain products or services. All collection of information under this clearance is for use in both quantitative and qualitative groups collecting data related to human-computer interactions with information system development. We will use the findings to create the highest possible public benefit. *Form Number:* CMS–10706 (OMB control number: 0938–NEW); *Frequency:* Occasionally; *Affected Public:* Individuals and Private Sector (Business or other for-profit and Not-for-profit institutions); *Number of Respondents:* 11,476; *Total Annual Responses:* 11,476; *Total Annual Hours:* 4,957. (For policy questions regarding this collection contact Stephanie Ray at 410–786–0971)

Dated: June 16, 2020.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2020–13298 Filed 6–19–20; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2020–N–1539]

Oncologic Drugs Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Oncologic Drugs Advisory Committee. The general function of the committee is to provide advice and recommendations to FDA on regulatory issues. The meeting will be open to the public. FDA is establishing a docket for public comment on this document.

DATES: The meeting will be held on July 14, 2020, from 9 a.m. to 1:30 p.m.

ADDRESSES: Please note that due to the impact of this COVID–19 pandemic, all meeting participants will be joining this advisory committee meeting via an online teleconferencing platform. Answers to commonly asked questions about FDA advisory committee meetings may be accessed at: *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

FDA is establishing a docket for public comment on this meeting. The docket number is FDA–2020–N–1539. The docket will close on July 13, 2020. Submit either electronic or written comments on this public meeting by July 13, 2020. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before July 13, 2020. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of July 13, 2020. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Comments received on or before June 29, 2020, will be provided to the committee. Comments received after that date will be taken into consideration by FDA. In the event that the meeting is cancelled, FDA will continue to evaluate any relevant applications or information, and consider any comments submitted to the docket, as appropriate.

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2020–N–1539 for ''Oncologic Drugs Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday. Please call 240–402–7500 ahead of the meeting time to verify access.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' FDA will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify the information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Yvette Waples, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, Fax: 301–847–8533, email: *ODAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the FDA's website at *https://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: The meeting presentations will be heard, viewed, captioned, and recorded through an online teleconferencing platform. On July 14, 2020, the committee will discuss biologic license application (BLA) 761158, for belantamab mafodotin, submitted by GlaxoSmithKline Intellectual Property Development Ltd. England. The proposed indication (use) for this product is for the treatment of adults with relapsed or refractory multiple myeloma who have received at least four prior therapies including an anti-CD38 monoclonal antibody, a proteasome inhibitor, and an immunomodulatory agent.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available on FDA's website at the time of the advisory committee meeting. Background material and the link to the online teleconference meeting room will be available at *https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link. The meeting will include slide presentations with audio components to allow the presentation of materials in a manner that most closely resembles an in-person advisory committee meeting.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. All electronic and written submissions submitted to the Docket (see **ADDRESSES**) on or before June 29, 2020, will be provided to the committee. Oral presentations from the public will be scheduled between approximately 11:30 a.m. and 12:30 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before June 19, 2020. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by June 22, 2020.

For press inquiries, please contact the Office of Media Affairs at *fdaoma@fda.hhs.gov* or 301–796–4540.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact Yvette Waples (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: June 15, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–13345 Filed 6–19–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–0163]

Hospira, Inc., et al.; Withdrawal of Approval of 12 Abbreviated New Drug Applications; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the **Federal Register** of February 12, 2019. The document announced the withdrawal of approval of 12 abbreviated new drug applications (ANDAs) from multiple applicants. The document erroneously included ANDA 077736 for Polyethylene Glycol 3350 Powder for Oral Solution, 17 grams/scoopful, held by Breckenridge Pharmaceutical, Inc. (Breckenridge). This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Kimberly Lehrfeld, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6226, Silver Spring, MD 20993–0002, 301–796–3137.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 12, 2019 (84 FR 3467), in FR Doc. 2019–02032, the following correction is made:

1. On page 3467, in the table, the entry for ANDA 077736 is removed. The approval of ANDA 077736 was withdrawn effective November 2, 2018.

In the **Federal Register** of April 2, 2018 (83 FR 13994), FDA denied a hearing and issued an order withdrawing approval of multiple ANDAs for polyethylene glycol 3350, effective May 2, 2018. Breckenridge's ANDA 077736 was included in the April 2018 notice. In the **Federal Register** of July 30, 2018 (83 FR 36604), FDA subsequently published a notice granting a temporary stay of the effective date of the April 2018 notice, extending the withdrawal of approval of the ANDAs to November 2, 2018. Thus, the approval of ANDA 077736 was withdrawn effective November 2, 2018.

Dated: June 12, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–13346 Filed 6–19–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Notice of a Supplemental Award to Education Development Center for the Home Visiting Collaborative Improvement and Innovation Network 2.0 Cooperative Agreement

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice of a Supplemental Award to Education Development Center for Home Visiting Collaborative Improvement and Innovation Network 2.0 Cooperative Agreement.

SUMMARY: HRSA announces the award of a supplemental award of approximately $330,000 per year to the Education Development Center (EDC) for the Home Visiting Collaborative Improvement and Innovation Network 2.0 (HV CoIIN 2.0) for fiscal years (FY) 2020, 2021 and 2022. The supplement will allow the recipient to build a continuous quality improvement (CQI) health equity framework for the Maternal, Infant and Early Childhood Home Visiting Program (MIECHV).

FOR FURTHER INFORMATION CONTACT: Monique Fountain Hanna, Chief Medical Officer, Division Home Visiting and Early Childhood Systems, HRSA, 5600 Fishers Lane, Room 18N180,

Rockville, MD 20857, Phone: (215) 861–4385, or Email: *MFountain@hrsa.gov.*

SUPPLEMENTARY INFORMATION:

Intended Recipient of Award: Education Development Center, Inc.

Amount of Non-Competitive Award: Approximately $330,000/year for FY 2020, FY 2021, and FY 2022.

Budget Period: 09/01/2019–08/31/2020; 09/01/2020–08/31/2021; 09/01/2021–08/31/2022.

CFDA Number: 93.110.

Authority: Social Security Act, Title V, § 511 (42 U.S.C. 711).

Justification: The MIECHV Program, an evidence-based home visiting program, seeks to improve maternal and child health outcomes and address various social determinants that impact health equity such as reducing child abuse and neglect, addressing family violence, promoting child development and school readiness, and improving family economic self-sufficiency for families considered most at-risk. In support of HRSA's FY 2019–FY 2022 Strategic Goals focused on health equity, the MIECHV Program proposes to develop a home visiting specific health equity framework utilizing quality improvement as a methodology.

The HVCoIIN 2.0 is designed to facilitate the delivery and accelerate the improvement of home visiting services provided by MIECHV Program recipients, including subrecipient local implementing agencies (LIAs) utilizing continuous quality improvement methodologies. The CoIIN provides a platform and strategy for collaborative learning and quality improvement toward common measurable aims—rapid-cycle tests of change ideas.

The HVCoIIN has three main priority areas. Priority Area #2 is focused on ''testing of new change ideas.'' This priority area is designed to develop and subsequently refine discrete sets of change ideas based on evidence in the field and relevance to home visiting implementation. The grantee will carry out all the activities pertaining to the development of the health equity framework. Proposed activities will include:

- Identify a health equity framework and adapt for MIECHV;
- Develop theory of change, (how and why the desired change is expected to happen); key driver diagrams, (the relationship between the overall aim of the project, the drivers that contribute directly to the aim) change ideas, measures and proposed tests of change;
- Implement a quality improvement strategy such as: Breakthrough Series, Plan-Do-Study-Act Cycles, to test and eventually demonstrate improvements in program outcomes through a health equity collaborative; and pilot test with MIECHV awardees over 12–18 months;
- Apply the health equity framework that demonstrated improvements to twelve current HV CoIIN 2.0 scale topics (developmental screening, breastfeeding, and maternal depression) and new topic CoIINs (intimate partner violence and well child care); and
- Create a final health equity CoIIN playbook with measures, refined tests of change that can be used to spread lessons learned across home visiting programs. EDC was awarded a 5-year HV CoIIN cooperative agreement on September 1, 2017. They have successfully led the first national effort utilizing CQI methods to assist awardees in improving MIECHV Program implementation, performance measures and evidence based maternal and child health outcomes.

Grantee/organization name	Grant No.	State	FY 2020 funding	FY 2021 funding	FY 2022 funding
Education Development Center, Inc	UF4MC26525	MA	$328,797	$329,980	$324,637

Thomas J. Engels,

Administrator.

[FR Doc. 2020–13338 Filed 6–19–20; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Heart, Lung, and Blood Initial Review Group; NHLBI Mentored Patient-Oriented Research Review Committee.

Date: July 23–24, 2020.

Time: 11:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Health (NIH), One Rockledge Center, 6705 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Stephanie Johnson Webb, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 208–V, Bethesda, MD 20892, (301) 827–7992, *stephanie.webb@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: June 16, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–13319 Filed 6–19–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; ''Emergency Awards: Rapid Investigation of Severe Acute Respiratory Syndrome Coronavirus 2 (SARS–CoV–2) and Coronavirus Disease 2019 (COVID–19).''

Date: July 15, 2020.
Time: 11:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1206, Bethesda, MD 20892 (Teleconference).
Contact Person: John C. Pugh, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1206, Bethesda, MD 20892, (301) 435–2398, *pughjohn@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: June 16, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–13324 Filed 6–19–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of an Exclusive Patent License: Ointment for the Topical Administration to Ischemic Treat and/or Neuropathic Ulcers in Humans

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Cancer Institute, an institute of the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an Exclusive Patent License to practice the inventions embodied in the Patents and Patent Applications listed in the Supplementary Information section of this notice to Emmaus Medical Inc. located in 21250 Hawthorne Boulevard, Suite 800, Torrance, CA, 90503.

DATES: Only written comments and/or applications for a license which are received by the National Cancer Institute's Technology Transfer Center on or before July 7, 2020 will be considered.

ADDRESSES: Requests for copies of the patent application, inquiries, and comments relating to the contemplated an Exclusive Patent License should be directed to: Edward Fenn, Senior Licensing and Patenting Manager, NCI Technology Transfer Center, Telephone: 240–276–6833 or Email: *Tedd.Fenn@nih.gov.*

SUPPLEMENTARY INFORMATION:

Intellectual Property

I. United States Provisional Patent Application No. 62/077,622 filed Nov. 10, 2014, ''Topical Sodium Nitrite Formulations'', [HHS Ref. No. E–149–2014–0–US–01];

II. International Patent Application No. PCT/US2015/060015 filed Nov. 10, 2015, ''Topical Sodium Nitrite Formulations'', [HHS Reference No. E–149–2014–0–PCT–02];

III. European National Stage Patent Application No. 15798623.3, filed Nov. 10, 2015, ''Topical Sodium Nitrite Formulations'', [HHS Ref. No. E–149–2014–0–EP–03];

IV. U.S. National Stage Patent Application No. 15/525,557 filed May 9, 2017, ''Topical Sodium Nitrite Formulations'', [HHS Ref. No. E–149–2014–0–US–04];

The patent rights in these inventions have been assigned and/or exclusively licensed to the government of the United States of America.

The prospective exclusive license territory may be the United States only and the field of use may be limited to the following:

''Treatment of neuropathic and/or ischemic skin ulcers in humans''.

This technology discloses a topical ointment formulation comprising about .5% to 3.0% by weight non-acidified sodium nitrite dispersed in white petrolatum, mineral oil and bisabolol for topical administration. Nitrite anions may act as a vasodilator in vivo by generating nitric oxide (NO) in tissues with lower oxygen tension and pH. Therapeutic application of sodium nitrite through this specific topical formulation may provide selective vasodilation to hypoxemic tissue that treat ulcers associated with chronic ischemic and neuropathic ulcer conditions associated with several diseases.

This notice is made in accordance with 35 U.S.C. 209 and 37 CFR part 404. The prospective exclusive license will be royalty bearing, and the prospective exclusive license may be granted unless within fifteen (15) days from the date of this published notice, the National Cancer Institute receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.

In response to this Notice, the public may file comments or objections. Comments and objections, other than those in the form of a license application, will not be treated confidentially, and may be made publicly available.

License applications submitted in response to this Notice will be presumed to contain business confidential information and any release of information in these license applications will be made only as required and upon a request under the Freedom of Information Act, 5 U.S.C. 552.

Dated: June 12, 2020.

Richard U. Rodriguez,

Associate Director, Technology Transfer Center, National Cancer Institute.

[FR Doc. 2020–13315 Filed 6–19–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Opportunities for Collaborative Research at the NIH Clinical Center.
Date: July 23, 2020.
Time: 12:00 p.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications and/or proposals.
Place: National Institutes of Health, Rockledge I, 6705 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: YingYing Li-Smerin, MD, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 207–P, Bethesda, MD 20892–7924, (301) 827–7942, *lismerin@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Grant Review for NHLBI K Award Recipients.
Date: July 24, 2020.
Time: 9:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge I, 6705 Rockledge Drive, Bethesda, MD 20814 (Telephone Conference Call).
Contact Person: Michael P Reilly, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 208–Z, Bethesda, MD 20892, (301) 827–7975, *reillymp@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: June 17, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–13388 Filed 6–19–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Clinical Trial Planning and Implementation Grants (R34 and U01).

Date: July 16, 2020.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F58, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Mario Cerritelli, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F58, Rockville, MD 20852, *cerritem@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS).

Dated: June 16, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–13387 Filed 6–19–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Centers of Excellence for Influenza Research and Response.

Date: July 14–15, 2020.

Time: 11:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G13B, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Yong Gao, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G13B, Rockville, MD 20892–7616, (240) 669–5048, *gaoL2@niaid.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: June 16, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–13326 Filed 6–19–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIH Support for Conferences and Scientific Meetings (Parent R13 Clinical Trial Not Allowed).

Date: July 27–29, 2020.

Time: 8:00 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F40B, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Kelly Y. Poe, Ph.D., Deputy Director, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F40B, Bethesda, MD 20892–9834, (240) 669–5036, *poeky@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: June 16, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–13323 Filed 6–19–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Emergency Awards: Rapid Investigation of Severe Acute Respiratory Syndrome Coronavirus 2 (SARS–CoV–2) and Coronavirus Disease 2019 (COVID–19) (R21, R01 Clinical Trials Not Allowed)

Date: July 14, 2020.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F30, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Ruth S. Grossman, DDS, Scientific Review Officer, Office Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN12J, Bethesda, MD 20892, *grossmanrs@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: June 16, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–13328 Filed 6–19–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Emergency Awards: Rapid Investigation of Severe Acute Respiratory Syndrome Coronavirus 2 (SARS–CoV–2) and Coronavirus Disease 2019 (COVID–19).

Date: June 30, 2020.

Time: 10:00 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G41B, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Zhuqing (Charlie) Li, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G41B, Bethesda, MD 20892–9834, (240) 669–5068, *zhuqing.li@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: June 16, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–13322 Filed 6–19–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID 2020 Omnibus BAA (HHS–NIH–NIAID–BAA2020–1) Research Area 003: Advanced Development of Vaccine Candidates for Biodefense and Emerging Infectious Diseases.

Date: July 15, 2020.

Time: 10:00 a.m. to 4:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G41B, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Zhuqing (Charlie) Li, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G41B, Bethesda, MD 20892–9823, (240) 669–5068, *zhuqing.li@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: June 16, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–13320 Filed 6–19–20; 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 Amended; Notice of Meeting

Notice is hereby given of a change in the meeting of the Function, Integration, and Rehabilitation Sciences Subcommittee, June 24, 2020, 8:00 a.m. to June 25, 2020, 05:00 p.m., NICHD Offices, 6710B Rockledge Drive, Bethesda, MD 20892 which was published in the **Federal Register** on April 06, 2020, 85 FR 19154.

The starting date and time for this meeting have changed from June 24, 2020, 08:00 a.m. to June 25, 2020, 10:00 a.m. The meeting is closed to the public.

Dated: June 16, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–13325 Filed 6–19–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel; RFA AA–20–007 Medications Development for the Treatment of Alcohol Use Disorder (AUD) or Alcohol-Related Organ Damage (AROD), or the Combination of AUD and AROD (U01 Clinical Trial Optional).

Date: July 24, 2020.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Health, National Institute on Alcohol Abuse and Alcoholism, 6700 B Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Ranga Srinivas, Ph.D., Chief Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, 6700 B Rockledge Drive, Room 2114, Bethesda, MD 20892, (301) 451–2067, *srinivar@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Support Awards., National Institutes of Health, HHS)

Dated: June 16, 2020.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–13327 Filed 6–19–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Microbiology, Infectious Diseases and AIDS Initial Review Group; Microbiology and Infectious Diseases B Subcommittee MID–B Review Committee July 2020.

Date: July 13–15, 2020.

Time: 9:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F30, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Ellen S. Buczko, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F30, Rockville, MD 20892–7616, 301–451–2676, *ebuczko1@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: June 16, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–13321 Filed 6–19–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of an Exclusive Patent License: Development and Commercialization of Fenoterol and Certain Fenoterol Analogues for the Treatment of Cancer

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Institute on Aging, an institute of the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an Exclusive Patent License to practice the inventions embodied in the Patents and Patent Applications listed in the Supplementary Information section of this Notice to Paz Pharmaceuticals, LLC of the State of Delaware.

DATES: Only written comments and/or applications for a license which are received by the National Cancer Institute's Technology Transfer Center on or before July 7, 2020 will be considered.

ADDRESSES: Requests for copies of the patent applications, inquiries, and comments relating to the contemplated Exclusive Patent License should be directed to: Richard T. Girards, Jr., Esq., MBA, Senior Technology Transfer Manager, National Institutes of Health, NCI Technology Transfer Center by email (*richard.girards@nih.gov)* or phone (240–276–6825).

SUPPLEMENTARY INFORMATION:

Intellectual Property

E–205–2006: Preparation of (R,R)-fenoterol and (R,R)-or (R,S)-fenoterol analogues and their use in treating congestive heart failure

1. United States Provisional Patent Application No. 60/837,161, filed 10 August 2006 (HHS Reference No. E–205–2006–0–US–01);
2. United States Provisional Patent Application No. 60/927,825, filed 03 May 2007 (HHS Reference No. E–205–2006–1–US–01);
3. United States Patent Application No. 12/376,945, filed 09 February 2009 (HHS Reference No. E–205–2006–2–US–13);
4. United States Patent No. 8,703,826, issued 22 April 2014 (HHS Reference No. E–205–2006–2–US–15);
5. United States Patent No. 9,522,871, issued 20 December 2016 (HHS Reference No. E–205–2006–2–US–19);
6. United States Patent No. 9,908,841, issued 06 March 2018 (HHS Reference No. E–205–2006–2–US–22);

7. United States Patent No. 10,308,591, issued 04 June 2019 (HHS Reference No. E–205–2006–2–US–26);
8. United States Patent No. 10,562,843, issued 18 February 2020 (HHS Reference No. E–205–2006–2–US–27);
9. International Patent Application No. PCT/US2007/075731, filed 10 August 2007 (HHS Reference No. E–205–2006–2–PCT–01);
10. Australia Patent No. 2007286051, issued 26 April 2013 (HHS Reference No. E–205–2006–2–AU–02);
11. Australia Patent No. 2013202127, issued 25 September 2014 (HHS Reference No. E–205–2006–2–AU–16);
12. Australia Patent Application No. 2014224073, filed 11 September 2014 (HHS Reference No. E–205–2006–2–AU–20);
13. Brazil Patent Application No. PI0716495–5, filed 18 June 2009 (HHS Reference No. E–205–2006–2–BR–03);
14. Canada Patent No. 2660707, issued 08 July 2014 (HHS Reference No. E–205–2006–2–CA–04);
15. China Patent No. 200780036155.9, issued 29 January 2014 (HHS Reference No. E–205–2006–2–CN–05);
16. China Patent Application No. 201310705914.3, filed 10 August 2007 (HHS Reference No. E–205–2006–2–CN–18);
17. European Patent No. 2064174, issued 26 October 2016 (HHS Reference No. E–205–2006–2–EP–06) and all of its national validations;
18. Hong Kong Patent Application No. 14107948.2, filed 04 August 2014 (HHS Reference No. E–205–2006–2–HK–21);
19. Israel Patent No. 196965, issued 30 January 2016 (HHS Reference No. E–205–2006–2–IL–07);
20. India Patent No. 266343, issued 28 April 2015 (HHS Reference No. E–205–2006–2–IN–08);
21. Japan Patent No. 5302194, issued 28 June 2013 (HHS Reference No. E–205–2006–2–JP–09);
22. Japan Patent Application No. 2013–129406, filed 20 June 2013 (HHS Reference No. E–205–2006–2–JP–17);
23. Korea (South) Patent No. 10–1378067, issued 19 March 2014 (HHS Reference No. E–205–2006–2–KR–10);
24. Mexico Patent No. 331996, issued 30 July 2015 (HHS Reference No. E–205–2006–2–MX–11);
25. Philippines Patent Application No. 1–2009–500267, filed 10 August 2007 (HHS Reference No. E–205–2006–2–PH–12);
26. South Africa Patent No. 2009/00938, issued 28 April 2010 (HHS Reference No. E–205–2006–2–ZA–14); and
27. any and all other U.S. and ex-U.S. patents and patent applications claiming priority to any one of the foregoing, now or in the future.

E–013–2010: Use of fenoterol and fenoterol analogues in the treatment of glioblastomas and astrocytomas

1. United States Provisional Patent Application No. 61/312,642, filed 10 March 2010 (HHS Reference No. E–013–2010–0–US–01);
2. United States Patent No. 9,492,405, issued 15 November 2016 (HHS Reference No. E–013–2010–0–US–08);
3. United States Patent No. 10,130,594, issued 20 November 2018 (HHS Reference No. E–013–2010–0–US–10);
4. United States Patent No. 10,617,654, issued 14 April 2020 (HHS Reference No. E–013–2010–0–US–15);
5. United States Patent Application No. 16/806,659, filed 02 March 2020 (HHS Reference No. E–013–2010–0–US–16);
6. International Patent Application No. PCT/US2011/027988, filed 10 March 2011 (HHS Reference No. E–013–2010–0–PCT–02);
7. Australia Patent No. 2011224241, issued 21 August 2014 (HHS Reference No. E–013–2010–0–AU–03);
8. Australia Patent No. 2014210656, issued 30 June 2016 (HHS Reference No. E–013–2010–0–AU–09);
9. Brazil Patent Application No. BR112012022552–9, filed 10 March 2011 (HHS Reference No. E–013–2010–0–BR–04);
10. Canada Patent No. 2791702, issued 29 May 2018 (HHS Reference No. E–013–2010–0–CA–05);
11. European Patent No. 2544676, issued 19 September 2018 (HHS Reference No. E–013–2010–0–EP–06) and all of its national validations;
12. Japan Patent No. 5837890, issued 13 November 2015 (HHS Reference No. E–013–2010–0–JP–07);
13. any and all other U.S. and ex-U.S. patents and patent applications claiming priority to any one of the foregoing, now or in the future.

E–139–2012: Methods of regulating cannabinoid receptor activity-related disorders and diseases

1. United States Provisional Patent Application No. 61/651,961, filed 25 May 2012 (HHS Reference No. E–139–2012–0–US–01);
2. United States Provisional Patent Application No. 61/789,629, filed 15 March 2013 (HHS Reference No. E–139–2012–1–US–01);
3. United States Patent Application No. 14/403,516, filed 24 November 2014 (HHS Reference No. E–139–2012–2–US–06);
4. United States Patent No. 10,130,593, issued 20 November 2018 (HHS Reference No. E–139–2012–2–US–11);
5. United States Patent No. 10,485,771, issued 26 November 2019 (HHS Reference No. E–139–2012–2–US–13);
6. United States Patent Application No. 16/600,234, filed 11 October 2019 (HHS Reference No. E–139–2012–2–US–14);
7. International Patent Application No. PCT/US2013/042457, filed 23 May 2013 (HHS Reference No. E–139–2012–2–PCT–01);
8. Australia Patent No. 2013266235, issued 21 September 2017 (HHS Reference No. E–139–2012–2–AU–02);
9. Canada Patent Application No. 2874655, filed 23 May 2013 (HHS Reference No. E–139–2012–2–CA–03);
10. European Patent No. 2854855, issued 27 April 2016 (HHS Reference No. E–139–2012–2–EP–04) and all of its national validations;
11. Japan Patent No. 6130495, issued 21 April 2017 (HHS Reference No. E–139–2012–2–JP–05);
12. any and all other U.S. and ex-U.S. patents and patent applications claiming priority to any one of the foregoing, now or in the future.

The patent and patent application rights in these inventions have been assigned and/or exclusively licensed to the government of the United States of America.

The prospective exclusive license territory may be worldwide and the fields of use may be limited to the following: The development, manufacture, distribution, sale and use for the treatment of cancer of one or more of fenoterol and its analogues, either in combination or not in combination with one or more other therapeutic agents.

These technologies disclose, *e.g.,* the use of fenoterol and its analogues for regulating cannabinoid (CB) receptor activity-related disorders and disease, such as dysregulated CB receptors, including treating a disorder or disease. These diseases may include but are not limited to glioblastoma, hepatocellular carcinoma, liver cancer, colon cancer, and/or lung cancer, all of which may be associated with altered cannabinoid receptor activity. In one example, the technologies include administering to a subject having or at risk of developing a disorder or disease regulated by CB receptor activity an effective amount of fenoterol or one of its analogues to reduce one or more symptoms associated with the disorder or disease regulated by CB receptor activity.

This Notice is made in accordance with 35 U.S.C. 209 and 37 CFR 404. The prospective exclusive license will be royalty bearing, and the prospective exclusive license may be granted unless within fifteen (15) days from the date of this published Notice, the National Cancer Institute receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.

In response to this Notice, the public may file comments or objections. Comments and objections, other than those in the form of a license application, will not be treated confidentially, and may be made publicly available.

License applications submitted in response to this Notice will be presumed to contain business confidential information and any release of information from these license applications will be made only as required and upon a request under the Freedom of Information Act, 5 U.S.C. 552.

Dated: June 12, 2020.

Richard U. Rodriguez,

Associate Director, Technology Transfer Center, National Cancer Institute.

[FR Doc. 2020–13316 Filed 6–19–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0109]

Agency Information Collection Activities: Guam-CNMI Visa Waiver Information

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and must be submitted (no later than August 21, 2020) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651–0109 in the subject line and the agency name. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Email.* Submit comments to: *CBP_PRA@cbp.dhs.gov.*

(2) *Mail.* Submit written comments to CBP Paperwork Reduction Act Officer, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Economic Impact Analysis Branch, 90 K Street NE, 10th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/.*

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Guam-CNMI Visa Waiver Information.

OMB Number: 1651–0109.

Form Number: I–736.

Current Action: Renewal.

Type of Review: Extension/Revision (with change).

Affected Public: Individuals.

Abstract: Public Law 110–229 provides for certain aliens to be exempt from the nonimmigrant visa requirement if seeking entry into Guam or the Commonwealth of the Northern Mariana Islands (CNMI) as a visitor for a maximum stay of 45 days, provided that no potential threat exists to the welfare, safety, or security of the United States, or its territories, and other criteria are met. Upon arrival at the Guam or CNMI Ports-of-Entry, each applicant for admission presents a completed Form I–736 to CBP, which collects information about the applicant's identity and travel documents.

Several elements have been added to the Form I–736. Updates are necessary to be able to automate Form I–736, Guam-CNMI Visa Waiver Information that is use in compliance with the Guam-CNMI Visa Waiver Program. The new data elements are: the foreign passport type, social media identifier, valid email address, and social media provider/platform. The automation will facilitate CBP to gather information on travelers from Guam-CNMI Visa Waiver Program countries to determine their admissibility to enter Guam or the CNMI. In addition, CBP intends to migrate from paper I–736 to a mandatory automated environment; therefore, the collection of a paper form will no longer be acceptable. However, after the regulation implementing mandatory automation is published, CBP will grant a transition period of three months to facilitate travelers adjusting to the new collection method. At the end of the transition period, the paper I–736 form will become obsolete and travelers must input and submit in advance their personal information and respond to the eligibility questions using the new electronic format. The travelers' information is pre-screened or vetted against law enforcement databases. Based on the results of the pre-screening, the application is approved or denied. The system generates a board or no board status message to the carrier indicating a denied or approved authorization to board before the flight. The applicant also receives a message with the application status: approved, denied, canceled or pending. All information will be saved in the newly created Guam-CNMI Visa Waiver Program database.

Estimated Number of Respondents: 1,560,000.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 1,560,000.

Estimated Time per Response: 19 minutes (0.316 hours).

Estimated Total Annual Burden Hours: 492,960.

Dated: June 16, 2020.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2020–13296 Filed 6–19–20; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0090]

Agency Information Collection Activities: Commercial Invoice

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and must be submitted (no later than August 21, 2020) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651–0090 in the subject line and the agency name. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Email.* Submit comments to: *CBP_PRA@cbp.dhs.gov.*

(2) *Mail.* Submit written comments to: CBP Paperwork Reduction Act Officer, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Economic Impact Analysis Branch, 90 K Street NE, 10th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/.*

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Commercial Invoice.
OMB Number: 1651–0090.
Form Number: None.
Current Actions: This submission is being made to extend the expiration date with no change to the burden hours or to the information collected.
Type of Review: Extension (without change).
Affected Public: Businesses.
Abstract: The collection of the commercial invoice is necessary for conducting adequate examination of merchandise and determination of the duties due on imported merchandise as required by 19 U.S.C. 1481 and 1484 and by 19 CFR 141.81, 141.82, 141.83, 141.84, 141.85, 141.86, 141.87, 141.88, 141.89, 141.90, 141.91, and 141.92 . A commercial invoice is presented to CBP by the importer for each shipment of merchandise at the time the entry summary is filed, subject to the conditions set forth in the CBP regulations. The information is used to ascertain the proper tariff classification and valuation of imported merchandise, as required by the Tariff Act of 1930. To facilitate trade, CBP did not develop a specific form for this information collection. Importers are allowed to use their existing invoices to comply with these regulations.

Estimated Number of Respondents: 38,500.
Estimated Number of Annual Responses per Respondent: 1,208.
Estimated Number of Total Annual Responses: 46,500,000.
Estimated Time per Response: 1 minute.
Estimated Total Annual Burden Hours: 744,000.

Dated: June 16, 2020.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2020–13291 Filed 6–19–20; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[Docket No. USCBP–2020–0033]

Commercial Customs Operations Advisory Committee (COAC)

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security (DHS).

ACTION: Committee management; notice of Federal Advisory Committee Meeting.

SUMMARY: The Commercial Customs Operations Advisory Committee (COAC) will hold its quarterly meeting on Wednesday, July 15, 2020. The meeting will be open to the public via webinar only. There is no on-site, in-person option for this quarterly meeting.

DATES: The COAC will meet on Wednesday, July 15, 2020, from 1:00 p.m. to 5:00 p.m. EDT. Please note that the meeting may close early if the committee has completed its business. Comments must be submitted in writing no later than July 14, 2020.

ADDRESSES: The meeting will be held via webinar. The webinar link and conference number will be provided to all registrants by 10:00 a.m. EDT on July 15, 2020. For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Ms. Florence Constant-Gibson, Office of Trade Relations, U.S. Customs and Border Protection (CBP), at (202) 344–1440 as soon as possible.

FOR FURTHER INFORMATION CONTACT: Ms. Florence Constant-Gibson, Office of Trade Relations, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Room 3.5A, Washington, DC 20229; telephone (202) 344–1440; facsimile (202) 325–4290; or Ms. Valarie M. Neuhart, Acting Executive Director and Designated Federal Officer at (202) 344–1440.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the authority of the Federal Advisory Committee Act, 5 U.S.C. Appendix. The Commercial Customs Operations Advisory Committee (COAC) provides advice to the Secretary of Homeland Security, the Secretary of the Treasury, and the Commissioner of U.S. Customs and Border Protection (CBP) on matters pertaining to the commercial operations of CBP and related functions within the Department of Homeland Security and the Department of the Treasury.

Pre-registration: For members of the public who plan to participate via webinar, please register online at *https://teregistration.cbp.gov/index.asp?w=203* by 5:00 p.m. EDT on July 14, 2020. For members of the public who are pre-registered to attend the webinar and later need to cancel, please do so by July 14, 2020, utilizing the following link: *https://teregistration.cbp.gov/cancel.asp?w=203.*

Please feel free to share this information with other interested members of your organization or association.

To facilitate public participation, we are inviting public comment on the issues the committee will consider prior to the formulation of recommendations as listed in the Agenda section below.

Comments must be submitted in writing no later than July 14, 2020, and must be identified by Docket No. USCBP–2020–0033, and may be submitted by one (1) of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: tradeevents@cbp.dhs.gov.* Include the docket number in the subject line of the message.
- *Fax:* (202) 325–4290, Attention Florence Constant-Gibson.
- *Mail:* Ms. Florence Constant-Gibson, Office of Trade Relations, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Room 3.5A, Washington, DC 20229.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket number (USCBP–2020–0033) for this action. Comments received will be posted without alteration at *http://www.regulations.gov.* Please do not submit personal information to this docket.

Docket: For access to the docket or to read background documents or comments, go to *http://www.regulations.gov* and search for Docket Number USCBP–2020–0033. To submit a comment, click the ''Comment Now!'' button located on the top-right hand side of the docket page.

There will be multiple public comment periods held during the meeting on July 15, 2020. Speakers are requested to limit their comments to two (2) minutes or less to facilitate greater participation. Please note that the public comment period for speakers may end before the time indicated on the schedule that is posted on the CBP web page, *http://www.cbp.gov/trade/stakeholder-engagement/coac.*

Agenda

The COAC will hear from the current subcommittees on the topics listed below and then will review, deliberate, provide observations, and formulate recommendations on how to proceed:

1. The Rapid Response Subcommittee will provide updates and recommendations from the Broker Exam Modernization Working Group and the United States—Mexico—Canada Agreement (USMCA) Working Group. The subcommittee will also discuss the COAC COVID–19 Recommendations and White Paper and the Executive Order on Regulatory Relief to Support Economic Recovery as well as announce the creation of a new Rapid Response Working Group that will focus on automotive certification requirements under USMCA.

2. The Intelligent Enforcement Subcommittee will provide updates and recommendations from the working groups under its jurisdiction for COAC's consideration. The Intellectual Property Rights (IPR) Working Group continues to work on a background paper on the issue of a Bad Actors list. The concept is related to information sharing—using existing data more effectively to identify bad actors, such as counterfeiters, based on information from both the trade and the U.S. Government. Through the subcommittee, CBP is creating another IPR working group to address industry feedback regarding the Combating Counterfeit & Pirated Goods Presidential Memorandum with plans for recommendations on these issues. The AD/CVD Working Group continues to discuss complex issues with pipe spools and trade remedies and plans to present recommendations on these issues. The Bond Working Group has continued discussions with CBP on bond amounts and requirements for Foreign Trade Zones and Pipeline Operators and plans to present recommendations on these issues. The Forced Labor Working Group will report on progress of its assessment of the current e-Allegations submissions mechanism (portal) and process for reporting forced labor violations and deliver an industry collaboration white paper and related recommendations.

3. The Secure Trade Lanes Subcommittee will provide updates on the four working groups currently operating under the subcommittee. The Trusted Trader Working Group will provide details on activities focusing on the Customs Trade Partnership Against Terrorism (CTPAT) trade compliance implementation, developing a methodology for managing program benefits, PGA (Partner Government Agency) engagement, and new forced labor requirements. The subcommittee will provide an update of the In-Bond Working Group's analysis of trade-specific pain points within the current In-Bond processes by mode and will make recommendations to improve the efficiency and effectiveness of the In-Bond regulations. The Export Modernization Working Group will provide updates on its progress in updating the export data elements and recommendations on changes to remove redundancy and promote efficiency of data submission in support of U.S. exports. The Remote and Autonomous Cargo Processing Working Group will provide updates on the use of image technology for trains crossing land borders and leveraging partnerships through the donations acceptance programs. Additionally, this working group will provide an update on the concept of a driver identification card for a more streamlined and efficient border crossing for non-Free and Secure Trade Lane (FAST) drivers.

4. The Next Generation Facilitation Subcommittee will provide an update on the progress of the Unified Entry Working Group which is moving towards an operational framework by analyzing specific pain points within the entry process. The Emerging Technologies Working Group will cover its assessment of various technologies that could be adapted for CBP and trade issues.

Meeting materials will be available by July 13, 2020, at: *http://www.cbp.gov/trade/stakeholder-engagement/coac/coac-public-meetings.*

Dated: June 17, 2020.

Valarie M. Neuhart,

Acting Executive Director, Office of Trade Relations.

[FR Doc. 2020–13368 Filed 6–19–20; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2020–0002]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security (DHS).

ACTION: Notice; withdrawal.

SUMMARY: The Federal Emergency Management Agency (FEMA) is withdrawing its final notice concerning the flood hazard determinations for Plymouth County, Massachusetts (All Jurisdictions).

DATES: The final notice concerning the flood hazard determinations for Plymouth County, Massachusetts (All Jurisdictions) published on March 27, 2020 (85 FR 17345), is withdrawn as of June 22, 2020.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: On March 27, 2020, FEMA published a notice at 85 FR 17347, containing final flood hazard determinations for Plymouth County, Massachusetts (All Jurisdictions). Communities within the Cape Cod Watershed study experienced difficulties during the adoption and compliance period resulting in the inability to adopt the FIS and FIRM and thereby comply with the National Flood Insurance Program (NFIP) regulations. The final flood hazard determinations is hereby rescinded, and ordinances must revert to the previously adopted FIS Report and FIRM. FEMA is withdrawing the notice for the affected communities.

Authority: 42 U.S.C. 4104; 44 CFR 67.4.

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2020–13282 Filed 6–19–20; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R5–ES–2020–N082; FXES11130500000–201–FF05E00000]

Endangered Species; Receipt of Recovery Permit Application

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit application; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received an application for a permit to conduct activities intended to enhance the propagation or survival of two endangered species under the Endangered Species Act. We invite the public and local, State, Tribal, and Federal agencies to comment on this application. Before issuing the requested permit, we will take into consideration any information that we receive during the public comment period.

DATES: We must receive your written comments on or before July 22, 2020.

ADDRESSES: Use one of the following methods to request documents or submit comments. Requests and comments should specify the applicant name and application number (*e.g.,* TE123456):

- *Email: permitsR5ES@fws.gov.*
- *U.S. Mail:* Abby Gelb, Ecological Services, U.S. Fish and Wildlife Service, 300 Westgate Center Dr., Hadley, MA 01035.

FOR FURTHER INFORMATION CONTACT: Abby Gelb, 413–253–8212 (phone), or *permitsR5ES@fws.gov* (email). Individuals who are hearing or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service, invite the public to comment on an application for a permit under section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The requested permit would allow the applicant to conduct activities intended to promote recovery of species that are listed as endangered under the ESA.

Background

With some exceptions, the ESA prohibits activities that constitute take of listed species unless a Federal permit is issued that allows such activity. The ESA's definition of ''take'' includes such activities as pursuing, harassing, trapping, capturing, or collecting in addition to hunting, shooting, harming, wounding, or killing.

A recovery permit issued by us under section 10(a)(1)(A) of the ESA authorizes the permittee to conduct activities with endangered or threatened species for scientific purposes that promote recovery or for enhancement of propagation or survival of the species. Our regulations implementing section 10(a)(1)(A) for these permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Permit Application Available for Review and Comment

We invite local, State, and Federal agencies; Tribes; and the public to comment on the following application.

Application No.	Applicant	Species	Location	Activity	Type of take	Permit action
TE01086D–1	Virginia Department of Game and Inland Fisheries, Richmond, VA.	Oyster mussel (*Epioblasma capsaeformis*) and Cumberlandian combshell (*Epioblasma brevidens*).	Virginia	Add activity: Health assessment research of propagated mussels.	Lethal	Amend.

Public Availability of Comments

Written comments we receive become part of the administrative record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. Moreover, all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Next Steps

If we decide to issue a permits to the applicant listed in this notice, we will publish a notice in the **Federal Register**.

Authority

Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Pamela Toschik,

Acting ARD, Ecological Services, Northeast Region.

[FR Doc. 2020–13398 Filed 6–19–20; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCOF07000.L14920000.ER0000.20X]

Notice of Realty Action: Competitive Issuance of a Communications Use Lease in Hinsdale County, CO

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) is initiating a competitive bid process for granting a communications-use lease on public land in Hinsdale County, Colorado. The successful bidder will be granted a communications-use lease to construct a new communications facility at the Hill 71 communications site.

DATES: Bid proposals must be received no later than July 22, 2020.

ADDRESSES: Mail bid proposals to Field Manager, BLM Gunnison Field Office, 210 W Spencer Ave, Suite A, Gunnison, CO 81230.

FOR FURTHER INFORMATION CONTACT: Marnie Medina, Realty Specialist, Gunnison Field Office, by telephone (970) 642–4954 or by email at *mmedina@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact Ms. Medina during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The BLM Gunnison Field Office determined there is a competitive interest in providing an additional communications-use facility at the Hill 71 communication site in Hinsdale County, Colorado. The competitive bid process described in this Notice will be processed pursuant to Title V of the Federal Land Policy and Management Act of 1976 and BLM right-of-way regulations at 43 CFR part 2800.

Existing communication facilities at the Hill 71 communication site include Hinsdale County-owned buildings and a BLM-owned tower. The existing facilities are at capacity and unable to accommodate additional uses. A second facility (building, tower, back-up generator, etc.) would provide for unmet current and future demand at the site. The BLM received three applications and one expression of interest for developing a communications-use facility at the Hill 71 communication site. The BLM has not formally accepted any of the three applications, thereby making this site suitable for competitive leasing.

The BLM has determined that competition exists for constructing a second communications facility at Hill 71, in accordance with 43 CFR 2804.23. The Hill 71 site is located in an area with sensitive visual resources and the BLM has determined that only one additional facility is appropriate.

The Hill 71 communication site is located approximately 7 miles southeast of Lake City, Colorado, and legally described as:

New Mexico Principal Meridian, Colorado

T. 43 N., R. 4 W.,
sec. 35, lots 6 and 7.

Granting a communications-use lease at the Hill 71 communication site conforms with the BLM Gunnison Resource Area Approved Resource Management Plan, approved in February 1993.

In conformance with the National Environmental Policy Act, an environmental analysis will be conducted once a successful bidder has been identified.

Bid Process: A Prospectus for An Opportunity to Construct, Operate, and Maintain a Commercial Communications Facility at the Hill 71 Communications Site that describes the details of the opportunity, the bid proposal requirements, and instructions for submitting a bid proposal for consideration is available at: *https://go.usa.gov/xdUKK.* Bid proposals will be evaluated according to the Evaluation Criteria described in the Prospectus.

(Authority: 43 CFR 2800)

Jamie E. Connell,

Colorado State Director.

[FR Doc. 2020–13352 Filed 6–19–20; 8:45 am]

BILLING CODE 4310–JB–P

INTERNATIONAL BOUNDARY AND WATER COMMISSION; UNITED STATES AND MEXICO

United States Section: Notice of Availability of the Draft Environmental Assessment and Finding of No Significant Impact Arroyo Colorado at Harlingen Flood Flow Improvement Project, Cameron County Texas

AGENCY: United States Section, International Boundary and Water Commission, United States and Mexico (USIBWC).

ACTION: Notice.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Final Regulations, and the USIBWC Operational Procedures for Implementing Section 102 of NEPA, published in the **Federal Register** September 2, 1981, the USIBWC hereby gives notice that the *Draft Environmental Assessment and Finding of No Significant Impact Arroyo Colorado at Harlingen Flood Flow Improvement Project, Cameron County Texas* is available. An Environmental Impact Statement will not be prepared unless additional information which may affect this decision is brought to our attention within 30 days from the date of this Notice.

FOR FURTHER INFORMATION CONTACT: Kelly Blough, Environmental Protection Specialist, USIBWC, 4191 N Mesa, El Paso, Texas 79902. Telephone: (915) 832–4734, Fax: (915) 493–2428, email: *Kelly.Blough@ibwc.gov.*

Availability: The electronic version of the Draft EA is available on the USIBWC web page: *https://www.ibwc.gov/EMD/EIS_EA_Public_Comment.html.*

SUPPLEMENTARY INFORMATION: The USIBWC prepared the EA to evaluate the environmental effects of several options that would restore the full flood conveyance capabilities to a 6.3-mile reach of Arroyo Colorado between U.S. Highway 77 Business (US 77 Business) and Cemetery Road in Harlingen, Cameron County Texas. The Preferred Alternative would dredge sediment from the channel throughout the reach and expand existing vegetation management operations. Vegetation management currently occurs along a 3.7-mile reach of Arroyo Colorado between US 77 Business and Farm-to-Market Road 509 (FM 509). The Preferred Alternative would expand vegetation management operations to include the 2.6-mile reach from FM 509 to Cemetery Road. These actions are intended to restore Arroyo Colorado's

design flood conveyance capacity of 21,000 cubic feet per second.

The draft EA evaluates potential environmental impacts of the No Action Alternative and the Preferred Alternative. Two additional alternatives were considered and evaluated but were removed from consideration because they were either not effective or not feasible. Potential impacts on natural, cultural, and other resources were evaluated. A Finding of No Significant Impact has been prepared for the Preferred Alternative based on a review of the facts and analyses contained in the EA.

An open-house public scoping meeting was held for the proposed project on December 12, 2019, at the Harlingen Community Center located at 201 E. Madison Avenue, Harlingen, Texas 78552. Notifications of the meeting and instructions to access materials and provide comment electronically were sent by mail to approximately 200 recipients. Recipients included adjacent landowners, regional and local representatives of federal and state resource agencies, interested Native American tribes, and local elected officials. Additionally, notifications were posted in newspapers of local circulation and on City of Harlingen and USIBWC media outlets during the first week of December.

Thirty-five attendees signed in and 13 comments were received within the comment period. Approximately seven commenters stated that they were in general support of the Expanded Vegetation & Sediment Removal Alternative (*i.e.,* the Preferred Alternative). One commenter expressed support for a combination of the three actions that would include Off-Channel Storage, Expanded Vegetation Removal, and Expanded Vegetation & Sediment Removal. The remaining five comments proposed additional actions outside of the scope of this project that may be considered in the future.

Dated: June 10, 2020.

Jennifer Pena,

Chief Legal Counsel, International Boundary and Water Commission, United States Section.

[FR Doc. 2020–13330 Filed 6–19–20; 8:45 am]

BILLING CODE 7010–01–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–670]

Importer of Controlled Substances Application: Organic Standards Solutions International, LLC

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before July 22, 2020. Such persons may also file a written request for a hearing on the application on or before July 22, 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 December 31, 2019, Organic Standards Solutions International, LLC, 7290 Investment Drive, Unit B, North Charleston, South Carolina 29418–8305, applied to be registered as an importer of the following basic class(es) of controlled substances:

Controlled substance	Drug code	Schedule
Marihuana Extract	7350	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I

The company plans to import the above-listed controlled substances to produce analytical reference standards for distribution to its customers. Drug codes 7350 (Marihuana Extract) and 7360 (Marihuana) will be used for the manufacture of cannabidiol only. In reference to drug code 7370 (Tetrahydrocannabinols), the company plans to import the synthetic version of this controlled substance to produce analytical reference standards for distribution to its customers. No other activities for these drug codes are authorized for this registration.

William T. McDermott,

Assistant Administrator.

[FR Doc. 2020–13336 Filed 6–19–20; 8:45 am]

BILLING CODE 4410–09–P

OFFICE OF MANAGEMENT AND BUDGET

Senior Executive Service Performance Review Board Membership

AGENCY: Office of Management and Budget.

ACTION: Notice.

SUMMARY: The Office of Management and Budget (OMB) publishes the names of the members selected to serve on its Senior Executive Service (SES) Performance Review Board (PRB). This notice supersedes all previous notices of the PRB membership.

DATES: Applicable: June 15, 2020

FOR FURTHER INFORMATION CONTACT: Sarah Whittle Spooner, Assistant Director for Management and Operations, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, 202–395–7402.

SUPPLEMENTARY INFORMATION: Section 4314(c) of Title 5, United States Code, requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more PRBs. The PRB shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any response by the senior executive, and make recommendations to the final rating authority relative to the performance of the senior executive.

The persons named below have been selected to serve on OMB's PRB.

David C. Connolly, Chief, Transportation and General Services Administration Branch, General Government Programs
Alexander T. Hunt, Chief, Information Policy Branch, Office of Information and Regulatory Affairs
Adrienne E. Lucas, Deputy Associate Director for Natural Resources
Ashley Frazier, Deputy Chief of Staff
David J. Rowe, Deputy Assistant Director for Budget
Sarah Whittle Spooner, Assistant Director for Management and Operations

Sarah Whittle Spooner,

Assistant Director for Management and Operations.

[FR Doc. 2020–13381 Filed 6–19–20; 8:45 am]

BILLING CODE 3110–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–20–0015; NARA–2020–050]

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments

SUMMARY: The National Archives and Records Administration (NARA) publishes notice of certain Federal agency requests for records disposition authority (records schedules). We publish notice in the **Federal Register** and on *regulations.gov* for records schedules in which agencies propose to dispose of records they no longer need to conduct agency business. We invite public comments on such records schedules.

DATES: NARA must receive comments by August 6, 2020.

ADDRESSES: You may submit comments by either of the following methods. You must cite the control number, which appears on the records schedule in parentheses after the name of the agency that submitted the schedule.

- *Federal eRulemaking Portal: http://www.regulations.gov.*
- *Mail:* Records Appraisal and Agency Assistance (ACR); National Archives and Records Administration; 8601 Adelphi Road, College Park, MD 20740–6001.

FOR FURTHER INFORMATION CONTACT: Kimberly Keravuori, Regulatory and External Policy Program Manager, by email at *regulation_comments @ nara.gov.* For information about records schedules, contact Records Management Operations by email at *request.schedule@nara.gov,* by mail at the address above, or by phone at 301–837–1799.

SUPPLEMENTARY INFORMATION:

Public Comment Procedures

We are publishing notice of records schedules in which agencies propose to dispose of records they no longer need to conduct agency business. We invite public comments on these records schedules, as required by 44 U.S.C. 3303a(a), and list the schedules at the end of this notice by agency and subdivision requesting disposition authority.

In addition, this notice lists the organizational unit(s) accumulating the records or states that the schedule has agency-wide applicability. It also provides the control number assigned to each schedule, which you will need if you submit comments on that schedule.

We have uploaded the records schedules and accompanying appraisal memoranda to the *regulations.gov* docket for this notice as ''other'' documents. Each records schedule contains a full description of the records at the file unit level as well as their proposed disposition. The appraisal memorandum for the schedule includes information about the records.

We will post comments, including any personal information and attachments, to the public docket unchanged. Because comments are public, you are responsible for ensuring that you do not include any confidential or other information that you or a third party may not wish to be publicly posted. If you want to submit a comment with confidential information or cannot otherwise use the *regulations.gov* portal, you may contact *request.schedule@nara.gov* for instructions on submitting your comment.

We will consider all comments submitted by the posted deadline and consult as needed with the Federal agency seeking the disposition authority. After considering comments, we will post on *regulations.gov* a ''Consolidated Reply'' summarizing the comments, responding to them, and noting any changes we have made to the proposed records schedule. We will then send the schedule for final approval by the Archivist of the United States. You may elect at *regulations.gov* to receive updates on the docket, including an alert when we post the Consolidated Reply, whether or not you submit a comment. If you have a question, you can submit it as a comment, and can also submit any concerns or comments you would have to a possible response to the question. We will address these items in consolidated replies along with any other comments submitted on that schedule.

We will post schedules on our website in the Records Control Schedule (RCS) Repository, at *https://www.archives.gov/records-mgmt/rcs,* after the Archivist approves them. The RCS contains all schedules approved since 1973.

Background

Each year, Federal agencies create billions of records. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval. Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. The records schedules authorize agencies to preserve records of continuing value in the National Archives or to destroy, after a specified period, records lacking continuing administrative, legal, research, or other value. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

Agencies may not destroy Federal records without the approval of the Archivist of the United States. The Archivist grants this approval only after thorough consideration of the records' administrative use by the agency of origin, the rights of the Government and of private people directly affected by the Government's activities, and whether or not the records have historical or other value. Public review and comment on these records schedules is part of the Archivist's consideration process.

Schedules Pending

1. Department of the Air Force, Agency-wide, Manufacturing Methods Records (DAA–AFU–2019–0001).
2. Department of the Air Force, Agency-wide, Claims Records (DAA–AFU–2019–0023).
3. Department of Defense, Defense Contract Audit Agency, Contract Audit Case Records (DAA–0372–2020–0022).
4. Department of Defense, Defense Technical Information Center, Administration, Management, and Policy Records (DAA–0569–2018–0010).
5. Department of Energy, Western Area Power Administration, Power Sales and Marketing (DAA–0201–2020–0001).
6. Department of Homeland Security, U.S. Citizenship and Immigration Services, Indigent Notifications (DAA–0566–2020–0003).
7. Department of Labor, Office of Workers' Compensation Programs, Division of Longshore and Harbor Workers Compensation (DAA–0271–2017–0005).
8. Department of Labor, Office of Workers' Compensation Programs, Division of Energy Employees' Occupational Illness Compensation (DAA–0271–2017–0006).
9. Department of the Navy, Agency-wide, Logistics (DAA–NU–2019–0014).
10. Department of State, Office to Monitor and Combat Trafficking-in-Persons, Consolidated Schedule (DAA–0059–2019–0019).
11. Department of Transportation, Federal Highway Administration, Intelligent

Transportation Systems (ITS) CodeHub (DAA–0406–2020–0001).

Laurence Brewer,

Chief Records Officer for the U.S. Government.

[FR Doc. 2020–13335 Filed 6–19–20; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act: Notice of Agency Meeting

TIME AND DATE: 10:00 a.m., Thursday, June 25, 2020.

PLACE: Due to the COVID–19 Pandemic, the meeting will be open to the public via live webcast only. Visit the agency's homepage (*www.ncua.gov*) and access the provided webcast link.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

1. Board Briefing, Minority Depository Institution Annual Report.
2. Board Briefing, NCUA Guaranteed Notes Oversight Program.
3. Request for Information, Strategies for Future Examination and Supervision Utilizing Digital Technology.
4. NCUA Rules and Regulations, Technical Amendments.
5. NCUA Rules and Regulations, Risk-Based Net Worth.

CONTACT PERSON FOR MORE INFORMATION: Gerard Poliquin, Secretary of the Board, Telephone: 703–518–6304.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2020–13534 Filed 6–18–20; 4:15 pm]

BILLING CODE 7535–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Science Foundation.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the requirement of the Paperwork Reduction Act of 1995, the National Science Foundation (NSF) is providing opportunity for public comment on the NSF Business Systems Review Guide (BSR). This is the first clearance of Business Systems Review Guide. It aligns with the Uniform Guidance and the *NSF Major Facilities Guide* which is intended for use by NSF staff and by external proponents of major facility projects for use in planning. The draft version of the NSF BSR Guide is available on the NSF website at: *http://www.nsf.gov/bfa/lfo/lfo_documents.jsp.* To facilitate review, a Change Log with brief comment explanations of the changes is provided in the guide.

DATES: Written comments should be received by August 21, 2020 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Written comments regarding the information collection and requests for copies of the proposed information collection request should be addressed to Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Blvd., Rm. 1265, Arlington, VA 22230, or by email to *splimpto@nsf.gov.*

FOR FURTHER INFORMATION CONTACT: Suzanne Plimpton on (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: *Comments:* In addition to the type of comments identified above, comments are also 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. After obtaining and considering public comment, NSF will prepare the submission requesting OMB clearance of this collection for no longer than 3 years.

Title of Collection: Business Systems Review Guide.

OMB Approval Number: 3145–NEW.

Expiration Date of Approval: Not applicable.

Type of Request: Intent to seek approval to extend with revision an information collection for three years.

Proposed Project: The National Science Foundation Act of 1950 (Pub. L. 81–507) set forth NSF's mission and purpose:

''To promote the progress of science; to advance the national health, prosperity, and welfare; to secure the national defense. * * *''

The Act authorized and directed NSF to initiate and support:

☐ Basic scientific research and research fundamental to the engineering process;

☐ Programs to strengthen scientific and engineering research potential;

☐ Science and engineering education programs at all levels and in all the various fields of science and engineering;

☐ Programs that provide a source of information for policy formulation; and

☐ Other activities to promote these ends.

Among Federal agencies, NSF is a leader in providing the academic community with advanced instrumentation needed to conduct state-of-the-art research and to educate the next generation of scientists, engineers and technical workers. The knowledge generated by these tools sustains U.S. leadership in science and engineering (S&E) to drive the U.S. economy and secure the future. NSF's responsibility is to ensure that the research and education communities have access to these resources, and to provide the support needed to utilize them optimally, and implement timely upgrades.

The scale of advanced instrumentation ranges from small research instruments to shared resources or facilities that can be used by entire communities. The demand for such instrumentation is very high, and is growing rapidly, along with the pace of discovery. For major facilities and shared infrastructure, the need is particularly high. This trend is expected to accelerate in the future as increasing numbers of researchers and educators rely on such large facilities, instruments, and databases to provide the reach to make the next intellectual leaps.

NSF currently provides support for facility construction from two accounts: The Major Research Equipment and Facility Construction (MREFC) account, and the Research and Related Activities (R&RA) account. The MREFC account, established in FY 1995, is a separate budget line item that provides an agency-wide mechanism, permitting directorates to undertake large facility projects that exceed 10% of the Directorate's annual budget; or roughly $70M or greater. Smaller projects continue to be supported from the R&RA Account.

Facilities are defined as shared-use infrastructure, instrumentation and equipment that are accessible to a broad community of researchers and/or educators. Facilities may be centralized or may consist of distributed installations. They may incorporate large-scale networking or computational infrastructure, multi-user instruments or networks of such instruments, or other infrastructure, instrumentation and equipment having a major impact on a broad segment of a scientific or engineering discipline. Historically, awards have been made for such diverse projects as accelerators, telescopes, research vessels and aircraft, and geographically distributed but networked sensors and instrumentation.

The growth and diversification of large facility projects require that NSF remain attentive to the ever-changing issues and challenges inherent in their planning, construction, operation, management and oversight. Most importantly, dedicated, competent NSF and awardee staff are needed to manage and oversee these projects; giving the attention and oversight that good practice dictates and that proper accountability to taxpayers and Congress demands. To this end, there is also a need for consistent, documented requirements and procedures to be understood and used by NSF program managers and awardees for all such major projects.

Use of the Information: Facilities are an essential part of the science and engineering enterprise and supporting them is one major responsibility of the National Science Foundation (NSF). NSF makes awards to external entities—primarily universities, consortia of universities or non-profit organizations—to undertake construction, management and operation of facilities. Such awards frequently take the form of cooperative agreements. NSF does not directly construct or operate the facilities it supports. However, NSF retains responsibility for overseeing their development, management and successful performance. Business Systems Reviews (BSR) of the National Science Foundation's (NSF) Major Facilities are designed to provide reasonable assurance that the business systems (people, processes, and technologies) of NSF Recipients are effective in meeting administrative responsibilities and satisfying Federal regulatory requirements, including those listed in NSF's Proposal & Award Policies & Procedures Guide (PAPPG).

These reviews are not considered audits but are intended to be assistive in nature; aiding the Recipient in following good practices where appropriate and bringing them into compliance, if needed. A team of BSR Participants is assembled to assess the Recipient's policies, procedures, and practices to determine whether, taken collectively, these administrative business systems used in managing the Facility meet NSF award expectations and comply with Federal regulations.

The BSR Guide is designed for use by both our customer community and NSF staff for guidance in leading these reviews. The BSR Guide defines the overall framework and structure and summarizes the details outlined in the internal operating guidelines and procedures used by BSR Participants to execute the review process. Management principles and practices are specified for seven core functional areas (CFA) and are used by BSR Participants in performing these evaluations. Roles and responsibilities of the NSF stakeholders involved in the process are outlined in the BSR Guide as well as the expectations of the Recipient.

This version of the Business Systems Guide aligns with the Uniform Guidance and the *NSF Major Facilities Guide.*

This Guide will be updated periodically to reflect changes in requirements, policies and/or procedures. Award Recipients are expected to monitor and adopt the requirements and best practices included in the Guide.

The submission of Award Recipient and Project administrative business process and procedural documentation used in support of operations of the Major Facilities is part of the collection of information. This information is used to help NSF fulfill this responsibility in supporting merit-based research and education projects in all the scientific and engineering disciplines. The Foundation also has a continuing commitment to provide oversight on facilities design and construction which must be balanced against monitoring its information collection so as to identify and address any excessive review and reporting burdens.

NSF has approximately twenty-four (24) Major Facilities in various stages of design, construction, operations and divestment. The need for a BSR and review scope is based on NSF's internal annual Major Facility Portfolio Risk Assessment and the assessment of various risks factors.

Burden to the Public: The Foundation estimates that approximately one and half (1.5) Full Time Equivalents (FTEs) are necessary for each major facility project to respond to a BSR requirements on an annual basis; or 2,824 hours per year. With an average of four (4) conducted a year, this equates to roughly 5 FTEs or 11,296 public burden hours annually.

Dated: June 16, 2020.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2020–13318 Filed 6–19–20; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–27; NRC–2018–0282]

Pacific Gas & Electric Company; Humboldt Bay Independent Spent Fuel Storage Installation

AGENCY: Nuclear Regulatory Commission.

ACTION: License renewal; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has issued a renewed license to Pacific Gas and Electric Company (PG&E), (''licensee'') for Special Nuclear Materials (SNM) License No. SNM–2514 for the receipt, possession, transfer, and storage of spent fuel from the Humboldt Bay Nuclear Plant in the Humboldt Bay Independent Spent Fuel Storage Installation (ISFSI), located in Humboldt County, California. The renewed license authorizes operation of the Humboldt ISFSI in accordance with the provisions of the renewed license and its technical specifications. The renewed license expires on November 17, 2065.

DATES: The license referenced in this document is available on June 10, 2020.

ADDRESSES: Please refer to Docket ID NRC–2018–0282 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2018–0282. Address questions about NRC docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual(s) 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.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' section.

FOR FURTHER INFORMATION CONTACT: Christopher T. Markley, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6293, email: *Christopher.Markley@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Discussion

Based upon the application dated July 10, 2018, as supplemented October 22, 2018, July 1, 2019, July 25, 2019, and November 21, 2019, the NRC has issued a renewed license to the licensee for the Humboldt Bay ISFSI, located in Humboldt County, California. The renewed license SNM–2514 authorizes and requires operation of the Humboldt Bay ISFSI in accordance with the provisions of the renewed license and its technical specifications. The renewed license will expire on November 17, 2065.

The licensee's application for a renewed license complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the NRC's rules and regulations. The NRC has made appropriate findings as required by the Act and the NRC's regulations in Chapter 1 of title 10 of the *Code of Federal Regulations* (10 CFR), and sets forth those findings in the renewed license. The agency afforded an opportunity for a hearing in the Notice of Opportunity for a Hearing published in the **Federal Register** on December 26, 2018 (83 FR 66314). The NRC received no request for a hearing or petition for leave to intervene following the notice.

The NRC staff prepared a safety evaluation report for the renewal of the ISFSI license and concluded, based on that evaluation that the ISFSI will continue to meet the regulations in 10 CFR part 72. The NRC staff also prepared an environmental assessment and finding of no significant impact for the renewal of this license, which were published on May 5, 2020 (85 FR 26734). The NRC staff's environmental assessment included the impacts of continued storage of spent nuclear fuel (as documented in NUREG–2157, ''Generic Environmental Impact Statement for Continued Storage of Spent Fuel''). The NRC staff concluded that renewal of this ISFSI license will not have a significant impact on the quality of the human environment.

II. Availability of Documents

The following table includes the ADAMS accession numbers for the documents referenced in this notice. For additional information on accessing ADAMS, see the **ADDRESSES** section of this document.

Document	ADAMS Accession No.
Licensee's application, dated July 10, 2018	ML18215A202
Response to First Request for Supplemental Information, dated October 22, 2018	ML18330A050
Partial Response to Request for Additional Information, dated July 1, 2019	ML19197A026
Remaining Response to Request for Referenced Information, dated July 25, 2019	ML19221B564
Humboldt Bay Independent Spent Fuel Storage Installation, Revision to the Renewal Application (CAC/EPID No. 001028/L–2018–RNW–0016).	ML19337C633
Special Nuclear Materials License No. SNM–2514	ML20161A027
SNM–2514 Technical Specifications	ML20161A028
NRC Safety Evaluation Report	ML20161A029
NRC Environmental Assessment	ML19252A248
NUREG–2157, ''Generic Environmental Impact Statement for Continued Storage of Spent Fuel''	ML14196A105 ML14196A107

Dated: June 17, 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. 2020–13379 Filed 6–19–20; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2020–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of June 22, 29, July 6, 13, 20, 27, 2020.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public.

Week of June 22, 2020

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.

Week of July 27, 2020—Tentative

There are no meetings scheduled for the week of July 27, 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 18, 2020.

For the Nuclear Regulatory Commission.

Denise L. McGovern,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2020–13487 Filed 6–18–20; 4:15 pm]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2020–0142]

Report to Congress on Abnormal Occurrences: Fiscal Year 2019; Dissemination of Information

AGENCY: Nuclear Regulatory Commission.

ACTION: NUREG; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing NUREG–0090, Volume 42, ''Report to Congress on Abnormal Occurrences: Fiscal Year 2019.'' The report describes those events that the NRC or an Agreement State identified as abnormal occurrences (AOs) during fiscal year (FY) 2019, based on the criteria defined in the report. The report describes nine events at Agreement State-licensed facilities and no events at NRC-licensed facilities.

DATES: NUREG–0090, Volume 42, is available June 22, 2020.

ADDRESSES: Please refer to Docket ID NRC–2020–0142 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–2020–0142. Address questions about NRC docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may 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 (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

FOR FURTHER INFORMATION CONTACT: Minh-Thuy Nguyen, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–5163, email: *Minh-Thuy.Nguyen@nrc.gov.*

SUPPLEMENTARY INFORMATION: Section 208 of the Energy Reorganization Act of 1974, as amended (Pub. L. 93–438), defines an ''abnormal occurrence'' as an unscheduled incident or event that the NRC determines to be significant from the standpoint of public health or safety. The AO report, NUREG–0090, Volume 42, ''Report to Congress on Abnormal Occurrences: Fiscal Year 2019'' (ADAMS Accession No. ML20162A165), describes those events that the NRC identified as AOs during FY 2019, based on the criteria defined in Appendix A of the report.

This report describes nine events in Agreement States and no events involving NRC licensees that were identified as AOs during FY 2019. Seven AOs were medical events as defined in title 10 of the *Code of Federal Regulations* (10 CFR) part 35, ''Medical Use of Byproduct Material.'' One AO was a human exposure event and one AO involved the theft and recovery of Category 2 sources, as defined in 10 CFR part 37, ''Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material.'' The NRC did not identify any events at commercial nuclear power plants as AOs.

The NRC identified one event during FY 2019 that meets the guidelines for inclusion in Appendix B, ''Other Events of Interest.'' The event received significant media coverage due to extensive contamination of personnel and building structures due to the breaching of a sealed cesium-137 source. No events meet the guidelines for inclusion in Appendix C, ''Updates of Previously Reported Abnormal Occurrences.''

Agreement States are the 39 U.S. States that currently have entered into formal agreements with the NRC pursuant to Section 274 of the Atomic Energy Act of 1954, as amended (AEA), to regulate certain quantities of AEA-licensed material at facilities located within their borders.

The Federal Reports Elimination and Sunset Act of 1995 (Pub. L. 104–68) requires that AOs be reported to Congress annually. The full report, NUREG–0090, Volume 42, ''Report to Congress on Abnormal Occurrences: Fiscal Year 2019,'' is also available electronically at the NRC's website at *https://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/.*

Dated: June 17, 2020.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 2020–13347 Filed 6–19–20; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2020–178; CP2020–179; CP2020–180; CP2020–181; CP2020–182; MC2020–160 and CP2020–183; MC2020–161 and CP2020–184; MC2020–162 and CP2020–185; MC2020–163 and CP2020–186; MC2020–164 and CP2020–187; MC2020–165 and CP2020–188; MC2020–166 and CP2020–189; MC2020–167 and CP2020–190; MC2020–168 and CP2020–191; MC2020–169 and CP2020–192; MC2020–170 and CP2020–193; MC2020–171 and CP2020–194; MC2020–172 and CP2020–195; CP2020–196; MC2020–173 and CP2020–197; MC2020–174 and CP2020–198; MC2020–175 and CP2020–199; MC2020–176 and CP2020–200; MC2020–177 and CP2020–201; MC2020–178 and CP2020–202]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filings for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filings, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* June 23, 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. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* CP2020–178; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Reseller Expedited Package 2 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* June 15, 2020; *Filing Authority:* 39 CFR 3035.105; *Public Representative:* Jennaca D. Upperman; *Comments Due:* June 23, 2020.

2. *Docket No(s).:* CP2020–179; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Reseller Expedited Package 2 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* June 15, 2020; *Filing Authority:* 39 CFR 3035.105; *Public Representative:* Jennaca D. Upperman; *Comments Due:* June 23, 2020.

3. *Docket No(s).:* CP2020–180; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Reseller Expedited Package 2 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* June 15, 2020; *Filing Authority:* 39 CFR 3035.105; *Public Representative:* Jennaca D. Upperman; *Comments Due:* June 23, 2020.

4. *Docket No(s).:* CP2020–181; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Reseller Expedited Package 2 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* June 15, 2020; *Filing Authority:* 39 CFR 3035.105; *Public Representative:* Jennaca D. Upperman; *Comments Due:* June 23, 2020.

5. *Docket No(s).:* CP2020–182; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Reseller Expedited Package 2 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* June 15, 2020; *Filing Authority:* 39 CFR 3035.105; *Public Representative:* Curtis E. Kidd; *Comments Due:* June 23, 2020.

6. *Docket No(s).:* MC2020–160 and CP2020–183; *Filing Title:* USPS Request to Add International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service with Reseller Contract 1 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* June 15, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Katalin K. Clendenin; *Comments Due:* June 23, 2020.

7. *Docket No(s).:* MC2020–161 and CP2020–184; *Filing Title:* USPS Request to Add International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 2 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* June 15, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Katalin K. Clendenin; *Comments Due:* June 23, 2020.

8. *Docket No(s).:* MC2020–162 and CP2020–185; *Filing Title:* USPS Request to Add International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 3 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* June 15, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Katalin K. Clendenin; *Comments Due:* June 23, 2020.

9. *Docket No(s).:* MC2020–163 and CP2020–186; *Filing Title:* USPS Request to Add International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 4 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* June 15, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Katalin K. Clendenin; *Comments Due:* June 23, 2020.

10. *Docket No(s).:* MC2020–164 and CP2020–187; *Filing Title:* USPS Request to Add International Priority Airmail Contract 1 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* June 15, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* June 23, 2020.

11. *Docket No(s).:* MC2020–165 and CP2020–188; *Filing Title:* USPS Request to Add Priority Mail Express International, Priority Mail International, First-Class Package International Service & Commercial ePacket Contract 4 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* June 15, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Lawrence Fenster; *Comments Due:* June 23, 2020.

12. *Docket No(s).:* MC2020–166 and CP2020–189; *Filing Title:* USPS Request to Add International Priority Airmail,

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 5 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* June 15, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Katalin K. Clendenin; *Comments Due:* June 23, 2020.

13. *Docket No(s).:* MC2020–167 and CP2020–190; *Filing Title:* USPS Request to Add International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 6 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* June 15, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* June 23, 2020.

14. *Docket No(s).:* MC2020–168 and CP2020–191; *Filing Title:* USPS Request to Add International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 7 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* June 15, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* June 23, 2020.

15. *Docket No(s).:* MC2020–169 and CP2020–192; *Filing Title:* USPS Request to Add International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service with Reseller Contract 2 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* June 15, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* June 23, 2020.

16. *Docket No(s).:* MC2020–170 and CP2020–193; *Filing Title:* USPS Request to Add Priority Mail Express International, Priority Mail International, First-Class Package International Service & Commercial ePacket Contract 5 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* June 15, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Lawrence Fenster; *Comments Due:* June 23, 2020.

17. *Docket No(s).:* MC2020–171 and CP2020–194; *Filing Title:* USPS Request to Add International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 8 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* June 15, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* June 23, 2020.

18. *Docket No(s).:* MC2020–172 and CP2020–195; *Filing Title:* USPS Request to Add International Priority Airmail, International Surface Air Lift, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service with Reseller Contract 1 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* June 15, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* June 23, 2020.

19. *Docket No(s).:* CP2020–196; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Reseller Expedited Package 2 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* June 15, 2020; *Filing Authority:* 39 CFR 3035.105; *Public Representative:* Curtis E. Kidd; *Comments Due:* June 23, 2020.

20. *Docket No(s).:* MC2020–173 and CP2020–197; *Filing Title:* USPS Request to Add Priority Mail Express International, Priority Mail International, First-Class Package International Service & Commercial ePacket Contract 6 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* June 15, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Lawrence Fenster; *Comments Due:* June 23, 2020.

21. *Docket No(s).:* MC2020–174 and CP2020–198; *Filing Title:* USPS Request to Add International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service with Reseller Contract 5 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* June 15, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Gregory S. Stanton; *Comments Due:* June 23, 2020.

22. *Docket No(s).:* MC2020–175 and CP2020–199; *Filing Title:* USPS Request to Add International Priority Airmail, International Surface Air Lift, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service with Reseller Contract 2 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* June 15, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* June 23, 2020.

23. *Docket No(s).:* MC2020–176 and CP2020–200; *Filing Title:* USPS Request to Add International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service with Reseller Contract 3 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* June 15, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Gregory S. Stanton; *Comments Due:* June 23, 2020.

24. *Docket No(s).:* MC2020–177 and CP2020–201; *Filing Title:* USPS Request to Add International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service with Reseller Contract 4 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* June 15, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Gregory S. Stanton; *Comments Due:* June 23, 2020.

25. *Docket No(s).:* MC2020–178 and CP2020–202; *Filing Title:* USPS Request to Add International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 9 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* June 15, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Gregory S. Stanton; *Comments Due:* June 23, 2020.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2020–13294 Filed 6–19–20; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Product Change—Priority Mail—Non-Published Rates

AGENCY: Postal Service™.

ACTION: Notice of filing a new Priority Mail—Non-Published Rates product.

SUMMARY: Postal Service notice of filing a request with the Postal Regulatory Commission to establish a new Priority Mail—Non-Published Rates product, named PMNPR–2.

DATES: *Date of required notice:* June 22, 2020.

FOR FURTHER INFORMATION CONTACT: Elizabeth Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service hereby gives notice that on June 11, 2020, it filed with the Postal Regulatory Commission a *USPS Request to Establish New Priority Mail—Non-Published Rates Product (PMNPR–2) and Notice of Filing Materials Under Seal.* Documents are available at *www.prc.gov,* Docket Nos. MC2020–156 and CP2020–170.

Elizabeth Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2020–13359 Filed 6–19–20; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Market Test of Experimental Product: "Extended Mail Forwarding"

AGENCY: Postal Service™.

ACTION: Notice of market test.

SUMMARY: The Postal Service gives notice of a market test of an experimental product in accordance with statutory requirements.

DATES: June 22, 2020.

FOR FURTHER INFORMATION CONTACT: Kara C. Marcello, 202–268–4031.

SUPPLEMENTARY INFORMATION: The United States Postal Service hereby gives notice pursuant to 39 U.S.C. 3641(c)(1) that it plans to begin a market test of its ''Extended Mail Forwarding'' experimental product on August 1, 2020. On June 8, 2020, the Postal Service filed with the Postal Regulatory Commission a notice setting out the basis for the Postal Service's determination that the market test is covered by 39 U.S.C. 3641, and describing the nature and scope of the market test. Documents are available at *www.prc.gov,* Docket No. MT2020–2.

Joshua J. Hofer,

Attorney, Federal Compliance.

[FR Doc. 2020–13356 Filed 6–19–20; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89075; File No. SR–CBOE–2020–054]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 5.4 To Conform the Rule to Section 3.1 of the Plan for the Purpose of Developing and Implementing Procedures Designed To Facilitate the Listing and Trading of Standardized Options and Add New Rule 5.4(d)

June 16, 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 June 11, 2020, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II, 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 Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to amend Rule 5.4 to conform the rule to Section 3.1 of the Plan for the Purpose of Developing and Implementing Procedures Designed to Facilitate the Listing and Trading of Standardized Options (the ''OLPP'') and add new Rule 5.4(d). The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this rule change is to amend Rule 5.4 (Minimum Increments for Bids and Offers) to align the rule with the recently approved amendment to the OLPP.

Background

On January 23, 2007, the Commission approved on a limited basis a Penny Pilot in option classes in certain issues (''Penny Pilot''). The Penny Pilot was designed to determine whether investors would benefit from options being quoted in penny increments, and in which classes the benefits were most significant. The Penny Pilot was expanded and extended numerous times over the last 13 years.[5] In each instance,

[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).

[5] *See* Securities Exchange Act Release Nos. Securities Exchange Act Release Nos. 55154 (January 23, 2007), 72 FR 4743 (February 1, 2007) (SR–CBOE–2006–92); 56565 (September 27, 2007), 72 FR 56403 (October 3, 2007) (SR–CBOE–2007–98); 60864 (October 22, 2009), 74 FR 55876 (October 29, 2009) (SR–CBOE–2009–076); 63386 (November 29, 2010), 75 FR 75713 (December 6, 2010) (SR–CBOE–2010–102); 65967 (December 15, 2011), 76 FR 79243 (December 21, 2011) (SR–CBOE–2011–118); 67322 (June 29, 2012), 77 FR 40120 (July 6, 2012) (SR–CBOE–2012–059); 68550 (December 31, 2012), 78 FR 971 (January 7, 2013) (SR–CBOE–2012–127); 69775 (June 17, 2013), 78 FR 37642 (June 21, 2013) (SR–CBOE–2013–061); 71103 (December 17, 2013), 78 FR 77526 (December 23, 2013) (SR–CBOE–2013–124); 72277 (May 29, 2014), 79 FR 32347 (June 4, 2014) (SR–CBOE–2014–047); 73624 (November 18, 2014), 79 FR 69903 (November 24, 2014) (SR–CBOE–2014–086); 75287 (June 24, 2015), 80 FR 37337 (June 30, 2015) (SR–CBOE–2015–060); 78013 (June 8, 2016), 81 FR

Continued

these approvals relied upon the consideration of data periodically provided by the Exchanges that analyzed how quoting options in penny increments affects spreads, liquidity, quote traffic, and volume. Today, the Penny Pilot includes 363 option classes, which are among the most actively traded, multiply listed option classes. The Penny Pilot is scheduled to expire by its own terms on June 30, 2020.[6]

In light of the imminent expiration of the Penny Pilot on June 30, 2020, the Exchange, together with other participating exchanges, filed, on July 18, 2019 a proposal to amend the OLPP.[7] On April 1, 2020 the Commission approved the amendment to the OLPP to make permanent the Pilot Program (the ''OLPP Program'').[8]

The OLPP Program replaces the Penny Pilot by instituting a permanent program that would permit quoting in penny increments for certain option classes. Under the terms of the OLPP Program, designated option classes would continue to be quoted in $0.01 and $0.05 increments according to the same parameters for the Penny Pilot. In addition, the OLPP Program would: (i) Establish an annual review process to add option classes to, or to remove option classes from, the OLPP Program; (ii) to allow an option class to be added to the OLPP Program if it is a newly listed option class and it meets certain criteria; (iii) to allow an option class to be added to the OLPP Program if it is an option class that has seen a significant growth in activity; (iv) to provide that if a corporate action involves one or more option classes in the OLPP Program, all adjusted and unadjusted series and classes emerging as a result of the corporate action will be included in the OLPP Program; and (v) to provide that any series in an option class participating in the OLPP Program that have been delisted, or are identified by OCC as ineligible for opening Customer transactions, will continue to trade pursuant to the OLPP Program until they expire.

To conform its Rules to the OLPP Program, the Exchange proposes to delete Interpretation and Policy .03 to Rule 5.4 (the ''Penny Pilot Rule'') and replace it with new Rule 5.4(d) (Requirements for Penny Interval Program), which is described below, and to replace references to ''Penny Pilot'' in the Exchange rules with ''Penny Interval Program.'' The Exchange also proposes to delete the superfluous operational language in Interpretation and Policy .02 to Rule 5.4 regarding the a change to the minimum increment as a stated policy, practice, or interpretation within the meaning of the Act and the process for modifying trading differential by rule filing because such meaning and requirement remains the case today, as the Exchange must submit proposed rule changes—including for Rule 5.4—to the Commission.[9] The Exchange notes, too, that this proposal is based on and substantially identical to a rule filing recently submitted by NYSE Arca, Inc.[10]

Penny Interval Program

The Exchange proposes to codify the OLPP Program in new paragraph (d) to Rule 5.4 (Requirements for Penny Interval Program) (the ''Penny Program''), which will replace the Penny Pilot Rule and permanently permit the Exchange to quote certain option classes in minimum increments of one cents ($0.01) and five cents ($0.05) (''penny increments''). The penny increments that currently apply under the Penny Pilot will continue to apply for option classes included in the Penny Program. Specifically, (i) the minimum quoting increment for all series in the QQQ, SPY, and IWM would continue to be $0.01, regardless of price;[11] (ii) all series of an option class included in the Penny Program with a price of less than $3.00 would be quoted in $0.01 increments; and (iii) all series of an option class included in the Penny Program with a price of $3.00 or higher would be quoted in $0.05 increments.

The Penny Program would initially apply to the 363 most actively traded multiply listed option classes, based on National Cleared Volume at The Options Clearing Corporation (''OCC'') in the six full calendar months ending in the month of approval (*i.e.,* November 2019–April 2020) that currently quote in penny increments, or overlie securities priced below $200, or any index at an index level below $200. Eligibility for inclusion in the Penny Program will be determined at the close of trading on the monthly Expiration Friday of the second full month following April 1, 2020 (*i.e.,* June 19, 2020).

Once in the Penny Program, an option class will remain included until it is no longer among the 425 most actively traded option classes at the time the annual review is conducted (described below), at which point it will be removed from the Penny Program. As described in more detail below, the removed class will be replaced by the next most actively traded multiply listed option class overlying securities priced below $200 per share, or any index at an index level below $200, and not yet in the Penny Program. Advanced notice regarding the option classes included, added, or removed from the Penny Program will be provided to the Exchange's Trading Permit Holders (''TPHs'') pursuant to Rule 1.5[12] and published by the Exchange on its website.

Annual Review

The Penny Program would include an annual review process that applies objective criteria to determine option classes to be added to, or removed from, the Penny Program. Specifically, on an annual basis beginning in December 2020 and occurring ever December thereafter, the Exchange will review and rank all multiply listed option classes based on National Cleared Volume at OCC for the six full calendar months from June 1st through November 30th for determination of the most actively traded option classes. Any option classes not yet in the Penny Program may be added to the Penny Program if the class is among the 300 most actively traded multiply listed option classes and priced below $200 per share or any index at an index level below $200.

38758 (June 14, 2016) (SR–CBOE–2016–048); 79442 (December 1, 2016), 81 FR 88293 (December 7, 2016) (SR–CBOE–2016–083); 82375 (December 21, 2017), 82 FR 61615 (December 28, 2017) (SR–CBOE–2017–078); 83567 (June 28, 2018), FR 83 31592 (July 6, 2018) (SR–CBOE–2018–047); 84940 (December 21, 2018), 83 FR 67759 (December 31, 2018) (SR–CBOE–2018–076); 86148 (June 19, 2019), 84 FR 29906 (June 25, 2019) (SR–CBOE–2019–028); and 87739 (December 13, 2019), 84 FR 69801 (December 19, 2019) (SR–CBOE–2019–119).

[6] *See* Securities Exchange Act Release No. 87739 (December 13, 2019), 84 FR 69801 (December 19, 2019) (SR–CBOE–2019–119).

[7] *See* Securities Exchange Act Release No. 87681 (December 9, 2019), 84 FR 68960 (December 17, 2019) (''Notice'').

[8] *See* Securities Exchange Act Release No. 88532 (April 1, 2020), 85 FR 19545 (April 7, 2020) (File No. 4–443) (''Approval Order'').

[9] *See* current Interpretation and Policy .02 to Rule 5.4, which provides that ''[w]hen the Exchange determines to change the minimum increment for a class, the Exchange will designate such change as a stated policy, practice, or interpretation with respect to the administration of this Rule 5.4 within the meaning of subparagraph (3)(A) of subsection 19(b) of the Act and will file a rule change for effectiveness upon filing with the Commission.''

[10] *See* Securities Exchange Act Release No. 88943 (May 26, 2020), 85 FR 33255 (June 1, 2020) (SR–NYSEArca–2020–50).

[11] As well as Mini-SPX Index Options (XSP) (as long as SPDR options (SPY) participate in the Penny Interval Program). *See* Rule 5.4(a).

[12] Rule 1.5 provides that the Exchange announces to Trading Permit Holders all determinations it makes pursuant to the Rules via: (1) Specifications, Notices, or Regulatory Circulars with appropriate advanced notice, which are posted on the Exchange's website, or as otherwise provided in the Rules; (2) electronic message; or (3) other communication method as provided in the Rules.

Following the annual review, option classes to be added to the Penny Program would begin quoting in penny increments (*i.e.,* $0.01 if trading at less than $3; and $0.05 if trading at $3 and above) on the first trading day of January.[13] In addition, following the annual review, any option class in the Penny Program that falls outside of the 425 most actively traded option classes would be removed from the Penny Program. After the annual review, option classes that are removed from the Penny Program will be subject to the minimum trading increments set forth in Rule 5.4, effective on the first trading day of April.

Changes to the Composition of the Penny Program Outside of the Annual Review

Newly Listed Option Classes and Option Classes With Significant Growth in Activity

The Penny Program would specify a process and parameters for including option classes in the Program outside the annual review process in two circumstances. These provisions are designed to provide objective criteria to add to the Penny Program new option classes in issues with the most demonstrated trading interest from market participants and investors on an expedited basis prior to the annual review, with the benefit that market participants and investors will then be able to trade these new option classes based upon quotes expressed in finer trading increments.

First, the Penny Program provides for certain newly listed option classes to be added to the Penny Program outside of the annual review process, provided that (i) the class is among the 300 most actively traded, multiply listed option classes, as ranked by National Cleared Volume at OCC, in its first full calendar month of trading; and (ii) the underlying security is priced below $200 or the underlying index is at an index level below $200. Such newly listed option classes added to the Penny Program pursuant to this process would remain in the Penny Program for one full calendar year and then would be subject to the annual review process.

Second, the Penny Program would allow an option class to be added to the Penny Program outside of the annual review process if it is an option class that meets certain specific criteria. Specifically, new option classes may be added to the Penny Program if: (i) The option class is among the 75 most actively traded multiply listed option classes, as ranked by National Cleared Volume at OCC, in the prior six full calendar months of trading and (ii) the underlying security is priced below $200 or the underlying index is at an index level below $200. Any option class added under this provision will be added on the first trading day of the second full month after it qualifies and will remain in the Penny Program for the rest of the calendar year, after which it will be subject to the annual review process.

Corporate Actions

The Penny Program would also specify a process to address option classes in the Penny Program that undergo a corporate action and is designed to ensure continuous liquidity in the affected option classes. Specifically, if a corporate action involves one or more option classes in the Penny Program, all adjusted and unadjusted series of an option class would continue to be included in the Penny Program.[14] Furthermore, neither the trading volume threshold, nor the initial price test would apply to option classes added to the Penny Program as a result of the corporate action. Finally, the newly added adjusted and unadjusted series of the option class would remain in the Penny Program for one full calendar year and then would become subject to the annual review process.

Delisted or Ineligible Option Classes

Finally, the Penny Program would provide a mechanism to address option classes that have been delisted or those that are no longer eligible for listing. Specifically, any series in an option class participating in the Penny Program in which the underlying has been delisted, or is identified by OCC as ineligible for opening customer transactions, would continue to quote pursuant to the terms of the Penny Program until all options series have expired.

Technical Changes

The Exchange proposes to replace reference to the Penny Pilot with reference to the Penny Interval Program in Rule 5.4(a) and Interpretation and Policy .18 to Rule 4.5. The Exchange believes these technical changes would add clarity, transparency and internal consistency to Exchange rules making them easier to navigate.

Implementation

The Exchange proposes to implement the Penny Program on July 1, 2020, which is the first trading day of the third month following the Approval Order issued on April 1, 2020—*i.e.,* July 1, 2020.

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.[15] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[16] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[17] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposed rule change, which conforms the Exchange rules to the recently adopted OLPP Program, allows the Exchange to provide market participants with a permanent Penny Program for quoting options in penny increments, which maximizes the benefit of quoting in a finer quoting increment to investors while minimizing the burden that a finer quoting increment places on quote traffic.

Accordingly, the Exchange believes that the proposal is consistent with the Act because, in conforming the Exchange rules to the OLPP Program, the Penny Program would employ processes, based upon objective criteria, that would rebalance the composition of the Penny Program, thereby helping to ensure that the most actively traded option classes are included in the Penny Program, which helps facilitate the

[13] *See supra* note 11. (providing that the minimum quoting increment for all series in the QQQ, SPY, and IWM would continue to be $0.01, regardless of price).

[14] For example, if Company A acquires Company B and Company A is not in the Penny Program but Company B is in the Penny Program, once the merger is consummated and an options contract adjustment is effective, then Company A would be added to the Penny Program and remain in the Penny Program for one calendar year.

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(5).

[17] *Id.*

maintenance of a fair and orderly market.

Technical Changes

The Exchange notes that the proposed change to Rule 5.4(a) and Interpretation and Policy .18 to Rule 4.5 to replace references to the Penny Pilot with references to the Penny Interval Program would provide clarity and transparency to the Exchange rules and would promote just and equitable principles of trade and remove impediments to, and perfect the mechanism of, a free and open market and a national market system. The proposed rule changes would also provide internal consistency within Exchange rules and operate to protect investors and the investing public by making the Exchange rules easier to navigate and comprehend.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed Penny Program, which modifies the exchange's rules to align them with the Commission approved OLPP Program, is not designed to be a competitive filing nor does it impose an undue burden on intermarket competition as the Exchange anticipates that the options exchanges will adopt substantially identical rules. Moreover, the Exchange believes that by conforming Exchange rules to the OLPP Program, the Exchange would promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. To the extent that there is a competitive burden on those option classes that do not qualify for the Penny Program, the Exchange believes that it is appropriate because the proposal should benefit all market participants and investors by maximizing the benefit of a finer quoting increment in those option classes with the most trading interest while minimizing the burden of greater quote traffic in option classes with less trading interest. The Exchange believes that adopting rules, which have been adopted by another options exchange [18] and, as the Exchange anticipates, will likewise be adopted by all option exchanges that are participants in the OLPP, would allow for continued competition between Exchange market participants trading similar products as their counterparts on other exchanges, while at the same time allowing the Exchange to continue to compete for order flow with other exchanges.

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 after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act [19] and Rule 19b–4(f)(6) [20] thereunder. The Exchange has proposed to implement the Penny Program on July 1, 2020 and has asked the Commission to waive the 30-day operative delay for this filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to modify its rules to conform to the OLPP Program and implement the Penny Program on July 1, 2020, consistent with the Commission's approval of the OLPP Amendment. Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[21]

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–CBOE–2020–54 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2020–54. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2020–54 and should be submitted on or before July 13, 2020.

[18] *See supra* note 10.

[19] 15 U.S.C. 78s(b)(3)(A).

[20] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[21] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–13311 Filed 6–19–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89072; File No. SR–ICC–2020–008]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice Relating to the ICC Exercise Procedures and ICC Clearing Rules

June 16, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,[1] and Rule 19b–4,[2] notice is hereby given that on June 3, 2020, ICE Clear Credit LLC (''ICC'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change, security-based swap submission, or advance notice as described in Items I, II and III below, which Items have been prepared by ICC. The Commission is publishing this notice to solicit comments on the proposed rule change, security-based swap submission, or advance notice from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change, Security-Based Swap Submission, or Advance Notice

The principal purpose of the proposed rule change is to formalize the ICC Exercise Procedures in connection with the clearing of credit default index swaptions. ICC also proposes a related update to the ICC Clearing Rules (the ''Rules'').[3]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change, Security-Based Swap Submission, or Advance Notice

In its filing with the Commission, ICC included statements concerning the purpose of and basis for the proposed rule change, security-based swap submission, or advance notice and discussed any comments it received on the proposed rule change, security-based swap submission, or advance notice. The text of these statements may be examined at the places specified in Item IV below. ICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change, Security-Based Swap Submission, or Advance Notice

(a) Purpose

ICC proposes to formalize the Exercise Procedures and to make a related change to the Rules in connection with its proposed launch of the clearing of credit default index swaptions (''Index Swaptions''). ICC has previously filed with the Commission changes to certain other policies and procedures related to the clearing of Index Swaptions on June 28, 2019[4] and January 14, 2020[5] (the ''Swaption Rule Filings''). As set out in the Swaption Rule Filings, ICC intends to adopt certain related policies and procedures in preparation for the launch of clearing of Index Swaptions, including those set out in this filing, and does not intend to commence clearing of Index Swaptions until all such policies and procedures have been approved by the Commission or otherwise become effective. As such, ICC proposes to formalize the Exercise Procedures and make the related changes to the Rules effective following the approval of all such policies and procedures and the completion of the ICC governance process surrounding the Index Swaptions product expansion.

As discussed in the Swaption Rule Filings, pursuant to an Index Swaption, one party (the ''Swaption Buyer'') has the right (but not the obligation) to cause the other party (the ''Swaption Seller'') to enter into an index credit default swap transaction at a pre-determined strike price on a specified expiration date on specified terms. In the case of Index Swaptions that would be cleared by ICC, the underlying index credit default swap would be limited to certain CDX and iTraxx Europe index credit default swaps that are accepted for clearing by ICC, and which would be automatically cleared by ICC upon exercise of the Index Swaption by the Swaption Buyer in accordance with its terms.

I. Exercise Procedures

The Exercise Procedures are intended to supplement the provisions of Subchapter 26R of the Rules[6] with respect to Index Swaptions and provide further detail as to the manner in which Index Swaptions may be exercised by Swaption Buyers, the manner in which ICC will assign such exercises to Swaption Sellers, and certain actions that ICC may take in the event of technical issues.

In paragraph 1 of the Exercise Procedures, ICC proposes to set out key definitions used for the exercise of Index Swaptions. Key defined terms would include the Exercise Period, which would be the period on the expiration date of an Index Swaption during which the Swaption Buyer may deliver an exercise notice to ICC to exercise all or part of such Index Swaption. The document would define the circumstances that constitute the failure of the Exercise System (''Exercise System Failure'') which is the electronic system established by ICC for exercise. The Exercising Party would mean (i) with respect to an Index Swaption carried in the house account of a Participant as Swaption Buyer, such Participant, and (ii) with respect to an Index Swaption carried in the client origin account of a Participant for a Non-Participant Party as Swaption Buyer, such Non-Participant Party.

ICC proposes to describe the exercise and assignment process in paragraph 2 of the Exercise Procedures. In paragraph 2.1, ICC states that exercise notices would be delivered in accordance with the ICC Rules and the Exercise Procedures and specifically references Subchapter 26R of the Rules related to Index Swaptions.

Paragraph 2.2 of the proposed Exercise Procedures would address the procedures for exercise and assignment of Index Swaptions. The document sets forth ICC's process of netting all open positions in such expiring Index Swaption, which takes place on the business day prior to the expiration date of an Index Swaption and applies to house and client origin accounts. To exercise an Index Swaption, the Exercising Party would deliver an exercise notice to ICC during the Exercise Period specifying the notional amount being exercised (''Exercised Notional Amount''). ICC may also establish a Pre-Exercise Notification Period during which an Exercising Party may submit, modify, and/or withdraw preliminary exercise notices. The submission of an exercise notice during the Exercise Period will be irrevocable

[22] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Capitalized terms used but not defined herein have the meanings specified in the Rules.

[4] SEC Release No. 34–87297; File No. SR–ICC–2019–007 (Oct. 15, 2019) (approval), 84 FR 56270 (Oct. 21, 2019).

[5] SEC Release No. 34–88047; File No. SR–ICC–2020–002 (Jan. 27, 2020) (notice), 85 FR 5756 (Jan. 31, 2020).

[6] Subchapter 26R of the Rules was proposed in the Swaption Rule Filings. SEC Release No. 34–87297; File No. SR–ICC–2019–007 (Oct. 15, 2019) (approval), 84 FR 56270 (Oct. 21, 2019).

and binding on the Exercising Party and, once validated by ICC, will be accepted by ICC and binding on ICC and the Exercising Party (and, in the case of a Non-Participant Party, its Participant). If ICC rejects an exercise notice as not valid, as described in the Exercise Procedures, it will inform the submitting party, who may resubmit a corrected notice within the Exercise Period. For informational purposes only, within the Exercise Period, ICC may estimate and provide the notional amount that it will assign to each open position in an Index Swaption of a Swaption Seller. Moreover, if an Exercising Party did not submit an exercise notice but submitted a preliminary exercise notice in respect of such Index Swaption that was not withdrawn, the Exercising Party will be deemed to have submitted an exercise notice with the Exercised Notional Amount specified under such preliminary notice. After the Exercise Period ends, ICC will determine final assignments to open positions in Index Swaptions of Swaption Sellers and notify Participants as described in the Exercise Procedures.

The proposed Exercise Procedures would address limitations and clarifications regarding the exercise process. Paragraph 2.3 sets out certain limitations, including limitations that ICC may impose during the Exercise Period and limitations as to the responsibility for any failure to exercise an Index Swaption. Paragraph 2.4 further clarifies the party that is entitled to exercise. A Participant is not entitled to provide a preliminary exercise notice or exercise notice on behalf of Non-Participant Parties for which it carries Index Swaptions. A Non-Participant Party will only be permitted to exercise an Index Swaption in a portfolio belonging to the Non-Participant Party. Additionally, under paragraph 2.4, a Participant may make certain elections as a result of a default or termination event with respect to a Non-Participant Party for which it carries an Index Swaption, and is required to obtain the agreement of each Non-Participant Party for which it carries an open position in Index Swaptions to the provisions of the Rules and Exercise Procedures applicable to Index Swaptions.

The proposed Exercise Procedures would describe the Exercise System and provide the steps that ICC would follow in case of technical issues. Paragraph 2.5 explains the Electronic Notice Process which is the process for the electronic delivery and assignment of exercise notices or preliminary exercise notices through the Exercise System. Exercise notices would only be submitted through the Exercise System pursuant to the Electronic Notice Process, unless otherwise determined by ICC pursuant to paragraph 2.6. Namely, in the event of an Exercise System Failure affecting an Exercise Period, paragraph 2.6 provides ICC with the following options: (i) Cancel and reschedule the Exercise Period, (ii) determine that automatic exercise will apply; and/or (iii) take such other action as ICC determines appropriate to permit Exercising Parties to submit exercise notices and to permit ICC to assign such notices. Paragraph 2.7 would address the situation where an Exercising Party is affected by a significant communications or information technology failure making it impossible or impractical to deliver all, or substantially all, of its exercise notices in accordance with the Electronic Notice Process during the Exercise Period (''Party Communication Failure''). Paragraph 2.8 would address the situation where Index Swaptions will be automatically exercised on the expiration date due to an Exercise System Failure.

II. Rule Amendments

ICC proposes to amend ICC Rule 304 related to offsets to incorporate a reference to the Exercise Procedures. Specifically, ICC proposes a change to ICC Rule 304(a) to clarify that netting of applicable offsetting positions in Index Swaptions would be subject to any provisions in the Exercise Procedures.

(b) Statutory Basis

ICC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act [7] and the regulations thereunder applicable to it, including the applicable standards under Rule 17Ad–22.[8] In particular, Section 17A(b)(3)(F) of the Act [9] requires that the rule change be consistent with the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts and transactions cleared by ICC, the safeguarding of securities and funds in the custody or control of ICC or for which it is responsible, and the protection of investors and the public interest. The proposed rule change would formalize the Exercise Procedures, which describe the exercise and assignment process and are intended to supplement the provisions of Subchapter 26R of the Rules, to support the clearing of Index Swaptions. ICC sets out procedures in the document that are designed to protect users in the event of technical issues or technology failures, including circumstances where there is an Exercise System Failure and Party Communication Failure. The procedures allow firms to submit preliminary exercise notices such that the preliminary instructions can be used as the final exercise instructions in the event of a communications failure during the exercise window. The proposed rule change also proposes a related update to Rule 304(a) to clarify that netting of applicable offsetting positions in Index Swaptions would be subject to any provisions in the Exercise Procedures. Accordingly, in ICC's view, the proposed rule change will further ensure that ICC's Rules and policies and procedures clearly reflect the terms and conditions applicable to Index Swaptions and is thus consistent with the prompt and accurate clearing and settlement of the contracts cleared by ICC, including Index Swaptions, the safeguarding of securities and funds in the custody or control of ICC or for which it is responsible, and the protection of investors and the public interest, within the meaning of Section 17A(b)(3)(F) of the Act.[10]

The amendments would also satisfy relevant requirements of Rule 17Ad–22.[11] Rule 17Ad–22(e)(1) [12] requires each covered clearing agency [13] to establish, implement, maintain, and enforce written policies and procedures reasonably designed to provide for a well-founded, clear, transparent, and enforceable legal basis for each aspect of its activities in all relevant jurisdictions. The Exercise Procedures are intended to supplement the provisions of Subchapter 26R of the Rules with respect to Index Swaptions and would further ensure that ICC's Rules clearly reflect the terms and conditions applicable to Index Swaptions. The proposed rule change would support the legal basis for the operation of the exercise and assignment process, including by defining key terms; describing the validation and rejection of exercise notices, including the party that is entitled to submit such notices; and addressing situations where there are technical issues. As such, the proposed rule change would satisfy the requirements of the Rule 17Ad–22(e)(1).[14]

[7] 15 U.S.C. 78q–1.

[8] 17 CFR 240.17Ad–22.

[9] 15 U.S.C. 78q–1(b)(3)(F).

[10] *Id.*

[11] 17 CFR 240.17Ad–22.

[12] 17 CFR 240.17Ad–22(e)(1).

[13] ICC will be a covered clearing agency subject to Rule 17ad–22(e) as of the effective date (July 13, 2020) as a result of the amended definition. 17 CFR 240.17Ad–22; Release No. 34–88616; File No. S7–23–16 (April 9, 2020), 85 FR 28853 (May 14, 2020).

[14] 17 CFR 240.17Ad–22(e)(1).

Rule 17Ad–22(e)(17) [15] requires, in relevant part, each covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably designed to manage its operational risks by (i) identifying the plausible sources of operational risk, both internal and external, and mitigating their impact through the use of appropriate systems, policies, procedures, and controls; and (ii) ensuring that systems have a high degree of security, resiliency, operational reliability, and adequate, scalable capacity. The proposed rule change would allow ICC to manage the operational risks associated with the exercise and assignment process by establishing procedures for the exercise and assignment of Index Swaptions, which would allow ICC to identify plausible sources of operational risks in clearing Index Swaptions and minimize their impact through appropriate systems, policies, procedures, and controls. To reduce operational risk, the document includes procedures for validating and rejecting exercise notices and procedures for exercise in the event of technical issues or technology failures, including an Exercise System Failure and a Party Communication Failure. Such procedures are designed to provide sound alternatives in the case of technical issues and help mitigate the impact from technical issues to ensure that the system has a high degree of security, resiliency, operational reliability, and adequate, scalable capacity. The proposed rule change is therefore reasonably designed to meet the requirements of Rule 17Ad–22(e)(17).[16]

Rule 17Ad–22(e)(18) [17] requires each covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably designed to establish objective, risk-based, and publicly disclosed criteria for participation, which permit fair and open access by direct and, where relevant, indirect participants and other financial market utilities, require participants to have sufficient financial resources and robust operational capacity to meet obligations arising from participation in the clearing agency, and monitor compliance with such participation requirements on an ongoing basis. The publically available Rules and the Exercise Procedures, which would be publically available, would establish objective, risk-based, and publicly disclosed criteria for participation in ICC's exercise and assignment process. As discussed above, the Exercise Procedures would provide further detail as to the manner in which Index Swaptions may be exercised by Swaption Buyers and the manner in which ICC will assign such exercises to Swaption Sellers. The document would also specify the party entitled to exercise, stating that a Non-Participant Party will only be permitted to exercise an Index Swaption in a portfolio belonging to the Non-Participant Party. The amendments to the Rules further incorporate reference to the Exercise Procedures into Rule 304(a). Additionally, the proposed rule change would require a Participant to obtain the agreement of each Non-Participant Party for which it carries an open position in Index Swaptions to the provisions of the Rules and Exercise Procedures applicable to Index Swaptions, which are intended to ensure that participants have sufficient financial resources and robust operational capacity to meet obligations arising from participation in the clearing agency. Thus, the proposed rule change would satisfy the requirements of Rule 17Ad–22(e)(18).[18]

(B) Clearing Agency's Statement on Burden on Competition

ICC does not believe the proposed rule change would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purpose of the Act. The proposed rule change would support the clearing of Index Swaptions, including by formalizing the Exercise Procedures and making a related Rule change necessary to support the clearing of Index Swaptions. The proposed rule change will apply uniformly across all market participants. ICC does not believe acceptance of Index Swaptions for clearing would adversely affect the trading markets for such contracts, and in fact acceptance of such contracts by ICC would provide market participants with the additional flexibility to have their Index Swaptions cleared. Acceptance of Index Swaptions for clearing will not, in ICC's view, adversely affect clearing of any other currently cleared product. ICC does not believe the amendments would adversely affect the ability of Participants, their customers or other market participants to continue to clear contracts, including CDS Contracts. ICC also does not believe the enhancements would adversely affect the cost of clearing or otherwise limit market participants' choices for selecting clearing services in Index Swaptions, credit default swaps or other products. Accordingly, ICC does not believe the amendments would impose any burden on competition not necessary or appropriate in furtherance of the purpose of the Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change, Security-Based Swap Submission, or Advance Notice Received From Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. ICC will notify the Commission of any written comments received by ICC.

III. Date of Effectiveness of the Proposed Rule Change, Security-Based Swap Submission, or Advance Notice and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, security-based swap submission, or advance notice is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ICC–2020–008 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–ICC–2020–008. 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

[15] 17 CFR 240.17Ad–22(e)(17)(i)–(ii).

[16] *Id.*

[17] 17 CFR 240.17Ad–22(e)(18).

[18] *Id.*

internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change, security-based swap submission, or advance notice that are filed with the Commission, and all written communications relating to the proposed rule change, security-based swap submission, or advance notice between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Credit and on ICE Clear Credit's website at *https://www.theice.com/clear-credit/regulation.* All comments received will be posted without change.

Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ICC–2020–008 and should be submitted on or before July 13, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–13308 Filed 6–19–20; 8:45 am]

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[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89077; File No. SR–NASDAQ–2020–031]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Delay the Protocol "Ouch To Trade Options" or "OTTO"

June 16, 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 June 11, 2020, The Nasdaq Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to delay the protocol "Ouch to Trade Options" or "OTTO" on The Nasdaq Options Market LLC ("NOM").

The text of the proposed rule change is available on the Exchange's website at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Nasdaq filed a rule change[3] which adopted a new protocol "Ouch to Trade Options" or "OTTO"[4] and proposed to rename and modify the current OTTO protocol as "Quote Using Orders" or "QUO."[5] The Exchange subsequently filed a rule change to amend Options 3, Section 18, titled "Detection of Loss of Communication" which describes the impact to NOM protocols in the event of a loss of a communication. The Exchange accounted for both the new OTTO and renamed and modified QUO within this rule. Similarly, the Exchange amended Options 3, Section 8, "Nasdaq Opening and Halt Cross" to account for the new OTTO and renamed and modified QUO within this rule. Finally, the Exchange amended Options 3, Section 23, "Data Feeds and Trade Information" to amend "OTTO DROP" to "QUO DROP" and noted within Options 3, Section 15(a)(1) related to Order Price Protection rule or "OPP" that OPP shall not apply to orders entered through QUO.[6]

Both the Prior Rule Change and the Subsequent Rule Change indicated the aforementioned rule changes would be implemented for QUO and OTTO in Q4 of 2018 with the date announced via an Options Traders Alert. The Exchange filed a rule change implementing QUO and delaying the introduction of the OTTO functionality until Q3 2019 by announcing the date of implementation via an Options Traders Alert.[7] The Exchange further delayed the implementation of OTTO functionality until Q3 2019 and then Q2 2020, respectively.[8] At this time, the Exchange proposes to further delay the implementation of OTTO functionality until Q2 2021. The Exchange will issue an Options Trader Alert notifying Participants when this functionality will be available.

[3] *See* Securities Exchange Act Release No. 83888 (August 20, 2018), 83 FR 42954 (August 24, 2018) (SR–NASDAQ–2018–069) ("Prior Rule Change"). In the Prior Rule Change the Exchange stated that it would issue an Options Trader Alert introducing the new OTTO protocol in Q4 of 2018. The rule numbers were amended in 2019 when the Rulebook was relocated. *See* Securities Exchange Act Release No. 87778 (December 17, 2019), 84 FR 70590 (December 23, 2019) (SR–NASDAQ–2019–098).

[4] As modified by the Prior Rule Change, OTTO is an interface that allows Participants and their Sponsored Customers to connect, send, and receive messages related to orders to and from the Exchange. Features include the following: (1) Options symbol directory messages (*e.g.,* underlying); (2) system event messages (*e.g.,* start of trading hours messages and start of opening); (3) trading action messages (*e.g.,* halts and resumes); (4) execution messages; (5) order messages; and (6) risk protection triggers and cancel notifications. *See* NOM Rules at Options 3, Section 7(d)(1)(C).

[5] QUO is an interface that allows NOM Market Makers to connect, send, and receive messages related to single-sided orders to and from the Exchange. Order Features include the following: (1) Options symbol directory messages (*e.g.,* underlying); (2) system event messages (*e.g.,* start of trading hours messages and start of opening); (3) trading action messages (*e.g.,* halts and resumes); (4) execution messages; (5) order messages; and (6) risk protection triggers and cancel notifications. Orders submitted by NOM Market Makers over this interface are treated as quotes. *See* Options 3, Section 7(d)(1)(D).

[6] *See* Securities Exchange Act Release No. 84559 (November 9, 2019), 83 FR 57774 (November 16, 2018) (SR–NASDAQ–2018–085) ("Subsequent Rule Change").

[7] *See* Securities Exchange Act Release No. 84723 (December 4, 2018), 83 FR 63692 (December 11, 2018) (SR–NASDAQ–2018–097). The Exchange proposed to immediately implement QUO as of the effectiveness of SR–NASDAQ–2018–097 and delay the implementation of OTTO by issuing an Options Trader Alert announcing the implementation date in Q1 2019. The QUO implementation became effective upon filing on November 26, 2018.

[8] *See* Securities Exchange Act Release Nos. 85386 (March 21, 2019), 84 FR 11597 (March 27, 2019) (SR–NASDAQ–2019–016); and 87160 (September 30, 2019), 84 FR 53186 (October 4, 2019) (SR–NASDAQ–2019–078).

Nasdaq is considering enhancing OTTO features to provide members with other capabilities, which are currently not offered with OTTO, in the area of risk enhancements. Nasdaq would need time to file a proposal with the Commission with respect to any enhancement. Nasdaq proposes to delay the implementation of OTTO in order to receive additional feedback from market participants regarding the protocol. Also, Nasdaq proposes this delay to account for a change in its timeline to deliver this product, as a result of the market events in 2020

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[9] in general, and furthers the objectives of Section 6(b)(5) of the Act,[10] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest by delaying the OTTO functionality to allow the Exchange additional time to implement this functionality.

Nasdaq is considering enhancing OTTO features to provide members with other capabilities, which are currently not offered with OTTO, in the area of risk enhancements. Nasdaq would need time to file a proposal with the Commission with respect to any enhancement. Nasdaq proposes to delay the implementation of OTTO in order to receive additional feedback from market participants regarding the protocol. Also, Nasdaq proposes this delay to account for a change in its timeline to deliver this product, as a result of the market events in 2020.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange's proposal to delay the adoption of the OTTO functionality does not impose an undue burden on competition as no Participant has access to OTTO today on NOM.

Nasdaq is considering enhancing OTTO features to provide members with other capabilities, which are currently not offered with OTTO, in the area of risk enhancements. Nasdaq would need time to file a proposal with the Commission with respect to any enhancement. Nasdaq proposes to delay the implementation of OTTO in order to receive additional feedback from market participants regarding the protocol. Also, Nasdaq proposes this delay to account for a change in its timeline to deliver this product, as a result of the market events in 2020.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

A proposed rule change filed under Rule 19b–4(f)(6)[11] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii)[12] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that the waiver will allow the Exchange to immediately delay the implementation of the OTTO functionality. The Exchange notes that it is considering enhancing OTTO features to provide members with other risk-enhancement capabilities, which are currently not offered with OTTO, and that Nasdaq would need time to file a proposal with the Commission with respect to any such enhancement. The Exchange further notes that a delay in the implementation of OTTO would allow the Exchange to receive additional feedback from market participants regarding the protocol. Finally, Nasdaq notes this delay is needed to account for a change in its timeline to deliver this product, as a result of the market events in 2020. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change as operative upon filing.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2020–031 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2020–031. 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

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6).

[13] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2020–031 and should be submitted on or before July 13, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–13309 Filed 6–19–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89076; File No. SR–CboeBZX–2020–036]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Amend Rule 14.11, Other Securities

June 16, 2020.

On April 29, 2020, Cboe BZX Exchange, Inc. (''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend continued listing requirements applicable to certain exchange-traded products listed on the Exchange by extending the period of time after which an exchange-traded product would need to have at least 50 beneficial holders or be subject to delisting proceedings under BZX Rule 14.12. The proposed rule change was published for comment in the **Federal Register** on May 7, 2020.[3] The Commission has received comment letters on the proposed rule change.[4]

Section 19(b)(2) of the Act [5] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission will either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is June 21, 2020. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[6] designates August 5, 2020 as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–CboeBZX–2020–036).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–13310 Filed 6–19–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89073; File No. SR–NYSEArca–2020–46]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change To Amend NYSE Arca Rule 5.2–E(j)(6) Relating to Options-Linked Securities

June 16, 2020.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on June 10, 2020, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Arca Rule 5.2–E(j)(6) (''Index-Linked Securities'') to accommodate Exchange listing and trading of Options-Linked Securities. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

NYSE Arca Rule 5.2–E(j)(6) provides for Exchange listing and trading, including listing pursuant to Rule 19b–4(e) under the Act,[4] of ''Index-Linked Securities.'' [5]

The Exchange proposes to amend NYSE Arca Rule 5.2–E(j)(6) to add Options-Linked Securities to the type of Index-Linked Securities permitted to list and trade on the Exchange.[6]

Proposed Rule 5.2–E(j)(6)(vii) would provide that the payment at maturity with respect to Options-Linked Securities would be based on the performance of one or more U.S. exchange-traded options on any one or combination of the following: (a) Investment Company Units; (b) Exchange-Traded Fund Shares; (c) Index-Linked Securities; (d) securities defined in Section 2 of Rule 8–E; [7] (e)

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 88795 (May 1, 2020), 85 FR 27254.

[4] Comments on the proposed rule change can be found on the Commission's website at: *https://www.sec.gov/comments/sr-cboebzx-2020-036/srcboebzx2020036.htm.*

[5] 15 U.S.C. 78s(b)(2).

[6] *Id.*

[7] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] Rule 19b–4(e) under the Act provides that the listing and trading of a new derivative securities product by a self-regulatory organization (''SRO'') shall not be deemed a proposed rule change, pursuant to section (c)(1) of Rule 19b–4, if the Commission has approved, pursuant to Section 19(b) of the Act, the SRO's trading rules, procedures, and listing standards for the product class and the SRO has a surveillance program for the product class.

[5] Rule 5.2–E(j)(6) currently accommodates Exchange listing of Equity Index-Linked Securities, Commodity-Linked Securities, Currency-Linked Securities, Fixed Income Index-Linked Securities, Futures-Linked Securities and Multifactor Index-Linked Securities.

[6] Index-Linked Securities are sometimes referred to as ''exchange-traded notes'' or ''ETNs.''

[7] The following securities currently are included in Section 2 of NYSE Arca Rule 8–E: Portfolio Depositary Receipts (Rule 8.100); Trust Issued Receipts (Rule 8.200); Commodity-Based Trust

the S&P 100 Index, the S&P 500 Index, the Nasdaq 100 Index, the Dow Jones Industrial Average, the MSCI EAFE Index, the MSCI Emerging Markets Index, the NYSE FANG Index or the Russell 2000 Index; or (f) a basket or index of any of the foregoing (collectively, ''Options Reference Asset'').[8] To the extent that the Options Reference Asset consists of options based on Investment Company Units, Exchange-Traded Fund Shares, Index-Linked Securities, or securities defined in Section 2 of Rule 8–E, such Investment Company Units, Exchange-Traded Fund Shares, Index-Linked Securities, or securities defined in Section 2 of Rule 8–E shall not seek to provide investment results, before fees and expenses, that correspond to the inverse, a specific multiple, or a specific inverse multiple of the percentage performance on a given day of a particular index or combination of indexes.

Proposed Rule 5.2–E(j)(6)(B)(VII) (Options-Linked Securities Listing Standards) would set forth initial and continued listing criteria applicable to Options-Linked Securities. Proposed Section VII(1) would provide that an issue of Options-Linked Securities must meet the initial listing standard set forth in either (a) or (b) below:

(a) The Options Reference Asset to which the security is linked shall have been reviewed and approved for the trading of Options-Linked Securities or options or other derivatives by the Commission under Section 19(b)(2) of the Securities Exchange Act of 1934 and rules thereunder and the conditions set forth in the Commission's approval order, including with respect to comprehensive surveillance sharing agreements, continue to be satisfied.

(b) The pricing information for components of the Options Reference Asset must be derived from a market which is an ISG member or affiliate or with which the Exchange has a comprehensive surveillance sharing agreement.

In addition, an issue of Options-Linked Securities must meet the following initial listing criteria:

(a) The value of the Options Reference Asset must be calculated and widely disseminated by one or more major market data vendors on at least a 15-second basis during the Core Trading Session (as defined in NYSE Arca Rule 7.34–E); and

(b) in the case of Options-Linked Securities that are periodically redeemable, the indicative value of the subject Options-Linked Securities must be calculated and widely disseminated by the Exchange or one or more major market data vendors on at least a 15-second basis during the Core Trading Session.

Proposed Section VII(2) would provide that an issue of Options-Linked Securities must meet the following continued listing criteria:[9]

(a) The Exchange may halt trading in the securities and will initiate delisting proceedings pursuant to Rule 5.5–E(m) if any of the initial listing criteria described above are not continuously maintained; and

(b) The Exchange may also halt trading in the securities and will initiate delisting proceedings pursuant to Rule 5.5–E(m) under any of the following circumstances:

(i) If the aggregate market value or the principal amount of the Options-Linked Securities publicly held is less than $400,000;

(ii) The value of the Options Reference Asset is no longer calculated or available and a new Options Reference Asset is substituted, unless the new Options Reference Asset meets the requirements of this Rule 5.2–E(j)(6); or

(iii) If such other event shall occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

The Exchange also proposes to amend Commentary .01(a) and (b) to Rule 5.2–E(j)(6), which relate to specified requirements and obligations of an Equity Trading Permit (ETP) Holder acting as a registered Market Maker, to include Options Linked Securities and options to the financial instruments covered by Commentary .01.[10]

As noted above, proposed NYSE Arca Rule 5.2–E(j)(6)(vii) provides that the Options Reference Asset for Options Linked Securities consists of one or more U.S. exchange-traded options on any one or combination of the following: (a) Investment Company Units;[11] (b) Exchange-Traded Fund Shares;[12] (c) Index-Linked Securities; (d) securities defined in Section 2 of Rule 8–E; (e) the S&P 100 Index, the S&P 500 Index, the Nasdaq 100 Index, the Dow Jones Industrial Average, the MSCI EAFE Index, the MSCI Emerging Markets Index, the NYSE FANG Index or the Russell 2000 Index (collectively, the ''Indexes''); or (f) a basket or index of any of the foregoing.

With respect to underlying components of the Options Reference Asset, the Exchange notes that, to the extent that Investment Company Units, Exchange-Traded Fund Shares, Index-Linked Securities and securities defined in Section 2 of Rule 8–E are listed and traded on the Exchange, such securities are subject to Exchange initial and continued listing criteria under applicable Exchange rules as approved by the Commission. In addition, the Commission has approved or issued a notice of effectiveness to permit listing on a national securities exchange of securities based on certain Indexes.[13] With respect underlying components of the Options Reference Asset, the Exchange notes that, to the extent that securities comparable to Investment Company Units, Exchange-Traded Fund Shares, Index-Linked Securities and securities defined in Section 2 of Rule 8–E are listed and traded on other national securities exchanges, such securities are subject to rules for initial

Shares (Rule 8.201); Currency Trust Shares (Rule 8.202); Commodity Index Trust Shares (Rule 8.203); Commodity Futures Trust Shares (Rule 8.204); Partnership Units (Rule 8.300); Paired Trust Shares (Rule 8.400); Trust Units (Rule 8.500); Managed Fund Shares (Rule 8.600); Managed Trust Securities (Rule 8.700); and Managed Portfolio Shares (Rule 8.900–E).

[8] Current Rule 5.2–E(j)(6)(vi) applicable to Multifactor Index-Linked Securities would be amended to add Options Reference Asset as a Multifactor Reference Asset. In addition, the new term ''Options-Linked Securities'' would be added to certain headings in Rule 5.2–E(j)(6).

[9] The continued listing criteria in proposed Rule 5.2–E(j)(6)(B)(VII)(2) are substantively identical to continued listing criteria in Rule 5.2–E(j)(6) applicable to other Index Linked Securities.

[10] The Exchange also proposes to make certain technical corrections to the existing rule text of Commentary .01 to Rule 5.2–E(j)(6).

[11] Investment Company Units are securities described in NYSE Arca Rule 5.2–E(j)(3) or comparable rules of other national securities exchanges.

[12] Exchange-Traded Fund Shares are securities described in NYSE Arca Rule 5.2–E(j)(8) or comparable rules of other national securities exchanges.

[13] *See, e.g.,* Securities Exchange Act Release Nos. 31591 (December 11, 1992), 57 FR 60253 (December 18, 1992) (SR–Amex–92–18) (approving the listing and trading of Portfolio Depositary Receipts based on the S&P 500 Index); 39525 (January 8, 1998), 63 FR 2438 (January 15, 1998) (SR–Amex–97–29) (approving the listing and trading of DIAMONDS Trust Units, Portfolio Depositary Receipts based on the Dow Jones Industrial Average); 39011 (September 3, 1997), 62 FR 47840 (September 11, 1997) (SR–CBOE–97–26) (approving the listing and trading of options on the Dow Jones Industrial Average); 19907 (June 24, 1983), 48 FR 30814 (July 5, 1983) (SR–CBOE–83–08) (approving the listing and trading of options on the S&P 500 Index on the CBOE); 41119 (February 26, 1999), 64 FR 11510 (March 9, 1999) (SR–Amex–98–34) (Order Approving and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 3 and 4 to the Proposed Rule Change Relating to the Listing and Trading of Shares of the Nasdaq–100 Trust); 87437 (October 31, 2019), 84 FR 59900 (November 6, 2019) (SR–NYSEArca–2019–62) (Notice of Filing of Amendment No. 1, and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, Relating to the Listing and Trading of Shares of the Innovator MSCI EAFE Power Buffer ETFs and Innovator MSCI Emerging Markets Power Buffer ETFs under NYSE Arca Rule 8.600–E).

and continued listing criteria as approved by the Commission for such exchanges. With respect to options on the Indexes, options on all of the Indexes are currently traded on U.S. options exchanges.

Finally, all Options-Linked Securities listed pursuant to NYSE Arca Rule 5.2–E(j)(6) would be included within the definition of ''security'' or ''securities'' as such terms are used in the Exchange's rules and, as such, are subject to Exchange rules and procedures that currently govern the trading of securities on the Exchange. In addition to proposed NYSE Arca Rule 5.2–E (j)(6)(vii) and proposed NYSE Arca Rule 5.2–E(j)(6)(B)(VII), all other provisions of Rule 5.2–E(j)(6) will apply to Options-Linked Securities as applicable.

The Exchange believes that the proposed standards would continue to ensure transparency surrounding the listing process for Index-Linked Securities. The Exchange also believes that the standards for listing and trading Options-Linked Securities are reasonably designed to promote a fair and orderly market for such securities. The proposed addition of Options Reference Asset, as described above, would also work in conjunction with the initial and continued listing criteria related to surveillance procedures and trading guidelines for Index-Linked Securities.

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of Options-Linked Securities in all trading sessions and to deter and detect violations of Exchange rules. The issuer of a series of Options-Linked Securities will be required to comply with Rule 10A–3 under the Act [14] for the initial and continued listing of Index-Linked Securities, as provided in NYSE Arca Rule 5.2–E(j)(6)(A)(f). The Exchange notes that the proposed change is not intended to amend any other component or requirement of NYSE Arca Rule 5.2–E(j)(6). With respect to options comprising the Options Reference Asset, the pricing information for components of the Options Reference Asset must be derived from a market which is an ISG member or affiliate or with which the Exchange has a comprehensive surveillance sharing agreement.

Quotation and last sale information for Options-Linked Securities, Investment Company Units, Exchange-Traded Fund Shares, Index-Linked Securities, and securities defined in Section 2 of Rule 8–E are available via the Consolidated Tape Association (''CTA'') high speed line. Quotation and last sale information for such securities also will be available from the exchange on which they are listed. Quotation and last sale information for options on Investment Company Units, Exchange-Traded Fund Shares, Index-Linked Securities, securities defined in Section 2 of Rule 8–E and the Indexes will be available via the Options Price Reporting Authority and major market data vendors. Information regarding values of the Indexes is available from major market data vendors.

The Exchange believes that the proposed rule change will provide investors with the ability to better diversify and hedge their portfolios using an exchange-listed security without having to trade directly in the underlying options contracts, and will facilitate the listing and trading of additional Index-Linked Securities that will enhance competition among market participants, to the benefit of investors and the marketplace.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[15] in general, and furthers the objectives of Sections 6(b)(5) of the Act,[16] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

With respect to underlying components of the Options Reference Asset, the Exchange notes that Investment Company Units, Exchange-Traded Fund Shares, Index-Linked Securities and securities defined in Section 2 of Rule 8–E are subject to Exchange initial and continued listing criteria under applicable Exchange rules as approved by the Commission. With respect underlying components of the Options Reference Asset, the Exchange notes that, to the extent that securities comparable to Investment Company Units, Exchange-Traded Fund Shares, Index-Linked Securities and securities defined in Section 2 of Rule 8–E are listed and traded on other national securities exchanges, such securities are subject to rules for initial and continued listing criteria as approved by the Commission for such exchanges. In addition, the Commission has approved or issued a notice of effectiveness to permit listing on a national securities exchange of securities based on certain Indexes.[17] With respect to options on the Indexes, options on all of the Indexes are currently traded on U.S. options exchanges. All options included in the Options Reference Asset will be U.S. exchange-traded.

Under proposed NYSE Arca Rule 5.2–E(j)(6)(vii), to the extent that the Options Reference Asset consists of options based on Investment Company Units, Exchange-Traded Fund Shares, Index-Linked Securities, or securities defined in Section 2 of Rule 8–E, such Investment Company Units, Exchange-Traded Fund Shares, Index-Linked Securities, or securities defined in Section 2 of Rule 8–E shall not seek to provide investment results, before fees and expenses, that correspond to the inverse, a specific multiple, or a specific inverse multiple of the percentage performance on a given day of a particular index or combination of indexes.

Under proposed NYSE Arca Rule 5.2–E(j)(6)(B)(VII)(1), an issue of Options-Linked Securities would be required to meet the initial listing standard in either (a) or (b) as follows: (a) The Options Reference Asset to which the security is linked shall have been reviewed and approved for the trading of Options-Linked Securities or options or other derivatives by the Commission under Section 19(b)(2) of the Securities Exchange Act of 1934 and rules thereunder and the conditions set forth in the Commission's approval order, including with respect to comprehensive surveillance sharing agreements, continue to be satisfied; or (b) The pricing information for components of the Options Reference Asset must be derived from a market which is an ISG member or affiliate or with which the Exchange has a comprehensive surveillance sharing agreement.

In addition, an issue of Options-Linked Securities must meet the following initial listing criteria in NYSE Arca Rule 5.2–E(j)(6)(B)(VII): (a) The value of the Options Reference Asset must be calculated and widely disseminated by one or more major market data vendors on at least a 15-second basis during the Core Trading Session (as defined in NYSE Arca Rule

[14] 17 CFR 240.10A–3.

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(5).

[17] *See* note 13, *supra.*

7.34–E); and (b) In the case of Options-Linked Securities that are periodically redeemable, that the indicative value of the subject Option-Linked Securities must be calculated and widely disseminated by the Exchange or one or more major market data vendors on at least a 15-second basis during the Core Trading Session.

Options-Linked Securities also will be subject to the continued listing criteria in proposed Rule 5.2–E(j)(6)(B)(VII)(2) as described above. Finally, all Options-Linked Securities listed pursuant to NYSE Arca Rule 5.2–E(j)(6) would be included within the definition of ''security'' or ''securities'' as such terms are used in the Exchange's rules and, as such, are subject to Exchange rules and procedures that currently govern the trading of securities on the Exchange. In addition to proposed NYSE Arca Rule 5.2–E(j)(6)(vii) and proposed Rule 5.2–E(j)(6)(B)(VII), all other provisions of Rule 5.2–E(j)(6) will apply to Options-Linked Securities as applicable.

The Exchange also proposes to amend Commentary .01(a) and (b) to Rule 5.2–E(j)(6), which relate to specified requirements and obligations of an Equity Trading Permit (ETP) Holder acting as a registered Market Maker, to include Options Linked Securities and options to the financial instruments covered by Commentary .01.

The Exchange also proposes to make certain technical corrections to the existing rule text of Commentary .01 to Rule 5.2–E(j)(6).

The Exchange believes that the proposed standards would continue to ensure transparency surrounding the listing process for Index-Linked Securities. The Exchange also believes that the standards for listing and trading Options-Linked Securities are reasonably designed to promote a fair and orderly market for such securities. The proposed addition of Options Reference Asset, as described above, would also work in conjunction with the initial and continued listing criteria related to surveillance procedures and trading guidelines for Index-Linked Securities. The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of Options-Linked Securities in all trading sessions and to deter and detect violations of Exchange rules. Trading in the securities may be halted under the conditions specified in NYSE Arca Rule 5.2–E(j)(6)(E).

The Exchange believes that the proposed rule change will provide investors with the ability to better diversify and hedge their portfolios using an exchange listed security without having to trade directly in the underlying options contracts, and will facilitate the listing and trading of additional Index-Linked Securities that will enhance competition among market participants, to the benefit of investors and the marketplace.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[18] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change will facilitate the listing and trading of additional Index-Linked Securities that will enhance competition among market participants, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2020–46 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2020–46. 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–NYSEArca–2020–46, and should be submitted on or before July 13, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–13312 Filed 6–19–20; 8:45 am]

BILLING CODE 8011–01–P

[18] 15 U.S.C. 78f(b)(8).

[19] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 11140]

Modified Display Dates Due to the COVID–19 Pandemic, for Culturally Significant Objects Imported for Exhibition

SUMMARY: The Department understands that, due to museum closures and other effects of the COVID–19 pandemic, many exhibition venues throughout the United States are modifying the dates of exhibitions for which they had already

imported certain objects that I or another Department official with delegated authority under 22 U.S.C. 2459 had determined, prior to importation, are of cultural significance and whose temporary exhibition or display is in the national interest. I hereby confirm that if the national interest determination contained in a **Federal Register** Notice for such objects noted the possibility of display at ''additional exhibitions or venues to be determined'' following the approximate (*i.e.,* ''on or about'') dates of exhibition at the venue or venues stated in the Notice, the Department official's intention was to make determinations that would continue through a reasonable period of temporary display—including at the originally stated venue or venues—not necessarily limited to the dates of exhibition referenced in the Notice. As such, the Department regards its determinations of cultural significance and national interest made upon such objects prior to their importation as remaining valid through a reasonable but originally unforeseen extension of the objects' display due to the COVID–19 pandemic.

FOR FURTHER INFORMATION CONTACT: Chi D. Tran, Program Administrator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

Marie Therese Porter Royce,

Assistant Secretary, Educational and Cultural Affairs, Department of State.

[FR Doc. 2020–13340 Filed 6–19–20; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Delegation of Authority No. 484]

Authorities of the Director of the Office of Foreign Missions

By virtue of the authority of the Secretary of State pursuant to the laws of the United States, and as delegated by Department of State Delegation of Authority No. 462, I hereby delegate to the Principal Deputy Director of the Office of Foreign Missions, to the extent authorized by law, all functions and authorities of the Director of the Office of Foreign Missions, as well as all functions and authorities that have been or may be delegated to such Director.

The functions delegated herein may be re-delegated, to the extent authorized by law. This delegation of authority does not revoke, supersede, or affect any other delegation of authority. Any authority covered by this delegation may also be exercised by the Secretary, the Deputy Secretary, the Under Secretary for Management, and the Director of the Office of Foreign Missions.

This delegation of authority will be published in the **Federal Register**.

Dated May 26, 2020.

Brian J. Bulatao,

Under Secretary of State for Management, Department of State.

[FR Doc. 2020–13361 Filed 6–19–20; 8:45 am]

BILLING CODE 4710–43–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 55 (Sub-No. 801X)]

CSX Transportation, Inc.—Abandonment Exemption—in Greenbrier and Fayette Counties, W. Va

CSX Transportation, Inc. (CSXT), has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon an approximately 6.39-mile rail line between milepost CAF 20.61 and milepost CAF 27.0, near Rainelle in Greenbrier and Fayette Counties, W. Va. (the Line).[1] The Line traverses U.S. Postal Service Zip Code 25962 and does not include any stations.

CSXT has certified that: (1) No local traffic has moved over the Line for at least two years; (2) any overhead traffic can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7 and 1105.8 (notice of environmental and historic report), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

Any employee of CSXT adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received,[2] the exemption will be effective on July 22, 2020, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[3] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2), and interim trail use/rail banking requests under 49 CFR 1152.29 must be filed by July 2, 2020.[4] Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by July 13, 2020, with the Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to CSXT's representative, Louis E. Gitomer, Law Offices of Louis E. Gitomer, LLC, 600 Baltimore Avenue, Suite 301, Towson, MD 21204.

If the verified notice contains false or misleading information, the exemption is void ab initio.

CSXT has filed a combined environmental and historic report that addresses the potential effects, if any, of the abandonment on the environment and historic resources. OEA will issue a Draft Environmental Assessment (Draft EA) by July 17, 2020. The Draft EA will be available to interested persons on the Board's website, by writing to OEA, or by calling OEA at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the Draft EA becomes available to the public.

Environmental, historic preservation, public use, or interim trail use/rail banking conditions will be imposed,

[1] CSXT was granted authority in 2017 to abandon two contiguous segments of track that together encompass the Line. *See CSX Transp., Inc.—Aban. Exemption—in Greenbrier & Fayette Ctys., W. Va.,* AB 55 (Sub No. 768X) (STB served Jan. 27, 2017) and *CSX Transp., Inc.—Aban. Exemption—in Greenbrier Cty., W. Va.,* AB 55 (Sub-No. 776X) (STB served Dec. 20, 2017). Because its authority to abandon expired in both proceedings, CSXT is seeking renewed authority to abandon the Line.

[2] Persons interested in submitting an OFA must first file a formal expression of intent to file an offer, indicating the type of financial assistance they wish to provide (*i.e.,* subsidy or purchase) and demonstrating that they are preliminarily financially responsible. *See* 49 CFR 1152.27(c)(2)(i).

[3] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[4] Filing fees for OFAs and trail use requests can be found at 49 CFR 1002.2(f)(25) and (27), respectively.

where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), CSXT shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by CSXT's filing of a notice of consummation by June 22, 2021, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available at *www.stb.gov.*

Decided: June 16, 2020.

By the Board, Allison C. Davis, Director, Office of Proceedings.

Aretha Laws-Byrum,

Clearance Clerk.

[FR Doc. 2020–13299 Filed 6–19–20; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. EP 290 (Sub-No. 5) (2020–3)]

Quarterly Rail Cost Adjustment Factor

AGENCY: Surface Transportation Board.

ACTION: Approval of rail cost adjustment factor.

SUMMARY: The Board has approved the third quarter 2020 Rail Cost Adjustment Factor (RCAF) and cost index filed by the Association of American Railroads. The third quarter 2020 RCAF (Unadjusted) is 0.989. The third quarter 2020 RCAF (Adjusted) is 0.415. The third quarter 2020 RCAF–5 is 0.392.

DATES: *Applicability Date:* July 1, 2020.

FOR FURTHER INFORMATION CONTACT: Pedro Ramirez at (202) 245–0333. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision, which is available at *www.stb.gov.*

By the Board, Board Member Begeman, Fuchs, and Oberman.

Decided: June 16, 2020.

Aretha Laws-Byrum,

Clearance Clerk.

[FR Doc. 2020–13332 Filed 6–19–20; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2020–0379]

Agency Information Collection Activities: Requests for Comments; Clearance of a New Approval of Information Collection: Operational Waivers for Small Unmanned Aircraft Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval for a new information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on April 10, 2020. The FAA proposes collecting information about requests for waivers from certain operational rules that apply to small unmanned aircraft systems (sUAS). The FAA will use the collected information to make determinations whether to authorize or deny the requested operations of sUAS. The proposed information collection is necessary to issue such authorizations or denials consistent with the FAA's mandate to ensure safe and efficient use of national airspace.

DATES: Written comments should be submitted by July 22, 2020.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Jeremy Grogan by email at: *jeremy.grogan@faa.gov;* phone: (405) 666–1187.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information.

OMB Control Number: 2120–XXXX.

Title: Operational Waivers for Small Unmanned Aircraft Systems.

Form Numbers: N/A (online portal).

Type of Review: New.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on April 10, 2020 (85 FR 20333). The FAA has seen increased operations of small unmanned aircraft systems (sUAS) flying under 14 CFR part 107. Under 14 CFR 107.205, operators of small UAS may seek waivers from certain operational rules. The FAA is updating and modernizing the process for applying for such waivers using the DroneZone website. These improvements will facilitate the process of collecting and submitting the information required as part of a waiver application. The reporting burdens for operational waiver applications are currently covered by Information Collection Request (ICR) 2120–0768. As part of this effort, the FAA is creating a new ICR just for operational waiver applications. In order to process operational waiver requests, the FAA requires the operator's name, the operator's contact information, and information related to the date, place, and time of the requested small UAS operation. Additional information is required related to the proposed waiver and any necessary mitigations. The FAA will use the requested information to determine if the proposed UAS operation can be conducted safely. This information is necessary for the FAA to meet its statutory mandate of maintaining a safe and efficient national airspace. See 49 U.S.C. 40103, 44701 and 44708.

Respondents: sUAS Operators: 8,034 per year.

Frequency: On occasion. For requests for operational waivers, a respondent will need to provide the information once at the time of the request for the waiver. If granted, operational waivers may be valid for up to four (4) years.

Estimated Average Burden per Response: 30 minutes. The FAA estimates 1.3 responses per respondent.

Estimated Total Annual Burden: 0.65 hours per respondent, for a total of 5,222 hours.

Issued in Washington, DC, on June 16, 2020.

Dwayne C. Morris,

Project Manager, Flight Standards Service, General Aviation and Commercial Division.

[FR Doc. 2020–13333 Filed 6–19–20; 8:45 am]

BILLING CODE 4910–13–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, the State Route 46 Corridor Improvement Project—Cholame Section approximately 2 miles northwest of the town of Shandon in the County San Luis Obispo, 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 19, 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, Jason Wilkinson, Branch Chief, Central Region Environmental, Caltrans District 5, 50 Higuera Street, San Luis Obispo, California 93401. Office hours: Monday–Friday, 9:00 a.m.–5:00 p.m. PDT. (805) 542–4663 or email *jason.wilkinson@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, have 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: The State Route 46 Corridor Improvement Project—Cholame Section on State Route 46 will begin at PM 49.7, approximately 0.2 miles east of the Shandon Roadside Rest Area and will continue to post mile 54.7, approximately 0.5 miles west of the State Route 41/46 intersection. Caltrans proposes to continue the widening of the State Route 46 Corridor from a two-lane highway to a four-lane divided expressway (FHWA Project No. 0514000027). The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Updated Environmental Assessment (FEA) with Finding of No Significant Impact (FONSI) for the project, approved on February 14, 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. Surface Transportation Project Delivery Pilot Program (Pilot Program) [23 U.S.C. 327]
2. National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4335]
3. Federal Endangered Species Act [16 U.S.C. 1531–1543]
4. Interagency Cooperation, Endangered Species Act of 1973 [50 CFR 402]
5. Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209]
6. The National Historic Preservation Act (NHPA) of 1966 [16 U.S.C. 470(f) et seq]
7. Energy Policy and Conservation Act of 1975 [42 U.S.C. 6201]
8. Determining Conformity of Federal Actions to State or Federal Implementation Plans [40 CFR 93]
9. Guidelines for Specification of Disposal Sites for Dredged or Fill Material [40 CFR 230]
10. Procedures for abatement of highway traffic noise and construction noise [23 CFR 772]
11. Farmland Protection Policy Act [7 CFR 658]
12. Protection of Historic Properties [36 CFR 800]
13. Cumulative Impact [40 CFR Section 1508.7]
14. Clean Air Act [42 U.S.C. 7401]
15. Protection of Wetlands Executive Order 11990
16. Clean Water Act [33 U.S.C. 1344]
17. Invasive Species Executive Order 13112
18. Federal Migratory Bird Treaty Act [16 U.S.C. 703–711]
19. The Bald and Golden Eagle Protection Act [16 U.S.C. 668]

(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 16, 2020.

Rodney Whitfield,

Director, Financial Services, Federal Highway Administration, California Division.

[FR Doc. 2020–13396 Filed 6–19–20; 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, the State Route 14/Avenue N Interchange Improvement Project (Post Miles R63.4 to PM R63.9) in the City of Palmdale in Los Angeles 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 19, 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: Karl Price, Senior Environmental Planner, Caltrans District 7, 100 South Main Street, Suite MS 16A, Los Angeles, California, 90012, (213) 266–3822, or email *karl.price@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 the 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: The State Route 14/Avenue N Interchange Improvement Project to construct two roundabouts at the Avenue N and SR–14 Interchange. It would also widen Avenue N between

17th Street West and 10th Street West to accommodate additional traffic lanes, a raised center median, sidewalks, and bike lanes. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Environmental Assessment/Finding of No Significant Impact (EA/FONSI) for the project, approved on October 31, 2019, 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/FONSI can be viewed and downloaded from the project website at *https://www.cityofpalmdale.org/277/Environmental-Documents.*

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. National Environmental Policy Act (NEPA) (42 U.S.C. 4321–4351)

2. Clean Air Act (42 U.S.C. 7401–7671 (q))

3. Migratory Bird Treaty Act (16 U.S.C. 703–712)

4. Title VI of the Civil Rights Act of 1964, as amended

5. Historic and Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470(f) *et seq.*)

6. Clean Water Act (Section 401) (33 U.S.C. 1251–1377)

7. Federal Endangered Species Act of 1973 (16 U.S.C. 1531–1543)

8. Executive Order 11990—Protection of Wetlands

9. Department of Transportation Act of 1966, Section 4(f) (49 U.S.C. 303)

10. Noise Control Act of 1972

11. Executive Order 13112—Invasive Species

(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 16, 2020.

Rodney Whitfield,

Director, Financial Services, Federal Highway Administration, California Division.

[FR Doc. 2020–13399 Filed 6–19–20; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2019–0013; Notice 2]

Michelin North America, Inc., Grant of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition.

SUMMARY: Michelin North America, Inc. (MNA), has determined that certain BFGoodrich All-Terrain T/A KO2 replacement tires do not comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New Pneumatic Radial Tires for Light Vehicles.* MNA filed a noncompliance report dated November 13, 2018, and subsequently petitioned NHTSA on December 10, 2018, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces the grant of MNA's petition.

FOR FURTHER INFORMATION CONTACT: Abraham Diaz, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–5310, facsimile (202) 366–5930.

SUPPLEMENTARY INFORMATION:

I. Overview

MNA has determined that certain All-Terrain TA KO2 tires do not comply with paragraph S5.5.1(b) of FMVSS No. 139, *New Pneumatic Radial Tires for Light Vehicles* (49 CFR 571.139). MNA filed a noncompliance report dated November 13, 2018, pursuant to 49 CFR 573, *Defect and Noncompliance Responsibility and Reports,* and subsequently petitioned NHTSA on December 10, 2018, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 40 U.S.C. 30118 and 49 U.S.C. 30120, *Exemption for Inconsequential Defect or Noncompliance.*

Notice of receipt of MNA's petition was published, with a 30-day public comment period on July 3, 2019, in the **Federal Register** (84 FR 32010). No Comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/.* Then follow the online search instructions to locate docket number ''NHTSA–2019–0013.''

II. Equipment Involved

Approximately 415 BFGoodrich All-Terrain T/A KO2 replacement tires, size LT275/65R20, manufactured between September 2, 2018, and October 6, 2018, are potentially involved.

III. Noncompliance

MNA explains that the noncompliance is that the subject tires were marked with an incorrectly sequenced Tire Identification Number (TIN) and therefore, do not meet the requirements of paragraph S5.5.1(b) of FMVSS No. 139. Specifically, the DOT symbol was incorrectly placed between the first and second grouping of the TIN when the symbol should be placed either in front of or below the TIN, thus, both the DOT symbol and the plant code were marked in the incorrect sequence.

IV. Rule Requirements

Paragraph S5.5.1 (b) of FMVSS No. 139 includes the requirements relevant to this petition. Each tire must be labeled with the TIN on the intended outboard sidewall of the tire, as required by 49 CFR part 574. Either the TIN or a partial TIN should contain all characters in the TIN, except for the date code and, at the discretion of the manufacturer, any optional code, and must be labeled on the other sidewall of the tire. If the tire does not have an intended outboard sidewall, the tire must be labeled with the TIN required by 49 CFR part 574 on one sidewall and with either the TIN, containing all characters in the TIN except for the date code and at the discretion of the manufacturer, any optional code, on the other sidewall.

V. Summary of Petition

MNA described the subject noncompliance and stated its belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, MNA submitted the following reasoning:

1. Operational Safety

a. The TIN marking noncompliance does not create any operational safety risk for the vehicle. The tires comply with applicable FMVSSs and all other applicable regulations.

b. The incorrect marking sequence of the DOT symbol and TIN plant code has no bearing on tire performance.

c. The subject tires are properly marked with all other markings required under FVMSS No. 139 such as S5.5(c) maximum permissible inflation pressure and S5.5(d) maximum load rating. The necessary information is available on the sidewall of the tire to ensure proper application and usage.

d. The subject tires contain the DOT symbol on both sidewalls thus indicating conformance to applicable FMVSS.

2. Identification & Traceability

a. All information required by 49 CFR 574.5 for Tire Identification Number (plant code + size code + option code + date code) is present on the sidewall of the tire.

b. The marking discrepancy only exists on one sidewall of the tire. The opposing sidewall has the correct sequence of DOT + plant code + size code + option code.

c. For identification and traceability purposes the key information of plant code and manufacturing date is present on the tire.

d. In the event that dealer/owner notifications are required either the intended marking (DOT BF) or the actual marking (BF DOT) would serve as an identifier of the tire.

3. Proactive Measures

a. The mismarking has been communicated to BFGoodrich Customer Care representatives in order to effectively handle any inquiries from dealers or owners regarding the subject tires.

MNA concluded by expressing the belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

VI. NHTSA's Analysis

NHTSA has evaluated the merits of the inconsequential noncompliance petition submitted by MNA and has determined that this particular noncompliance is inconsequential to motor vehicle safety. Specifically, the Agency considered the following when making its decision:

1. Having the DOT code and TIN code markings in the incorrect sequence on one sidewall does not pose a risk to safety on the subject tires. The DOT symbol is stamped within the TIN code and still readily available in case an end-user would be in search of the DOT symbol as a sign of the certification of the subject tires. The symbol DOT is marked on the tire and accurately communicates the manufacturer's certification that the tire conforms to FMVSS No 139.

2. However, while correctly marked with the symbol DOT indicating certification of the tire, the sidewalls of one side of the tires were marked ''BF DOT'' instead of ''DOT BF,'' which is the correct sequence. NHTSA evaluated whether the mislabeling of the subject tires poses a risk to safety considering the following areas:

Operational safety: At this time, NHTSA does not foresee a misunderstanding of the information conveyed due to the symbol DOT being out of sequence. Therefore, NHTSA agrees with MNA that reversing the order of the symbol DOT and plant code does not pose a safety risk for the vehicles on which these tires are mounted or the tires themselves.

Performance: NHTSA reviewed MNA's submission of certification data for the subject tires. The subject tires appear to comply with the FMVSS No. 139 performance requirements related to the endurance requirement, high-speed requirement, plunger energy test requirement, and bead unseat requirement. Therefore, on the basis that the tires meet the minimum performance requirements of applicable FMVSS, reversing the order of the symbol DOT and plant code does not pose a safety risk.

Identification and Traceability: A complete TIN is present with the plant code, size code, optional code, and date code on the sidewalls of the tires. One sidewall has an incorrect sequence while the correct sequence as stamped ''DOT BF'' is present and readily available on the opposite sidewall of the full TIN. MNA has ensured, for identification and traceability purposes, the key information (*i.e.* plant code and manufacturing date) is present on the tire. The markings ''DOT BF'' and ''BF DOT'' serve as identifiers of the tire, making it traceable in the event a recall should occur. MNA has notified its customer care representatives so they can properly address inquiries raised by customers or dealers about this noncompliance. In addition, MNA has communicated to NHTSA that although erroneously marked ''BF DOT'' instead of ''DOT BF,'' the tires will be able to be registered for traceability.

VII. NHTSA's Decision

In consideration of the foregoing, NHTSA finds that MNA has met its burden of persuasion that the FMVSS No. 139 noncompliance is inconsequential as it relates to motor vehicle safety. Accordingly, MNA's petition is hereby granted and MNA is exempted from the obligation of providing notification of, and a remedy for, the noncompliance under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the subject tires that MNA no longer controlled at the time it determined that the noncompliance existed.

However, the granting of this petition does not relieve equipment distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after MNA notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2020–13297 Filed 6–19–20; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2016–0136]

Pipeline Safety: Meeting of the Gas and Liquid Pipeline Safety Advisory Committees

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Notice of advisory committee meetings.

SUMMARY: This notice announces public teleconference meeting of the Technical Pipeline Safety Standards Committee, also known as the Gas Pipeline Advisory Committee (GPAC), and the Technical Hazardous Liquid Pipeline Safety Standards Committee, also known as the Liquid Pipeline Advisory Committee (LPAC), to discuss the Valve Installation and Minimum Rupture Detection Standards notice of proposed rulemaking (NPRM).

DATES: PHMSA will hold public meetings on July 22–23, 2020. GPAC will meet from 10:30 a.m. to 6:00 p.m. ET on Wednesday, July 22, 2020, while LPAC will meet from 10:30 a.m. to 6:00 p.m. ET on Thursday, July 23, 2020. Members of the public who want to attend are asked to register no later than July 15, 2020. PHMSA requests that individuals who require disability accommodations to notify Tewabe Asebe by July 15, 2020.

ADDRESSES: The meetings will be held via teleconference. The agenda and any additional information, including information how to participate in the teleconference will be published on the meeting website at *https://primis.phmsa.dot.gov/meetings/MtgHome.mtg?mtg=149.* Presentations will be available on the meeting website and on the E-Gov website, *https://www.regulations.gov/,* under docket number PHMSA–2016–0136 no later than 30 days following the meetings. You may submit comments, identified by Docket No. PHMSA–2016–0136, by any of the following methods:

• *E-Gov Web: https://www.regulations.gov.* This site allows

the public to enter comments on any **Federal Register** notice issued by any agency. Follow the online instructions for submitting comments.

- *Fax:* 1 (202) 493–2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building: Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building: Room W12–140, Washington, DC 20590–0001, between 9:00 a.m. and 5:00 p.m. ET Monday through Friday, except federal holidays.
- *Instructions:* Identify Docket No. PHMSA–2016–0136 at the beginning of your comments. If you submit your comments by mail, submit two copies. Internet users may submit comments at *https://www.regulations.gov.* If you would like confirmation that PHMSA received your comments, please include a self-addressed stamped postcard that is labeled ''Comments on PHMSA–2016–0136.'' The docket clerk will date stamp the postcard prior to returning it to you via the U.S. mail.
- *Note:* All comments received will be posted without edits to *https://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading for more information. Anyone can use the site to search all comments by the name of the submitting individual or, if the comment was submitted on behalf of an association, business, labor union, etc., the name of the signing individual. Therefore, please review the complete U.S. Department of Transportation Privacy Act Statement in the **Federal Register** (65 FR 19477) or the Privacy Notice at *https://www.regulations.gov* before submitting comments.
- *Privacy Act Statement:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. The DOT posts these comments without edit, including any personal information the commenter provides, to *https://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.dot.gov/privacy.*
- *Confidential Business Information:* Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments in response to this notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this notice, it is important that you clearly designate the submitted comments as CBI. Pursuant to 49 CFR 190.343, you may ask PHMSA to provide confidential treatment to information you give to the agency by taking the following steps: (1) Mark each page of the original document submission containing CBI as ''Confidential;'' (2) send PHMSA a copy of the original document with the CBI deleted along with the original, unaltered document; and (3) explain why the information you are submitting is CBI. Unless you are notified otherwise, PHMSA will treat such marked submissions as confidential under the Freedom of Information Act and they will not be placed in the public docket of this notice. Submissions containing CBI should be sent to Tewabe Asebe, DOT, PHMSA, 1200 New Jersey Avenue SE, PHP–30, Washington, DC 20590–0001. Any commentary PHMSA receives that is not specifically designated as CBI will be placed in the public docket.
- *Docket:* For access to the docket or to read background documents or comments, go to *https://www.regulations.gov.* Follow the online instructions for accessing the dockets. Alternatively, this information is available by visiting DOT at 1200 New Jersey Avenue SE, West Building: Room W12–140, Washington, DC 20590–0001, between 9:00 a.m. and 5:00 p.m. ET Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Tewabe Asebe, Transportation Specialist, Office of Pipeline Safety, by phone at 202–366–5523 or by email at *tewabe.asebe@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Meeting Agenda

GPAC and LPAC will meet in separate sessions to discuss the Valve Installation and Minimum Rupture Detection Standards NPRM that PHMSA published in the **Federal Register** on February 6, 2020, (85 FR 7162). GPAC and LPAC will review the NPRM and its associated regulatory analysis. PHMSA will post additional details on the meeting website in advance of the meetings.

PHMSA proposed to revise the Pipeline Safety Regulations applicable to newly constructed and entirely replaced onshore natural gas transmission and hazardous liquid pipelines to mitigate ruptures. Additionally, PHMSA is revising the regulations regarding rupture detection to shorten pipeline segment isolation times. These proposals address congressional mandates, incorporate recommendations from the National Transportation Safety Board, and are necessary to reduce the consequences of large-volume, uncontrolled releases of natural gas and hazardous liquid pipeline ruptures.

II. Background

GPAC and LPAC are statutorily mandated advisory committees that provide PHMSA and the Secretary of Transportation with recommendations on proposed standards for the transportation of natural gas or hazardous liquids by pipeline. These committees were established in accordance with 49 U.S.C. 60115 and the Federal Advisory Committee Act, as amended (5 U.S.C. App. 2), to review PHMSA's regulatory initiatives and determine their technical feasibility, reasonableness, cost-effectiveness, and practicability. Each committee consists of 15 members, with membership evenly divided among Federal and state governments, regulated industry, and the general public.

III. Public Participation

These meetings will be open to the public. Members of the public who wish to virtually attend must register on the meeting website and include their names and affiliations. PHMSA will provide members of the public with opportunities to make a statement during the course of these meetings. Additionally, PHMSA will record the meetings and post a record to the public docket. PHMSA is committed to providing all participants with equal access to these meetings. If you need disability accommodations, please contact Tewabe Asebe by phone at (202) 366–5523 or by email at *tewabe.asebe@dot.gov.*

PHMSA is not always able to publish a notice in the **Federal Register** quickly enough to provide timely notice regarding last-minute issues that impact a previously announced advisory committee meeting. Therefore, individuals should check the meeting website or contact Tewabe Asebe regarding any possible changes.

Issued in Washington, DC, on June 15, 2020, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,

Associate Administrator for Pipeline Safety.

[FR Doc. 2020–13357 Filed 6–19–20; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0657]

Agency Information Collection Activity: Conflicting Interests Certification for Proprietary Schools

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before August 21, 2020.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0657'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Danny S. Green at (202) 421–1354.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: 38 U.S.C. 3683; 38 CFR 21.4200(z); 38 CFR 21.4202(c); 38 CFR 21.5200(c); 38 CFR 21.7122(e)(6); and 38 CFR 21.7622(f)(4)(iv).

Title: Conflicting Interests Certification for Proprietary Schools.

OMB Control Number: 2900–0657.

Type of Review: Extension of a currently approved collection.

Abstract: Schools are required to submit information necessary to determine if their programs of training are approved for the payment of VA educational assistance. This specified information is submitted either to VA or to the State Approving Agency (SAA) having jurisdiction over that school. Certain schools are considered ''proprietary'' schools. A proprietary educational institution, as defined in 38 CFR 21.4200(z), is a private institution legally authorized to offer a program of education in the State where the institution is physically located. Section 3683 of title 38, U.S.C., and sections of title 38 of the Code of Federal Regulations (CFR) establish conflict of interest restrictions related to proprietary schools. The VA Form 22–1919 is the instrument VA has implemented to address these restrictions.

(a) VA Form 22–1919 is only used to collect information on two issues:

(i) Section 3683 of title 38, U.S.C., prohibits employees of VA and the SAA from owning any interest in an educational institution operated for-profit. In addition, the law prohibits VA or SAA employees from receiving any wages, salary, dividends, profits, or gifts from private for-profit schools in which an eligible person is pursuing a program of education under an educational assistance program administered by VA. In addition, the law prohibits VA employees from receiving any services from these schools. These provisions may be waived if VA determines that no detriment will result to the government, or to Veterans or eligible persons enrolled at that private for-profit school. Item 1 of VA Form 22–1919 collects the name and title of affected VA and SAA employees known by the President (or Chief Administrative Official) of the school, as well as a description of these employees' association with that school.

(ii) Sections 21.4202(c), 21.5200(c), 21.7122(e)(6), and 21.7622(f)(4)(iv) of title 38 of the CFR prohibit the approval of educational assistance from VA for the enrollment of an eligible person in any proprietary school where the trainee is an official authorized to sign certifications of enrollment. Item 2 of VA Form 22–1919 collects the following information for each certifying official, owner, or officer who receives VA educational assistance based on an enrollment in that proprietary school: the name and title of these employees; VA file numbers; and dates of enrollment at the proprietary school.

(b) VA only collects this information at the time one (or more) of these events occurs:

(i) The initial approval of a program or course at a proprietary for-profit school;

(ii) Any change of ownership of the school (either reported by the school or found upon review of a school's records during VA's ''compliance survey'');

(iii) A change in proprietary status (from non-proprietary to proprietary, or from non-profit to profit status).

When the SAA, or VA acting as the SAA, visits the school in connection with the school's request for approval of its program(s), the representative has either the school's President or chief administrative official sign VA Form 22–1919. VA's Education Liaison Representative (ELR) will associate the completed VA Form 22–1919 with the other documentation compiled for approval of the school's program(s) and will retain this information in the approval folder. The approval folder is retained until such time as the SAA or VA withdraws approval of all courses at the school. All information in the approval folder is then destroyed according to established record control schedules.

(c) The following administrative and legal requirements affect proprietary schools as defined in 38 CFR 21.4200(z) and necessitate the VA Form 22–1919 collection:

i. 38 U.S.C. 3683, *Conflicting Interests.* Impacts proprietary for-profit schools only.

ii. Regulations that reflect the restrictions applicable to all proprietary schools:

A. 38 CFR 21.4202(c). *Overcharges; restrictions on enrollments.* Restrictions; proprietary schools.

B. 38 CFR 21.5200(c). *Schools. Overcharges; restrictions on enrollments.* Restrictions; proprietary schools.

C. 38 CFR 21.7122(e)(6). *Courses precluded.* Other courses.

D. 38 CFR 21.7622(f)(4)(iv). *Courses precluded.* Other courses.

Affected Public: Institutions of Higher Learning.

Estimated Annual Burden: 56 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: Occasionally.

Estimated Number of Respondents: 336.

By direction of the Secretary.

Danny S. Green,

VA Clearance Officer, Office of Quality, Performance and Risk, Department of Veterans Affairs.

[FR Doc. 2020–13371 Filed 6–19–20; 8:45 am]

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Part II

Department of Homeland Security

8 CFR Part 208

Removal of 30-Day Processing Provision for Asylum Applicant-Related Form I–765 Employment Authorization Applications; Final Rule

DEPARTMENT OF HOMELAND SECURITY

8 CFR Part 208

[CIS No. 2617–18; DHS Docket No. USCIS–2018–0001]

RIN 1615–AC19

Removal of 30-Day Processing Provision for Asylum Applicant-Related Form I–765 Employment Authorization Applications

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

ACTION: Final rule.

SUMMARY: This final rule removes a Department of Homeland Security (DHS) regulatory provision stating that U.S. Citizenship and Immigration Services (USCIS) has 30 days from the date an asylum applicant files the initial Form I–765, Application for Employment Authorization, (EAD application) to grant or deny that initial employment authorization application. This rule also removes the provision requiring that the application for renewal must be received by USCIS 90 days prior to the expiration of the employment authorization.

DATES: This final rule is effective August 21, 2020.

FOR FURTHER INFORMATION CONTACT: Daniel Kane, Branch Chief, Service Center Operations, U.S. Citizenship and Immigration Services (USCIS), DHS, 20 Massachusetts NW, Washington, DC 20529–2140; telephone: 202–272–8377.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Executive Summary
A. Purpose of the Regulatory Action
B. Legal Authority
C. Summary of the Final Rule Provisions
D. Summary of Costs and Benefits
E. Effective Date
F. Implementation
II. Background and Discussion
A. Elimination of 30-Day Processing Timeframe
B. Removal of the 90-Day Filing Requirement
C. Corresponding U.S. Department of Justice (DOJ) Regulations
III. Response to Public Comments on the Proposed Rule
A. General Feedback on the NPRM
1. General Support for the NPRM
2. General Opposition to the NPRM
B. DHS Statutory Authority and Legal Issues
1. DHS Statutory Authority
2. *Rosario* v. *USCIS* Court Order
3. Other Comments on Statutory Authority or Legal Issues
C. Removal of 30-Day Processing Timeframe
1. DHS Rationale and Need for the Rule
D. Removal of 90-Day Filing Requirement
1. Necessity of Rule and DHS Rationale
E. Statutory and Regulatory Requirements
1. Costs and Benefits (E.O. 12866 and 13563)
a. Costs Associated With Hiring Additional Immigration Officers
b. Population and Effect of Rule on Processing Times
c. Wage Bases for Labor Earnings
d. Lost Wages and Benefits
e. Impact on Support Network
f. Costs Related to Socioeconomic Factors and Impacts
g. Impacts to Companies and Employers
h. Tax Impacts
i. Small Entity Impacts
j. Benefits
2. Other Statutory and Regulatory Requirements
F. Out of Scope
1. Comments on the Broader Asylum EAD NPRM
2. Other Out of Scope Comments
IV. Statutory and Regulatory Requirements
A. Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review)
1. Summary
2. Background and Purpose of the Final Rule
3. Population
4. Transfers, Costs, and Benefits of the Rule
a. Transfers and Cost
b. Benefits
c. Labor Market Overview
d. Alternatives
B. Regulatory Flexibility Act
C. Congressional Review Act
D. Unfunded Mandates Reform Act of 1995
E. Executive Order 13132 (Federalism)
F. Executive Order 12988 (Civil Justice Reform)
G. Paperwork Reduction Act
H. Family Assessment
I. Executive Order 13175
J. National Environmental Policy Act (NEPA)
K. National Technology Transfer and Advancement Act
L. Executive Order 12630
M. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
N. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
O. Signature

Table of Abbreviations

BCU Background Check Unit
CFDO Center Fraud Detection Operations
CFR Code of Federal Regulations
DHS Department of Homeland Security
EAD Employment Authorization Document
HSA Homeland Security Act of 2002
INA Immigration and Nationality Act
NPR Notice of Proposed Rulemaking
USCIS U.S. Citizenship and Immigration Services

I. Executive Summary

A. Purpose of the Regulatory Action

On September 9, 2019, DHS published a notice of proposed rulemaking in which it laid out its intention to eliminate the regulation articulating a 30-day processing timeframe for USCIS to adjudicate initial Applications for Employment Authorization (Forms I–765 or EAD applications) for asylum applicants. This change was proposed to (1) ensure USCIS has sufficient time to receive, screen, and process applications for an initial grant of employment authorization based on a pending asylum application, and to also (2) reduce opportunities for fraud and protect the security-related processes undertaken for each EAD application.[1] DHS also proposed to remove the provision requiring that the application for renewal must be received by USCIS 90 days prior to the expiration of their employment authorization. This change was proposed to align existing regulatory text with DHS policies implemented under the *Retention of EB–1, EB–2, and EB–3 Immigrant Workers and Program Improvements Affecting High-Skilled Nonimmigrant Workers* final rule, 82 FR 82398, 82457 (2017 AC21 Rule), which became effective January 17, 2017. DHS provided its analysis and justifications and invited public comment. Following the review and analysis of public comments, DHS is adopting its proposed regulation in all material respects,[2] and incorporates by reference the reasoning, and data in the proposed rule, except to the extent indicated

[1] As noted in the proposed rule, prior to the *Rosario* v. *USCIS,* 365 F. Supp. 3d 1156 (W.D. Wash. 2018), court order in fiscal year 2017, the adjudication processing times for these employment authorization applications exceeded the regulatory set timeframe of 30 days more than half the time. In response to the *Rosario* v. *USCIS* litigation and to comply with the court order, USCIS dedicated as many resources as practicable to these adjudications, but continues to face a historic asylum application backlog, which in turn increases the numbers of applicants eligible for pending asylum EADs. However, USCIS does not want to continue this reallocation of resources as a long-term solution because it removes resources from other competing work priorities in other product lines and adds delays to other time-sensitive adjudication timeframes, and thus is finalizing this rule.

[2] DHS has made one technical correction to the proposed rule. DHS had proposed to replace old references to ''the Service'' in 8 CFR 208.7(a)(1) and (c)(3) with references to USCIS. But in context, the reference to ''the Service'' in 8 CFR 208.7(c)(3) is best read to refer to functions currently performed by U.S. Immigration and Customs Enforcement, a different component of DHS. The final rule therefore replaces the latter reference to ''the Service'' with a reference to ''DHS'' more broadly, rather than just USCIS.

below. DHS also provides more recent data below, where available.

B. Legal Authority

The authority of the Secretary of Homeland Security (Secretary) for these regulatory amendments is found in various sections of the Immigration and Nationality Act (INA), 8 U.S.C. 1101 *et seq.,* and the Homeland Security Act of 2002 (HSA), Public Law 107–296, 116 Stat. 2135, 6 U.S.C. 101 *et seq.* General authority for issuing the final rule is found in section 103(a) of the INA, 8 U.S.C. 1103(a), which authorizes the Secretary to administer and enforce the immigration and nationality laws and to establish such regulations as he deems necessary for carrying out such authority. *See also* 6 U.S.C. 271(a)(3)(A), (b). Further authority for the regulatory amendment in the final rule is found in section 208(d)(2) of the INA, 8 U.S.C. 1158(d)(2), which states that an applicant for asylum is not entitled to employment authorization, and may not be granted asylum application-based employment authorization prior to 180 days after filing of the application for asylum, but otherwise authorizes the Secretary to prescribe by regulation the terms and conditions of employment authorization for asylum applicants.

C. Summary of the Final Rule Provisions

DHS considered the public comments received and this final rule adopts the regulatory text proposed in the Notice of Proposed Rulemaking (NPRM) published in the **Federal Register** on September 9, 2019, in all material respects. *See Removal of 30-Day Processing Provision for Asylum Applicant-Related Form I–765 Employment Authorization Applications,* Proposed Rule, 84 FR 47148.

As a consequence, this final rule makes the following major revisions to the application for employment authorization for asylum seekers program regulations:

1. Eliminates the 30-day adjudication requirement for initial filings; and
2. eliminates the requirement that applications to renew employment authorization must be received by USCIS 90 days prior to the expiration of the applicant's employment authorization.

D. Summary of Costs and Benefits

DHS notes that the estimates from the NPRM regarding unemployment, number of asylum applicants per year, and USCIS processing are not currently applicable as COVID–19 has had a dramatic impact on all three. DHS offers this analysis as a glimpse of the potential impacts of the rule, but the analysis relies on assumptions related to a pre-COVID economy. While future economic conditions are currently too difficult to predict with any certainty, DHS notes that a higher unemployment rate may result in lower costs of this rule as replacing pending asylum applicant workers would most likely be easier to do. Consequently, as unemployment is high, this rule is less likely to result in a loss of productivity on behalf of companies unable to replace forgone labor.

DHS is removing the requirement to adjudicate initial EAD applications for pending asylum applicants within 30 days. In FY 2017, prior to the *Rosario* v. *USCIS* court order, 365 F. Supp. 3d 1156 (W.D. Wash. 2018), the adjudication processing times for initial Form I–765 under the Pending Asylum Applicant category exceeded the regulatory-set timeframe of 30 days more than half the time. However, USCIS adjudicated approximately 78 percent of applications within 60 days. In response to the *Rosario* v. *USCIS* litigation and to comply with the *Rosario* court order, USCIS has dedicated as many resources as practicable to these adjudications, but continues to face a historic asylum application backlog, which in turn increases the numbers of applicants eligible for pending asylum EADs. However, USCIS finds this reallocation of resources unsustainable as a long-term solution because it removes resources from competing work priorities in other product lines and adds delays to other time-sensitive adjudication timeframes. By eliminating the 30-day adjudicative timeframe, USCIS is better able to prioritize status-granting workloads based on agency and department priorities. USCIS has not estimated the costs of hiring additional officers and therefore has not estimated the costs that might be avoided if the major revisions in this final rule are not implemented. Hiring more officers would not immediately and in all cases shorten adjudication timeframes because: (1) Additional time would be required to recruit, onboard and train new employees; and, (2) for certain applications, additional time is needed to fully vet applicants, regardless of staffing levels. Further, simply hiring more officers is not always feasible due to budgetary constraints and the fact that USCIS conducts notice and comment rulemaking to raise fees and increase revenue for such hiring actions. There is currently no fee for asylum applications or the corresponding initial EAD applications,[3] and the cost to the agency for adjudication is covered by fees paid by other benefit requesters. As a primary goal, USCIS seeks to adequately vet applicants and adjudicate applications as quickly and efficiently as possible. However, this final rule may delay the ability to work for some initial applicants whose EAD processing is delayed beyond the 30-day regulatory timeframe.

The impacts of this rule are measured against a baseline. While we have added some more recent data and information, pursuant to public comments, the costs are benchmarked to FY 2017, consistent with the NPRM. This baseline reflects the best assessment of the way the world would look absent this action. For this rulemaking, USCIS assumes that in the absence of this final rule the baseline amount of time that USCIS would take to adjudicate would be 30 days. USCIS also assumes that after this final rule becomes effective, adjudications will align with DHS processing times achieved in FY 2017 (before the *Rosario* v. *USCIS* court order). This is our best estimate of what will occur after this rule becomes effective. USCIS believes the FY 2017 timeframes are sustainable and expects to meet these timeframes following the effective date of this rule. Therefore, USCIS analyzed the impacts of this rule by comparing the costs and benefits of adjudicating initial EAD applications for pending asylum applications within 30 days compared to the actual time it took to adjudicate these EAD applications in FY 2017.

USCIS notes that in FY 2018, 80.3 percent of applications were processed within 30 days and 97.5 percent were processed within 60 days. In FY 2019, the figures were 96.9 percent and 99.2 percent, respectively. In the analysis of impacts of this rule, USCIS assumed 100

[3] On April 29, 2019, President Trump directed DHS to propose regulations that would set a fee for an asylum application not to exceed the costs of adjudicating the application, as authorized by section 208(d)(3) of the INA (8 U.S.C. 1158(d)(3)) and other applicable statutes, and would set a fee for an initial application for employment authorization for the period an asylum claim is pending. *See* Presidential Memorandum for the Attorney General and Secretary of Homeland Security on Additional Measures to Enhance Border Security and Restore Integrity to Our Immigration System (Apr. 29, 2019), *available at https://www.whitehouse.gov/presidential-actions/presidential-memorandum-additional-measures-enhance-border-security-restore-integrity-immigration-system/* (last visited June 26, 2019). The implementation of the President's directive would take place via a separate rulemaking (known as the fee rule, through which USCIS analyzes adjudicative and operational costs biannually and sets fees, *see* 84 FR 6228- (Nov. 14, 2019) (proposed rule), but it is uncertain whether such a revised fee structure would reduce the overall resource burden associated with the 30-day adjudication timeframe.

percent of adjudications happened within 30 days.[4] However, because actual adjudications in FYs 2018 and 2019 within the 30-day timeframe are slightly less than the 100 percent analyzed, USCIS has over-estimated the impacts of this rule with respect to this variable when less than 100 percent of adjudications happen within 30 days. It is noted that the reliance on the 100 percent rate slightly overstates the costs.

The impacts of this rule include both potential distributional effects (which are transfers) and costs.[5] The potential distributional impacts fall on the asylum applicants who may be delayed in entering the U.S. labor force. The potential distributional impacts (transfers) would be in the form of lost opportunity to receive compensation (wages and benefits). A portion of this lost compensation might be transferred from asylum applicants to others that are currently in the U.S. labor force, possibly in the form of additional work hours or overtime pay. A portion of the impacts of this rule may also be borne by companies that would have hired the asylum applicants had they been in the labor market earlier but were unable to find available workers. These companies would incur a cost, as they may be losing the productivity and potential profits the asylum applicant may have provided had the asylum applicant been in the labor force earlier.[6]

Companies may also incur opportunity costs by having to choose the next best alternative to immediately filling the job the asylum applicant would have filled. USCIS does not know what this next best alternative may be for those companies. As a result, USCIS does not know the portion of overall impacts of this rule that are transfers or costs. If companies can find replacement labor for the position the asylum applicant would have filled, this rule would have primarily distributional effects in the form of transfers from asylum applicants to others already in the labor market (or workers induced to return to the labor market). USCIS acknowledges that there may be additional opportunity costs to employers such as additional search costs. However, if companies cannot find a reasonable substitute for the labor an asylum applicant would have provided, this rule would primarily be a cost to these companies through lost productivity and profits.

USCIS uses the lost compensation to asylum applicants as a measure of the overall impact of the rule—either as distributional impacts (transfers) or as a proxy for businesses' cost for lost productivity. It does not include additional costs to businesses for lost profits and opportunity costs or the distributional impacts for those in an applicant's support network. The lost compensation to asylum applicants could range from $255.88 million to $774.76 million annually depending on the wages the asylum applicant would have earned. The 10-year total discounted lost compensation to asylum applicants at 3 percent could range from $2.183 billion to $6.609 billion and at 7 percent could range from $1.797 billion to $5.442 billion (years 2020–2029).

USCIS recognizes that the impacts of this final rule could be overstated if the provisions of a separate NPRM that DHS published in November 2019 (''broader asylum EAD NPRM'') are finalized as proposed. *See Asylum Application, Interview, and Employment Authorization for Applicants, Proposed Rule,* 84 FR 62374 (Nov. 14, 2019). Specifically, the broader asylum EAD NPRM would limit or delay eligibility for employment authorization for certain asylum applicants.[7] Accordingly, if the population of aliens is less than estimated as a result of the broader asylum EAD rule, the estimated impacts of this rule could be overstated because the population affected may be lower than estimated in this rule.

In instances where a company cannot hire replacement labor for the position the asylum applicant would have filled, USCIS acknowledges that such delays may result in tax losses to the government. It is difficult to quantify income tax losses because individual tax situations vary widely[8] but USCIS estimates the potential loss to other employment tax programs, namely Medicare and social security which have a combined tax rate of 7.65 percent (6.2 percent and 1.45 percent, respectively).[9] With both the employee and employer not paying their respective portion of Medicare and social security taxes, the total estimated tax loss for Medicare and social security is 15.3 percent.[10] Lost wages ranging from $255.88 million to $774.76 million would result in employment tax losses to the government ranging from $39.15 million to $118.54 million.[11] Again, depending on the circumstances of the employee, there could be additional federal income tax losses not estimated here. There may also be state and local income tax losses that would vary according to the jurisdiction.

This rule will possibly result in reduced opportunity costs to the federal government. Since the *Rosario* court order compelled USCIS to comply with the 30-day provision in FY 2018, USCIS has redistributed its adjudication resources to work up to full compliance. By removing the 30-day timeframe, these redistributed resources can be reallocated, potentially reducing delays in processing of status-granting benefit requests, and avoiding costs associated with hiring additional employees. USCIS has not estimated these avoided

[4] The information regarding the processing of these applications was provided by USCIS Office of Performance and Quality (OPQ).

[5] Transfer payments are monetary payments from one group to another that do not affect total resources available to society. *See* OMB Circular A–4 pages 14 and 38 for further discussion of transfer payments and distributional effects. Circular A–4 is available at: *https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A4/a-4.pdf.*

[6] The analysis accounts for *delayed* entry into the labor force, and does not account for the potential circumstance under which this rule may completely foreclose an alien's entry into the labor force. Such a possible circumstance could occur if USCIS ultimately denies an EAD application that was pending past 30 days due to this rule, solely because the underlying asylum application had been denied during the extended pendency of the EAD application. In such a scenario, there would be additional costs and transfer effects due to this rule. Such costs and transfer effects are not accounted for below. Similarly, the rule does not estimate avoided turnover costs to the employer associated with such a scenario.

[7] In the broader asylum EAD NPRM, DHS proposed to modify its current regulations governing asylum applications, interviews, and eligibility for employment authorization based on a pending asylum application. That NPRM was intended to implement a Presidential directive related to employment authorization for asylum applicants. On April 29, 2019, President Trump directed DHS to propose regulations that would bar aliens who have entered or attempted to enter the United States unlawfully from receiving employment authorization before any applicable application for relief or protection from removal has been granted, and to ensure immediate revocation of employment authorization for aliens who are denied asylum or become subject to a final order of removal. *See* Presidential Memorandum for the Attorney General and Secretary of Homeland Security on Additional Measures to Enhance Border Security and Restore Integrity to Our Immigration System (Apr. 29, 2019), *available at https://www.whitehouse.gov/presidential-actions/presidential-memorandum-additional-measures-enhance-border-security-restore-integrity-immigration-system/* (last visited June 26, 2019).

[8] *See* More than 44 percent of workers pay no federal income tax (September 16, 2018) available at *https://www.marketwatch.com/story/81-million-americans-wont-pay-any-federal-income-taxes-this-year-heres-why-2018-04-16.*

[9] The various employment taxes are discussed in more detail at *https://www.irs.gov/businesses/small-businesses-self-employed/understanding-employment-taxes. See IRS Publication 15, Circular E, Employer's Tax Guide for specific information on employment tax rates. https://www.irs.gov/pub/irs-pdf/p15_18.pdf.*

[10] Calculation: (6.2 percent social security + 1.45 percent Medicare) × 2 employee and employer losses = 15.3 percent total estimated tax loss to government.

[11] Calculations: Lower bound lost wages $255.88 million × 15.3 percent estimated tax rate = $39.15 million.

Upper bound lost wages $774.76 million × 15.3 percent estimated tax rate = $118.54 million.

costs. Additionally, USCIS does not anticipate that removing the separate 90-day EAD filing requirement would result in any costs to the federal government.

This rule will benefit USCIS by allowing it to operate under long-term, sustainable case processing times for initial EAD applications for pending asylum applicants, to allow sufficient time to address national security and fraud concerns, and to maintain technological advances in document production and identity verification. Applicants would rely on up-to-date processing times, which provide accurate expectations of adjudication times.

The technical change removing the 90-day filing requirement is expected to reduce confusion regarding EAD renewal requirements for pending asylum applicants and ensure the regulatory text reflects current DHS policy and regulations under DHS's final 2017 AC21 Rule.[12]

Table 1 provides a detailed summary of the regulatory changes and the expected impacts of this final rule.

TABLE 1—SUMMARY OF PROVISIONS AND IMPACTS

Current provision	Change to provision	Expected costs and transfers from changed provision	Expected benefits from changed provision
USCIS has a 30-day initial EAD adjudication timeframe for applicants who have pending asylum applications.	USCIS is eliminating the provisions for the 30-day adjudication timeframe and issuance of initial EADs for pending asylum applicants.	*Quantitative:* This provision could delay the ability of some initial applicants to work. A portion of the impacts of the rule would be the lost compensation transferred from asylum applicants to others currently in the workforce, possibly in the form of additional work hours or overtime pay. A portion of the impacts of the rule would be lost productivity costs to companies that would have hired asylum applicants had they been in the labor market, but who were unable to find available workers. USCIS uses the lost compensation to asylum applicants as a measure of these distributional impacts (transfers) and as a proxy for businesses' cost for lost productivity. The lost compensation due to processing delays could range from $255.88 million to $774.76 million annually. The total ten-year discounted lost compensation for years 2020–2029 averages $4.396 billion and $3.619 billion at discount rates of 3 and 7 percent, respectively. USCIS does not know the portion of overall impacts of this rule that are transfers or costs. Lost wages ranging from $255.88 million to $774.76 million would result in employment tax losses to the government ranging from $39.15 million to $118.54 million annually.	*Quantitative:* Not estimated.
		Qualitative: In cases where companies cannot find reasonable substitutes for the labor the asylum applicants would have provided, affected companies would also lose profits from the lost productivity. In all cases, companies would incur opportunity costs by having to choose the next best alternative to immediately filling the job the pending asylum applicant would have filled. There may be additional opportunity costs to employers such as search costs. There may also be additional distributional impacts for those in an applicant's support network beyond a minimum of 180 days—if applicants are unable to work legally, they may need to rely on resources from family members, friends, non-profits, or government entities for support.	*Qualitative:* DHS will be able to operate under long-term sustainable case processing times for initial EAD applications for pending asylum applicants, to allow sufficient time to address national security and fraud concerns, and to maintain technological advances in document production and identity verification without having to add any resources.
		DHS notes that the estimates from the NPRM regarding unemployment, number of asylum applicants per year, and USCIS processing are not currently applicable as COVID–19 has had a dramatic impact on all three. DHS offers this analysis as a glimpse of the potential impacts of the rule, but the analysis relies on assumptions related to a pre-COVID economy. While future economic conditions are currently too difficult to predict with any certainty, DHS notes that a higher unemployment rate may result in lower costs of this rule as replacing pending asylum applicant workers would most likely be easier to do. Consequently, as unemployment is high, this rule is less likely to result in a loss of productivity on behalf of companies unable to replace forgone labor.	This rule is expected to result in reduced opportunity costs to the Federal Government. By removing the 30-day timeframe, USCIS will be able to reallocate the resources it redistributed to comply with the 30-day provision, potentially reducing delays in processing of other applications and avoiding costs associated with hiring additional employees.
Applicants can currently submit a renewal EAD application 90 days before the expiration of their current EAD.	This rule removes the 90-day submission requirement for renewal EAD applications.	*Quantitative:* None	*Quantitative:* None.
		Qualitative: None	*Qualitative:* Applicants— • Reduces confusion regarding EAD renewal requirements. Some confusion may nonetheless remain if applicants consult outdated versions of regulations or inapplicable DOJ regulations.

[12] In the 2017 AC21 final rule, 81 FR 82398, USCIS amended 8 CFR 274a.13 to allow for the automatic extension of existing, valid EADs for up to 180 days for renewal applicants falling within certain EAD categories as described in the regulation and designated on the USCIS website. *See* 8 CFR 274a.13(d). Among those categories is asylum applicants. To benefit from the automatic extension, an applicant falling within an eligible category (1) must properly file his or her renewal request for employment authorization before its expiration date; (2) must request renewal based on the same employment authorization category under which the expiring EAD was granted; and (3) will continue to be authorized for employment based on his or her status, even after the EAD expires, if the applicant is applying for renewal under a category that does not first require USCIS to adjudicate an underlying application, petition, or request.

TABLE 1—SUMMARY OF PROVISIONS AND IMPACTS—Continued

Current provision	Change to provision	Expected costs and transfers from changed provision	Expected benefits from changed provision
			DHS/USCIS— • The DHS regulations are being updated to match those of other EAD categories.

As previously discussed, USCIS does not know the portion of overall impacts of this rule that are transfers or costs, but estimates that the maximum monetized impact of this rule from lost compensation is $774.76 million annually. If all companies are able to easily find reasonable labor substitutes for all of the positions the asylum applicants would have filled, they will bear little or no costs, so the maximum of $774.76 million will be transferred from asylum applicants to workers currently in the labor force or induced back into the labor force (we assume no tax losses as a labor substitute was found). Conversely, if companies are unable to find any reasonable labor substitutes for the positions the asylum applicants would have filled, then $774.76 million is the estimated maximum monetized cost of the rule and $0 is the estimated minimum in monetized transfers from asylum applicants to other workers. In addition, under this scenario, because the jobs would go unfilled there would be a loss of employment taxes to the federal government. USCIS estimates $118.54 million as the maximum decrease in employment tax transfers from companies and employees to the federal government. The two scenarios described above represent the estimated endpoints for the range of monetized impacts resulting from this rule and are summarized in Table 2 below.

TABLE 2—SUMMARY OF RANGE OF MONETIZED ANNUAL IMPACTS

Category	Description	Scenario: No replacement labor found for asylum applicants		Scenario: All asylum applicants replaced with other workers		Primary (half of the highest high for each row)
		Low wage	High wage	Low wage	High wage	
Cost	Lost compensation used as proxy for lost productivity to companies.	$255.88	$774.76	$0.00	$0.00	$387.38
Transfer	Compensation transferred from asylum applicants to other workers.	0.00	0.00	255.88	774.76	387.38
Transfer	Lost employment taxes paid to the Federal Government.	39.15	118.54	0.00	0.00	59.27

As required by OMB Circular A–4, Table 3 presents the prepared A–4 accounting statement showing the costs and transfers associated with this final regulation. For the purposes of the A–4 accounting statement below, USCIS uses the mid-point as the primary estimate for both costs and transfers because the total monetized impact of the rule from lost compensation cannot exceed $774.76 million and as described, USCIS is unable to apportion the impacts between costs and transfers. Likewise, USCIS uses a mid-point for the reduction in employment tax transfers from companies and employees to the federal government when companies are unable to easily find replacement workers. USCIS notes that there may be some un-monetized costs such as additional opportunity costs to employers that would not be captured in these monetized estimates.

TABLE 3—OMB A–4 ACCOUNTING STATEMENT

[$ millions, 2017]

[Period of analysis: 2020–2029]

Category	Primary estimate		Minimum estimate	Maximum estimate	Source citation (RIA, preamble, etc.)
Benefits:					
Monetized Benefits	(7%)	N/A	N/A	N/A	RIA.
	(3%)	N/A	N/A	N/A	RIA.
Annualized quantified, but un-monetized, benefits.	N/A		N/A	N/A	RIA.
Unquantified benefits	Applicants would benefit from reduced confusion over renewal requirements. DHS would be able to operate under sustainable case processing times for initial EAD applications for pending asylum applicants, to allow sufficient time to address national security and fraud concerns, and to maintain technological advances in document production and identity verification				RIA.
Costs:					

TABLE 3—OMB A–4 ACCOUNTING STATEMENT—Continued

[$ millions, 2017]

[Period of analysis: 2020–2029]

Annualized monetized costs (discount rate in parenthesis).	(7%) (3%)	$387.38 $387.38	$0 $0	$774.76 $774.76	RIA. RIA.
Annualized quantified, but un-monetized, costs	N/A		N/A	N/A	RIA.
Qualitative (unquantified) costs	In cases where companies cannot find reasonable substitutes for the labor the asylum applicants would have provided, affected companies would also lose profits from the lost productivity. In all cases, companies would incur opportunity costs by having to choose the next best alternative to immediately filling the job the pending asylum applicant would have filled. There may be additional opportunity costs to employers such as additional search costs				RIA.
Transfers:					
Annualized monetized transfers: "on budget"	(7%) (3%)	$0 $0	$0 $0	$0 $0	RIA.
From whom to whom?	N/A				N/A.
Annualized monetized transfers: Compensation.	(7%) (3%)	$387.38 $387.38	$0 $0	$774.76 $774.76	RIA.
From whom to whom?	From asylum applicants to workers in the U.S. labor force or induced into the U.S. labor force. Additional distributional impacts from asylum applicant to the asylum applicant's support network that provides for the asylum applicant while awaiting an EAD				RIA.
Annualized monetized transfers: Taxes	(7%) (3%)	$59.27 $59.27	$0 $0	$118.54 $118.54	RIA.
From whom to whom?	A reduction in employment taxes from companies and employees to the Federal Government. There could also be a transfer of federal, state, and local income tax revenue				
Category	Effects				Source citation (RIA, preamble, etc.)
Effects on state, local, and/or tribal governments	None; no significant impacts to national labor force or to the labor force of individual states is expected. Possible loss of tax revenue				RIA.
Effects on small businesses	None				RFA.
Effects on wages	None				RIA.
Effects on growth	None				RIA.

E. Effective Date

This final rule will be effective on August 21, 2020, 60 days from the date of publication in the **Federal Register**. DHS has determined that this 60-day period is reasonable as it does not impose new filing burdens on asylum seekers requesting initial employment authorization and simplifies the requirements for asylum seekers requesting to renew employment authorization.

F. Implementation

The changes in this rule will apply to adjudication of initial applications for work authorization filed on or after the effective date of the rule by those with pending asylum applications and renewal applicants filing on or after the effective date. As noted in the preamble to the proposed rule, *Rosario* class members who have filed their initial EAD applications prior to the effective date of the rule will be grandfathered into the 30-day adjudication timeframe. *See* 84 FR at 47153. DHS has determined that this manner of implementation best balances operational considerations with fairness to class members.

II. Background and Discussion

A. Elimination of 30-Day Processing Timeframe

Processing of Applications for Employment Authorization Documents (EADs)

Pursuant to 8 CFR 208.7, 274a.12(c)(8), and 274a.13(a)(2), pending asylum applicants may request an EAD by filing an EAD application using Form I–765, Application for Employment Authorization. Under 8 CFR 208.7(a)(1) prior to this final rule, USCIS' adjudicatory timeframe for initial employment authorization requests under the (c)(8) category was 30 days. The 30-day timeframe in 8 CFR 208.7(a)(1) was established more than 20 years ago,[13] when the former Immigration and Naturalization Service (INS) adjudicated EAD applications at local INS offices. The adjudication process and vetting requirements have changed substantially since that time. EAD applications are now adjudicated at USCIS service centers. As discussed in the proposed rule and in response to comments below, DHS believes that the 30-day timeframe is outdated, does not account for the current volume of applications, and no longer reflects

[13] *See Rules and Procedures for Adjudication of Applications for Asylum or Withholding of Deportation and for Employment Authorization,* 59 FR 62284 (Dec. 5, 1994); *Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures,* 62 FR 10312, 10337 (Mar. 6, 1997).

current operational realities.[14] Specifically, in the time since the previous rule was enacted, asylum applications filed with USCIS have reached historic levels, peaking most recently at 142,760 in FY 2017. This increase in application receipts, along with the significant and longstanding backlog at USCIS of affirmative asylum applications (''asylum backlog'' or ''affirmative asylum backlog''), has contributed to an increase in receipts of initial EAD applications for pending asylum applicants that has surpassed available USCIS resources. By eliminating the 30-day provision, DHS seeks to maintain realistic case processing times for initial EAD applications filed by pending asylum applicants, to address national security and fraud concerns, and to maintain technological advances in document production and identity verification that USCIS must fulfill as a part of its core mission within DHS. This rulemaking does not change any requirements or eligibility for applying for or being granted asylum or employment authorization. Rather, it reflects the operational changes necessary due to increased employment authorization application volumes based on an underlying application for asylum.

Growth of Receipts and Backlog

The growth of asylum application receipts by USCIS, along with the growing asylum backlog, has contributed to an increase in EAD applications from pending asylum applicants that has surpassed available Service Center Operations resources. As of February 2020, the affirmative asylum caseload stood at approximately 339,000 applications [15] and it had been growing for several years. Credible fear screening for aliens apprehended at or near the U.S. border, *see* 8 CFR 208.30, increased to over 94,000 in fiscal year (FY) 2016 from 36,000 in FY 2013. Affirmative asylum applications increased to over 100,000 in FY 2016 for the first time in 20 years.[16] The USCIS Asylum Division received 44,453 affirmative asylum applications in FY 2013, 56,912 in FY 2014, 84,236 in FY 2015, 115,888 in FY 2016, 142,760 in FY 2017, 106,041 in FY 2018, and 96,861 in FY 2019.[17] While receipts have dipped slightly in the last two fiscal years, prior to that there was a 221.15 percent increase in annual affirmative asylum receipts over the span of 5 years that directly contributed to the increase in (c)(8) EAD receipts. USCIS received 41,021 initial EAD applications from aliens with pending asylum applications in FY 2013, 62,169 in FY 2014, 106,030 in FY 2015, 169,970 in FY 2016, 261,782 in FY 2017, 262,965 in FY 2018, and 216,038 in FY 2019. USCIS also received 37,861 renewal EAD applications from aliens with pending asylum applications in FY 2013, 47,103 in FY 2014, 72,559 in FY 2015, 128,610 in FY 2016, 212,255 in FY 2017, 62,026 in FY 2018 and 335,188 in FY 2019. In FY 2019, USCIS received a total of 556,996 applications (which include initial and renewals of 551,226 plus 5,770 replacements, the latter of which are immaterial to this rule) for Form I–765 from pending asylum applicants, with less than half as initial applications (216,038 or 38.8 percent). There were 335,188 renewal applications (60.2 percent) in FY 2019.

The increase in both initial and renewal EAD applications coupled with the growth in the number of asylum cases filed in recent years has grossly outpaced Service Center Operations resources, specifically because USCIS has had to reallocate resources from other product lines to adjudicate these EAD applications.[18]

Changes in Intake and Document Production

Additionally, at the time the 30-day timeframe was established, EADs, which were formerly known as Forms I–688B, were produced by local offices that were equipped with stand-alone machines for such purposes. While decentralized card production resulted in immediate and customized adjudications for the public, the cards produced did not contain state-of-the-art security features, and they were susceptible to tampering and counterfeiting. Such deficiencies became increasingly apparent as the United States faced new and increasing threats to national security and public safety.

In response to these concerns, the former INS and DHS made considerable efforts to upgrade application procedures and leverage technology in order to enhance integrity, security, and efficiency in all aspects of the immigration process and by 2006, DHS fully implemented these centralization efforts.[19]

In general, DHS now requires applicants to file Applications for Employment Authorization at a USCIS Lockbox,[20] which is a Post Office box used to accelerate the processing of applications by electronically capturing data and receiving and depositing fees.[21] If DHS ultimately approves the application, a card order is sent to a card production facility, where a tamper-resistant card reflecting the specific employment authorized category is produced and then mailed to the applicant. While the 30-day timeframe may have made sense when local offices processed applications and produced the cards, DHS believes that the intervening changes discussed above now mean that a 30-day timeframe is not reflective of current processes.

Fraud, Criminality, and National Security Considerations

DHS has been unable to meet the 30-day processing timeframe in certain cases due to changes to the agency's vetting procedures and increased

[14] DHS continues to recognize the regulatory history for originally promulgating this provision, and discusses this extensively in the comment responses.

[15] An affirmative asylum application filed by a principal asylum applicant may include a dependent spouse and children, who may also file their own EAD applications based on the pending asylum application. An affirmative asylum application is one that is filed with USCIS and not in removal proceedings before the Executive Office for Immigration Review (EOIR).

[16] The USCIS Refugee, Asylum, and International Operations Parole System provided this data on March 15, 2018.

[17] These numbers only address the affirmative asylum applications that fall under the jurisdiction of USCIS' Asylum Division. Defensive asylum applicants, who file their asylum applications with the Department of Justice's Executive Office for Immigration Review (EOIR) are also eligible for (c)(8) EADs. There is an ongoing backlog of pending defensive asylum cases at EOIR, which has approximately 650,000 cases pending. *See* Memorandum from Jeff Sessions, Attorney General, *Renewing Our Commitment to the Timely and Efficient Adjudication of Immigration Cases to Serve the National Interest* (Dec. 5, 2017). The defensive asylum backlog at EOIR also contributes to an increase in both initial and renewal (c)(8) EAD applications.

[18] In response to the growing backlog and court-ordered implementation of the 30-day adjudication timeline in *Rosario* v. *USCIS, Rosario* v. *USCIS*, 365 F. Supp. 3d 1156 (W.D. Wash. 2018), Service Center Operations re-allocated available officer resources to meet the 30-day processing time for initial EAD applications, causing a strain across other Service Center Operations product lines.

[19] *See* USCIS Memorandum from Michael Aytes, *Elimination of Form I–688B, Employment Authorization Card* (Aug. 18, 2006). In January 1997, the former INS began issuing new, more secure EADs from a centralized location, and assigned a new form number (I–766) to distinguish it from the less secure, locally produced EADs (Forms I–688B). DHS stopped issuing Form I–688B EADs from local offices altogether in 2006.

[20] Asylum applicants, however, make their initial request for employment authorization directly on the Application for Asylum and Withholding of Removal, Form I–589, and need not file a separate Application for Employment Authorization following a grant of asylum. If they are requesting employment authorization based on their pending asylum application, they must file a separate request for employment authorization on Form I–765.

[21] USCIS website at *https://www.uscis.gov/about-us/directorates-and-program-offices/lockbox-intake/lockbox-intake-processing-tip-sheet (last viewed March 2, 2020).*

background checks, which resulted from the government's response to September 11, 2001, terror attacks (''9/11''). Specifically, the Immigration and Naturalization Service (INS), followed by USCIS, made multiple changes to enhance the coverage of security checks, detect applicants who pose risks to national security and public safety, deter benefits fraud, and ensure that benefits are granted only to eligible applicants, in response to 9/11.

These changes included the creation of the Application Support Centers to collect applicant fingerprints, interagency systems checks for all applications and FBI name check screening, and the creation of USCIS's Office of Fraud Detection and National Security (FDNS) to provide centralized support and policy guidance for security checks and anti-fraud operations.[22] In August 2004, the Homeland Security Presidential Directive (HSPD) 11, *Comprehensive Terrorist-Related Screening Procedures,*[23] directed DHS to:

> incorporate security features . . . that resist circumvention to the greatest extent possible [and consider] information individuals must present, including, as appropriate, the type of biometric identifier[s] or other form of identification or identifying information to be presented, at particular screening opportunities.

Since 9/11, USCIS implemented changes in the collection of biographic and biometric information for document production related to immigration benefits, including the Application for Employment Authorization (Form I–765). USCIS must verify the identity of an alien applying for an EAD and determine whether any criminal, national security, or fraud concerns exist and changes to biographic and biometric information improve USCIS's ability to carry out these functions. Under the current national security and fraud vetting guidelines, when an adjudicator determines that a criminal, national security and/or fraud concern exists, the case is forwarded to the Background Check Unit (BCU) or Center Fraud Detection Office (CFDO) for additional vetting.[24] Once vetting is completed and a finding is made, the adjudicator uses the information provided from BCU and/or CFDO to determine whether the alien is eligible to receive the requested benefit.

These security procedures implemented post 9/11 and well after the establishment of the 30-day adjudication timeframe in 1994, coupled with sudden increases in applications, have extended adjudication and processing times for applications with potential eligibility issues discovered during background checks beyond the current regulatory 30-day timeframe. It would be contrary to USCIS' core missions and undermine the integrity of the cards issued if USCIS were to reduce or eliminate vetting procedures solely to meet a 30-day deadline established decades ago.

In sum, DHS is finalizing elimination of the 30-day processing provision at 8 CFR 208.7(a)(1) because of the increased volume of affirmative asylum applications and accompanying Applications for Employment Authorization, over two decades of changes in intake and EAD document production, and the need to appropriately vet applicants for fraud, criminality, and national security concerns. DHS believes that the 30-day timeframe did not provide sufficient flexibility for DHS to meet its core missions of enforcing and administering our immigration laws and enhancing security.

Case processing time information may be found at *https://egov.uscis.gov/processing-times/,* and asylum applicants can access the web page for realistic processing times as USCIS regularly updates this information.

B. Removal of the 90-Day Filing Requirement

DHS is removing 8 CFR 208.7(d), because 8 CFR 274a.13(d), as amended in 2017, serves the same policy purpose as 8 CFR 208.7(d), and is arguably at cross-purposes with that provision. Under the 2017 AC21 Rule, certain aliens eligible for employment authorization under designated categories may have the validity of their employment authorization (if applicable) and EADs extended for up to 180 days from the document's expiration date if they file an application to renew their EAD before the EAD's expiration date. *See* 8 CFR 274a.13(d)(1). Specifically, the 2017 AC21 Rule automatically extends the employment authorization and EADs falling within the designated categories as long as: (1) The alien filed the request to renew his or her EAD before its expiration date; (2) the alien is requesting renewal based on the same employment authorization category under which the expiring EAD was granted; and (3) the alien's request for renewal is based on a class of aliens whose eligibility to apply for employment authorization continues even after the EAD expires, and is based on an employment authorization category that does not first require USCIS to adjudicate an underlying application, petition, or request. *Id.* As noted in the preamble to the 2017 AC21 Rule and this rule, and as currently reflected on the USCIS website, the automatic extension amendment applies to aliens who have properly filed applications for asylum. *See id.;* 8 CFR 274a.12(c)(8); 81 FR 82398 at 82455–56 n.98.[25]

Because the 2017 AC21 Rule effectively prevents gaps in work authorization for asylum applicants with expiring employment authorization and EADs,[26] DHS finds it unnecessary to continue to require that pending asylum applicants file for renewal of their employment authorization 90 days before the EAD's scheduled expiration in order to prevent gaps in employment authorization. In order to receive the automatic extension, applications may be filed before the employment authorization expires, though it is advisable to submit the application earlier to make allowance for the time it takes for applicants to receive a receipt acknowledging USCIS' acceptance of the renewal application, which can be used as proof of the extension, and to account for current Form I–765 processing times. As the 90-day filing requirement is no longer necessary, DHS is finalizing removal of that regulatory provision.

[22] In 2010, FDNS was promoted to a Directorate within USCIS's organizational structure, which elevated its profile and brought operational improvements to its important work. *See* USCIS, Fraud Detection and National Security Directorate, *https://www.uscis.gov/about-us/directorates-and-program-offices/fraud-detection-and-national-security/fraud-detection-and-national-security-directorate.*

[23] HSPD11, *Comprehensive Terrorist-Related Screening Procedures* (Aug. 27, 2004), *available at https://fas.org/irp/offdocs/nspd/hspd-11.html.*

[24] USCIS conducts background checks on aliens applying for an immigration benefit because United States immigration laws and regulations preclude USCIS from granting immigration benefits to aliens with certain criminal or administrative violations. *See, e.g.,* 8 CFR 208.7(a)(1) (aggravated felony bar to employment authorization for asylum applicants).

[25] *See also* USCIS, Automatic Employment Authorization Document (EAD) Extension, *https://www.uscis.gov/working-united-states/automatic-employment-authorization-document-ead-extension* (last reviewed/updated Feb. 1, 2017).

[26] As EAD applicants with pending asylum applications are not authorized for employment, incident to status, these applicants need both their authorization and document to be extended. Thus, wherever DHS discusses expiration, renewal, or extension of an employment authorization document for this population, it also means expiration, renewal, or extension of employment authorization.

C. Corresponding U.S. Department of Justice (DOJ) Regulations

This rule removes (1) the 30-day processing provision for initial employment authorization applications for those with pending asylum applications, and (2) the 90-day timeframe for receipt of an application to renew employment authorization. *See* 8 CFR 208(a)(1), and (d). These provisions can still be found in the parallel regulations under the authority of the Department of Justice (DOJ), at 8 CFR part 1208. *Compare* old 8 CFR 208.7(a)(1) and (d), *with* 8 CFR 1208.7(a)(1) and (d).

This rule revises only the DHS regulations at 8 CFR 208.7. Notwithstanding the language of the parallel DOJ regulations in 8 CFR 1208.7, as of the effective date of this final rule, the revised language of 8 CFR 208.7(a)(1) and removal of 8 CFR 208.7(d) is binding on DHS and its adjudications. DHS will not be bound by the 30-day provision of the DOJ regulations at 8 CFR 1208.7(a)(1). DOJ has no authority to adjudicate employment authorization applications. DHS has been in consultation with DOJ on this rulemaking, and DOJ may issue conforming changes at a later date.

III. Response to Public Comments on the Proposed Rule

A. General Feedback on the NPRM

In response to the proposed rule, DHS received over 3,200 comments during the public comment period. DHS reviewed the public comments received in response to the proposed rule and addresses relevant comments in the preamble to this final rule, grouped by subject area. DHS does not address comments seeking changes in U.S. laws, regulations, or agency policies that are unrelated to the changes proposed in the NPRM. This final rule does not resolve issues outside the scope of this rulemaking.

1. General Support for the NPRM

Comments: Many commenters provided general expressions of support for President Trump's overall immigration policies and reforms.

Response: DHS appreciates the expression of support for the Executive Branch in the realm of immigration policy; however, we note that the reason for promulgating this rule is to address capacity, resources, and efficiencies across USCIS operations. The legacy regulation fails to account for processing changes and increased filing volumes and does not provide the agency the flexibility it needs to effectively manage this workload while continuing to provide timely and accurate decisions across the many other types of benefit requests it receives.

Comments: Many commenters expressed support for the rule to assist the agency's thorough vetting processes and protections against fraud and national security concerns. Some commenters expressed concern that the 30-day timeframe would force the agency to ''cut corners'' in vetting processes.

Response: DHS appreciates commenters' general support for this rulemaking. In all adjudications, USCIS works to provide thorough vetting to advance U.S. interests, including detecting and deterring immigration fraud, and protecting against threats to national security and public safety, while at the same time fairly administering lawful immigration. The existing timeframe and court order have not resulted in the agency cutting corners in conducting background checks; however, it has placed a serious strain on the agency's resources to conduct these checks within 30 days. Vetting is triggered by individual benefit requests; in this case, the EAD application. Filing an application for asylum triggers vetting as does applying for employment authorization. Review of and resolution of derogatory information relating to an applicant is conducted within the office handling that particular application. Asylum applications are processed in asylum offices, while employment authorization applications are processed in service centers. Vetting is conducted throughout the adjudication process, however vetting often is occurring in relation to the particular application rather than in relation to the alien on an enterprise level.

Comments: Several commenters supported removing ''bureaucratic'' timelines. Commenters expressed that such timelines are arbitrary and are detrimental to proper vetting of applicants.

Response: USCIS agrees with commenters that a self-imposed 30-day timeframe is no longer an accurate reflection of the agency's ability to adjudicate these applications in a sustainable manner. This rulemaking will allow USCIS greater flexibility to shift workloads based on service center capacity and to continue to conduct necessary vetting, while providing accurate and timely adjudications without a disproportionate impact to the adjudication of other benefit requests.

2. General Opposition to the NPRM

Comments: A number of commenters noted that the proposed rule contradicts DHS's focus on requiring aliens to be self-sufficient. In particular, several commenters indicated that this regulation is in tension with the ''Inadmissibility on Public Change Grounds'' final rule, which was promulgated in August 2019. *See* 84 FR 41292 (Aug. 14, 2019). Commenters expressed concern that the potential for a longer wait to receive employment authorization would prevent asylum seekers from becoming self-sufficient as quickly as possible and could cause them to become a public charge. A commenter also cited 8 U.S.C. 1601, providing a Congressional statement that ''[s]elf-sufficiency has been a basic principle of United States immigration law since this country's earliest immigration statutes.''

Response: USCIS disagrees with the premise of these comments. Asylum seekers are not subject to public charge in the adjudication of their asylum applications. Likewise, the public charge ground of inadmissibility is not applicable to asylees seeking adjustment of status to lawful permanent residence. Since this population is not subject to inadmissibility based on being likely to become a public charge, USCIS does not find this rule in tension with rulemaking related to this ground of inadmissibility. Additionally, the purpose of this rulemaking is to address the unsustainable burden due to rising number of EAD applications and the resources required to maintain 30-day processing times. USCIS data supports the operational need for this rulemaking based on the significant increase in EAD applications in recent years as well as increased requirements for security checks and vetting, which lengthen the time it takes to process each case. Increasing resources for this adjudication indefinitely to meet an outdated regulatory timeframe would come at significant cost, potentially in fees and efficiencies for other benefit requestors.[27] Additionally, this rulemaking brings the regulations relating to (c)(8) processing in line with other EAD classifications, for which

[27] On November 14, 2019, DHS proposed to set a $490 fee for initial employment authorization applications for those with pending asylum applications. *See U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements,* 84 FR 62280 (Nov. 14, 2019). Although the fee rule has yet to be finalized, DHS stated that it was proposing to charge the fee to keep fees lower for all fee-paying EAD applicants. As discussed in the NPRM preceding this final rule, the agency is uncertain whether the fee would reduce the overall resource burden associated with the 30-day timeframe.

processing timelines were previously removed.

Comments: Many commenters also indicated concern that this rulemaking would have a negative impact on applicants' wellbeing in that delays in EAD application processing would lead to or exacerbate issues like homelessness, food insecurity, mental health problems, and lack of access to healthcare.

Response: USCIS strives to process all benefits requests efficiently and this rulemaking does not make changes to eligibility requirements or the process by which asylum seekers obtain employment authorization. Regardless of the underlying basis for applying for employment authorization, all applicants filing initially are subject to some period of processing time that may delay their ability to obtain employment or other services.

Comments: Several commenters opposed the rule on the basis that EADs are essential to the economic survival of vulnerable asylum seekers.

Response: This rulemaking does not prevent eligible asylum seekers from obtaining EADs, nor does it make substantive changes to eligibility or adjudication requirements. It merely removes a self-imposed timeframe for USCIS to adjudicate such applications because that constraint is no longer operationally feasible. USCIS publicly posts processing time information, so that asylum seekers have information on how long the adjudicative process is taking and can plan accordingly. USCIS acknowledges that this rule may cause some processing delays that may increase the period during which asylum seekers rely on individuals or organizations for support. This rulemaking does not aim to create undue hardships, or to cause unnecessary delays in processing applications. Regardless of the underlying basis for applying for employment authorization, all applicants filing initially are subject to some period of processing time that may delay their ability to obtain lawful employment or other services. USCIS believes that its operational needs outweigh concerns over potential minor increases in processing times.

Comments: Some commenters expressed concern that delays in work authorization would prevent asylum seekers from obtaining valid state IDs.

Response: Individual state governments determine the documentary requirements for state-issued identifications and therefore these requirements are outside USCIS' purview.

Comments: Several commenters indicated they think asylum seekers should be able to work as soon as possible.

Response: While USCIS acknowledges these commenters' opinions, the earliest date legally possible is at the 180-day mark, as Congress explicitly determined that asylum applicants who are not otherwise eligible for employment authorization ''shall not be granted such authorization prior to 180 days after the date of filing of the application for asylum.'' INA section 208(d)(2); 8 U.S.C. 1158(d)(2). However, the operational realities are not that simple. USCIS is charged with dutifully administering lawful immigration benefits and the INA specifically charges the agency with the authority to implement the law, including the discretion to grant work authorization to those who have applied for asylum. USCIS endeavors to process benefit requests as quickly and efficiently as resources allow and will continue to do so for applicants seeking an EAD based on a pending application for asylum. This rulemaking simply removes an agency's antiquated and self-imposed constraint to account for increased operational and filing volume changes that have occurred over two decades since the promulgation of the previous rule.

Comments: Commenters stated they believe this rulemaking to be antithetical to American values. For example, one commenter stated, ''. . . [the United States is] considered the 'land of opportunity' but yet we refuse to give people running for fear of persecution the opportunity to try to assimilate to our culture.'' Another stated, ''. . . [l]et us not forget that we are a nation built on values that those who need help can always look to this great nation for support and refuge.''

Response: USCIS disagrees with the commenters' premise. This rule focuses on USCIS' operational capacity and the resources required to maintain the 30-day processing timeline as receipts and vetting requirements have increased drive this rulemaking. Continuously increasing resources allocated to a particular adjudication type negatively impacts production for other benefit request types. This rule does not reduce or eliminate the opportunity for an asylum seeker who has yet to establish eligibility for asylum on the merits to apply for or receive an EAD.

Comments: A couple of commenters indicated they thought this rulemaking was discriminatory to communities of color, including Hispanic individuals. Another commenter stated the proposed rule would continue what that commenter claimed was a history of illegally discriminating against Central and South American migrants.

Response: This rulemaking applies equally to all asylum seekers, and does not discriminate against aliens based on ethnicity or country of origin. The demographics of asylum seekers, a population that has yet to establish eligibility for asylum, shift over time based on country conditions around the globe. This rulemaking addresses USCIS' available resources and capacity to process applications for asylum seekers of all ethnicities and nationalities and the processing changes provided by this rulemaking will continue to be applied equitably.

Comments: One commenter indicated that they thought the proposed rule is part of a structure intended to ignore migrants and trap them in an illegal status.

Response: Aliens seeking asylum must be physically present in the United States pursuant to INA section 208(a)(1), but may or may not have entered lawfully or be maintaining lawful status. Further, an EAD does not change an alien's underlying status or likelihood of being eligible for asylee status, but simply provides evidence that an alien is temporarily authorized to work in the United States, in this instance based on a pending application for asylum.

Comments: Some commenters suggested that the 30-day deadline is needed to ensure government accountability.

Response: USCIS acknowledges the importance of accountability and continuously seeks to improve and streamline work processes to improve efficiency and provide accurate and timely adjudicative decisions. As with any adjudication, USCIS posts processing times for these applications so that applicants can understand what to expect.[28] Applicants have avenues to address excessive delays through case status inquiries, expedite requests when circumstances warrant, and even judicial redress through filing a mandamus action to compel a decision. Removing the 30-day timeframe does not absolve USCIS of its responsibility to adjudicate applications as quickly and efficiently as possible but does reconcile changes in processing requirements for vetting as well as increasing application volume.

Comments: Some commenters asserted that USCIS is capable of maintaining the 30-day adjudication

[28] *See* USCIS, Check Case Processing Times, *https://egov.uscis.gov/processing-times/* (last view February 26, 2020). Select the form type and the service center processing the applicable case.

timeline, as it has been doing so for years.

Response: USCIS has achieved compliance with the *Rosario* v. *USCIS* court order, 365 F. Supp. 3d 1156 (W.D. Wash. 2018), as 96.9 percent of asylum-related EADs were processed within 30 days for FY2019. USCIS has had to devote significant additional resources to achieving these rates, which in turn adversely impacts other lines of adjudications. The resources needed to sustain this rate as application volumes and vetting requirements either increase or fail to abate from historically high levels will continue to force the agency to divert resources from other priorities at greater levels. This is not sustainable and unfair to other benefit requestors who also rely on timely adjudications from USCIS for other immigration status-granting benefit requests.

B. DHS Statutory Authority and Legal Issues

Some commenters provided input on DHS's statutory and legal authorities to promulgate this regulation.

1. DHS Statutory Authority

Comments: A commenter said the proposed rule contravenes Congress' intention to protect migrants with well-founded fears of persecution. Similarly, others commented that the proposed rule contravenes Congressional intent to promote effective settlement and conform with international law, as evidenced in the Refugee Act of 1980's legislative history and its language similar to that of the UN Protocol on the Status of Refugees of 1967. Another commenter agreed, stating that the 1967 Protocol and U.S. law were in response to World War II and the Holocaust.

Response: This rulemaking does not impede an alien's opportunity to seek asylum in the United States and does not contravene Congressional intent or explicit Congressional directives. Providing an asylum seeker with the opportunity to apply for temporary employment authorization while an application for asylum is pending is a discretionary benefit, as provided by Congress. *See* INA section 208(d)(2) (''An applicant for asylum is not entitled to employment authorization, but such authorization may be provided under regulation by the [Secretary of Homeland Security]''). USCIS strives to provide timely and efficient adjudications for all benefit requests, including asylum and related benefits, but the significant increases in applications for asylum are overtaxing our resources to process ancillary benefits within the 30-day regulatory timeframe.

Comments: Commenters stated that Congress intended for asylum applicants to have work authorization as soon as possible after the 180-day waiting period, as evidenced by the inclusion of such waiting period in the Immigration and Nationality Act (INA). Others likewise commented that INA's express waiting period cannot be extended by DHS, citing INA section 208(d)(5)(A)(iii), which provides that in the absence of exceptional circumstances, final administrative adjudication of the asylum application, not including administrative appeal, shall be completed within 180 days after the date such application is filed. The commenters stated that the 180-day statutory waiting period for employment authorization, taken together with the 180-day statutory timeframe for asylum adjudications, make clear that Congress intended asylum seekers to obtain work authorization as expeditiously as possible; either before 180 days if USCIS adjudicated the asylum application in that timeframe, or as soon as possible after 180 days if the asylum application was still pending at that time.

Another commenter stated, ''[t]he Proposed Rule sharply contradicts a basic principle of United States immigration law since our nation's earliest immigration statutes were passed: Self-sufficiency,'' citing to 8 U.S.C. 1601 to justify the requirement for expeditious processing of asylum seekers' EAD applications.

Response: USCIS respectfully disagrees with the commenters' statutory interpretation. INA section 208(d)(2) states, in pertinent part: ''An applicant for asylum *is not entitled* [emphasis added] to employment authorization, but such authorization may be provided under regulation by the [Secretary]. An applicant who is not otherwise eligible for employment authorization *shall not be granted such authorization prior to 180 days* [emphasis added] after the date of filing the application for asylum.'' The statutory language plainly creates a minimum requirement for the time an asylum application can be pending before the discretionary authority to grant employment authorization is permitted, but does not prohibit a longer wait time, whether by regulation, policy, or the time it takes to adjudicate such an application after a minimum of 180 days has passed. The separate provision articulating a 180-day asylum adjudication timeframe does not change this conclusion. Had Congress wished to require the Secretary to authorize employment for applicants after 180 days had elapsed since the asylum application was filed, it could have indicated that intention. *Cf., e.g.,* National Defense Authorization Act for Fiscal Year 2020, Public Law 116–92, sec. 7611(d)(3)(B) (''Liberian Refugee Immigration Fairness'') (''If an application for adjustment of status under subsection (b) is pending for a period exceeding 180 days and has not been denied, the Secretary shall authorize employment for the applicable alien.''). But Congress did not even require DHS to offer employment authorization at all, let alone articulate an adjudication timeframe.

8 U.S.C. 1601 provides a Congressional statement that ''Self-sufficiency has been a basic principle of United States immigration law since this country's earliest immigration statute.'' While USCIS agrees that self-sufficiency is an important aim of immigration law and policy, USCIS must consider its workloads and the operational impacts of outdated regulatory timelines for adjudicating EADs for aliens who have not yet established eligibility for asylum.

Comments: A commenter stated that the INA authorized DHS to promulgate the proposed rule. The commenter further stated that there is no fundamental right to seek safety and protection in the United States.

Response: USCIS concurs that it has the authority granted by the statute to promulgate this rulemaking. This rulemaking does not, however, impact an alien's right to seek safety and protection in the United States, nor does it impose changes to the process or eligibility requirements associated with seeking asylum.

Comments: Some commenters disagreed with eliminating the 30-day processing timeframe, stating that it is arbitrary and capricious. Commenters stated that there was no rational connection between the proposal and the facts relied upon, that the agency relied on inappropriate factors, and failed to consider alternatives. Specifically, they stated that the agency did not disclose the 2018–2019 processing times, can adequately vet applicants during the 30 days, failed to consider the impact to applicants not receiving an EAD, and inappropriately considered reduced litigation as a factor.

Commenters also stated that DHS did not adequately consider alternatives. Specifically, commenters stated that DHS did not explain why it cannot hire additional staff, why it is abandoning the timeframe altogether rather than extending it (challenging DHS's comparison to *Retention of EB–1, EB–2, and EB–3 Immigrant Workers and Program Improvements Affecting High-Skilled Nonimmigrant Workers,* 81 FR

82398 (Nov. 18, 2016) (''AC21'')), and asserted that DHS ignored that before *Rosario* v. *USCIS,* 92% of applicants were adjudicated within 90 days.

Response: DHS respectfully disagrees with commenters that it has not demonstrated a rational connection between its proposal and the facts before the agency. DHS has updated the rule with more data for FY 2018–2019. In the proposed rule, DHS provided data regarding FY 2017 processing times, described current processing times, explained its vetting procedures and how they have changed since September 11, 2001, and showed that most applications that required additional vetting took more than 30 days to adjudicate. DHS also explained that other adjudications have been delayed as a consequence of diverting significant resources from other benefit request types in order to adjudicate (c)(8) applications within the 30-day timeframe.

DHS considered alternatives, such as hiring additional staff or extending the timeframe to 90 days. DHS acknowledged that it is working to comply with the court order's processing times, but that such an approach is unsustainable due to the extreme resource strain. Even if DHS were able to hire staff to attempt to mitigate an increased timeframe from an operational perspective, DHS would still need to recruit, vet, onboard, and train new adjudicators, and likely extend the timeframe. Further, extending the regulatory timeframe to 60 or 90 days would not necessarily result in a timeframe that is feasible in all cases. DHS explicitly stated that before *Rosario,* it was adjudicating 92 percent of applications within 90 days, and thus disagrees with the commenter that DHS ignored that fact. DHS has seen a drastic increase in asylum applications in recent years, and this increase was not anticipated, and therefore could not have been considered when the former INS promulgated the 30-day timeframe more than 20 years ago. To promulgate another timeframe could lead to similar results and delays should volumes increase further in the future.

DHS recognizes that AC21 related to employment-based applications that do not necessarily involve the same humanitarian considerations. However, DHS also notes that though AC21 was primarily focused on employment-based immigration, it did provide for automatic extension of EADs for those who have properly filed asylum applications. See 8 CFR 274a.13(d)(1). The purpose of the discussion referenced by the commenter is to make clear why DHS rejected the option of changing the 30-day asylum applicant EAD processing timeframe to 90 days. As DHS wrote in the proposed rule, maintaining any adjudication timeframe for this EAD would unnecessarily constrict adjudication workflows. Ultimately, USCIS is unable to plan its workload and staffing needs with the level of certainty that a binding timeframe may require, and has no way of predicting what national security and fraud concerns may be or what procedures would be necessary in the future.

DHS recognizes potential impacts to applicants of not receiving an EAD at the earliest possible juncture, however, this rule does not prohibit or otherwise limit an asylum applicant's eligibility for an EAD or to apply for or receive asylum. USCIS expects that this rule will generally align adjudications with USCIS processing times achieved in FY 2017. A potentially small (such as a 30- to 60-day) delay in adjudication time, as compared to current processing times, would allow the agency the flexibility in resources to fully vet applicants through a sustainable approach for years to come.

Lastly, DHS did not wrongfully consider reduced litigation as a factor, as it was important and transparent to note to the public that it anticipated an end to litigation over the 30-day adjudication timeframe, but that applicants could in some cases still challenge the agency on ''unreasonable delay'' theories.

Comments: Commenters stated that the proposed rule was an unsupported significant departure from past policy and that it must analyze reliance interests, citing *FCC* v. *Fox Television Stations,* 556 U.S. 502 (2009). Commenters also stated that the agency's prior rulemakings on the issue enacted the 30-day timeframe for humanitarian reasons to mitigate hardships on asylum applicants, ''to ensure that bona fide asylees are eligible to obtain employment authorization as quickly as possible (citing to Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 FR 10312, 10317–18 (Mar. 6, 1997)). Commenters stated that this rulemaking does not acknowledge humanitarian factors.

Response: For reasons discussed elsewhere in this final rule, as well as provided in the proposed rule, this rulemaking fully acknowledges the agency's past practice, and provided justifications and data to support its change. USCIS predicts, and expects, that with finalizing this rule, adjudications will generally align with DHS processing times achieved in FY 2017 (before the *Rosario* v. *USCIS* court order, 365 F. Supp. 3d 1156 (W.D. Wash. 2018)). To the extent that legitimate reliance interests may exist in this context, DHS adequately addressed such interests in DHS's proposal to grandfather into the 30-day adjudication timeframe all *Rosario* class members who filed their EAD applications prior to the effective date of the final rule.

DHS explicitly recognized its past regulatory history on this issue and humanitarian concerns in the proposed rule. DHS has tried to find ways to reduce adjudication times for this population, such as returning to the processing of affirmative asylum applications on a ''last in, first out'' (LIFO) basis. DHS has further considered humanitarian factors submitted by commenters, but as noted in the proposed rule, the existing 30-day timeframe has become untenable. DHS proposed and is finalizing a solution in this rulemaking that is intended to balance the agency's core missions with providing an avenue for asylum applicants to obtain employment authorization. DHS is committed to adjudicating these applications as quickly as possible in a transparent and sustainable manner.

2. Rosario v. USCIS Court Order

Some commenters provided input on the court order in *Rosario* v. *USCIS,* 365 F. Supp. 3d 1156 (W.D. Wash. 2018).

Comments: A commenter stated that the rule appears to be an attempt to reverse *Rosario* v. *USCIS,* asserting that it is very doubtful that courts will favorably review an attempt to reverse the previous ruling through a regulatory process. Similarly, another commenter said the proposed rule is an attempt to avoid the *Rosario* litigation and its compliance plan, analogizing the latter to a contract.

Response: The decision in *Rosario* v. *USCIS* was predicated on the existing regulatory scheme in which USCIS created a 30-day processing timeframe. Specifically, the *Rosario* court order found that USCIS violated the existing 30-day regulatory timeframe and enjoined USCIS ''from further failing to adhere to the 30-day deadline for adjudicating EAD applications, as set forth in 8 CFR 208.7(a)(1).'' The court order is contingent upon USCIS' existing antiquated rule. As the 30-day timeframe was established by agency rulemaking, it can likewise be changed by agency rulemaking when the agency acknowledges its prior policy, provides reasons for the change, and promulgates a new rule. As noted in this rulemaking

and supported with available data, USCIS has determined that changing conditions, including increased vetting requirements and rising application volumes, render the former regulatory scheme nonviable.

With respect to the claim that this rulemaking attempts to avoid the *Rosario* litigation and its compliance plan, USCIS respectfully disagrees with this characterization of the purpose and nature of this rulemaking. However, USCIS is in compliance with the court order in *Rosario.*

Comments: Several commenters stated that the *Rosario* decision recognized that the balance of equities supported expedient adjudication of initial EAD applications so that asylum seekers may obtain employment authorization when waiting—often for years—to have their asylum applications resolved. Commenters cited the 1994 proposed rule, in which INS concluded that it was appropriate to adjudicate applications for employment authorization within 30 days of receipt, regardless of the merits of the underlying asylum claim.[29]

Response: The rule does not change the basis upon which USCIS may grant employment authorization to an asylum seeker pursuant to INA section 208(d)(2). It removes an outdated timeframe for the reasons stated above. In the vast majority of cases, this will not result in additional years of delays in employment authorization. The merits of the underlying asylum application are a separate adjudication and until a decision is reached on that application, the asylum seeker may be granted an EAD on the basis of the pending application.

Comments: An organization commented that the *Rosario* court and U.S. Supreme Court precedent in *Pereira* v. *Sessions,* 138 S. Ct. 2105 (2018), determined that ''resource constraints'' and vague ''practical concerns'' do not justify departing from statutory obligations to protect human welfare. Another commenter stated that the proposed rule fails to acknowledge this humanitarian factor in its analysis, and an individual commenter said the proposal cites ''vague'' security concerns, stating that the federal court in *Rosario* found such concerns to be sufficiently low that it ordered USCIS to comply with the 30-day processing deadline.

Response: USCIS seeks to clarify that the *Rosario* court considered *Pereira* v. *Sessions* in a footnote, finding that ''meritless considerations do not justify departing from the law's clear text.'' *Rosario* v. *USCIS,* 365 F. Supp. 3d 1156, 1163 n.6 (W.D. Wash. 2018). The Court considered the human welfare concerns, not security concerns, as part of its analysis of the *TRAC* v. *FCC,* 750 F.2d 70 (D.C. Cir. 1984), factors. *See Rosario,* 365 F. Supp. 3d at 1162. With respect to the claims regarding statutory obligation, USCIS disagrees with the commenter, as it is not departing from any statutory obligation. INA section 208(d)(2) explicitly states that an ''applicant for asylum is not entitled to employment authorization, but such authorization may be provided under regulation by the Attorney General.'' USCIS has not departed from the statute's text. The statute also prescribes a minimum period the asylum application must be pending prior to eligibility for consideration of an application for an EAD. The fact that the statute does not mandate employment authorization for this population demonstrates that the agency could comply with the statute's obligations to protect human welfare by not providing any avenue for employment authorization to this population. The agency has not elected to take that option, but rather has created a regulatory mechanism to provide an opportunity for employment authorization. Within that context, resource constraints and operational needs have caused DHS to reconsider the self-imposed regulatory timeframe. DHS is simply seeking to align the regulation with a feasible operational reality. With respect to the fraud and national security concerns discussed in the proposed rule and in this final rule, DHS reiterates that enhancing security is a core goal of the agency. USCIS faces limitations in identifying and tracking fraud, as explained in the GAO report discussed elsewhere in this preamble, yet the agency must ensure each applicant is properly vetted and provide its adjudicators with the requisite time to do so.

3. Other Comments on Statutory Authority or Legal Issues

Comments: One commenter questioned USCIS' authority to set any deadlines concerning U.S. immigration policies.

Response: As noted in section B of the Executive Summary of this preamble, the authority of the Secretary of Homeland Security (Secretary) for these regulatory amendments is found in various sections of the Immigration and Nationality Act (INA), 8 U.S.C. 1101 *et seq.,* and the Homeland Security Act of 2002 (HSA), Public Law 107–296, 116 Stat. 2135, 6 U.S.C. 101 *et seq.* General authority for issuing the proposed rule is found in section 103(a) of the INA, 8 U.S.C. 1103(a), which authorizes the Secretary to administer and enforce the immigration and nationality laws and to establish such regulations as he deems necessary for carrying out such authority. *See also* 6 U.S.C. 271(a)(3)(A), (b). Further authority for the regulatory amendment in the final rule is found in section 208(d)(2) of the INA, 8 U.S.C. 1158(d)(2), which states an applicant for asylum is not entitled to employment authorization, and may not be granted asylum application-based employment authorization prior to 180 days after filing of the application for asylum, but otherwise authorizes the Secretary to prescribe by regulation the terms and conditions of employment authorization for asylum applicants.

International Law

Comments: A commenter stated that the proposed rule is contrary to the 1967 Protocol's ''fair and efficient'' asylum standard. The commenter provided citations to executive statements and case law in arguing that the 1967 Protocol is an authority in U.S. refugee law. Another commenter stated that the Universal Declaration of Human Rights (UDHR) and the United States' commitment to it in the International Convention on Civil and Political Rights, the Refugee Convention and Protocol, and the Convention Against Torture create a fundamental right to asylum that would be weakened by the proposed rule. Another commenter said the rule is a violation of the Universal Declaration of Human Rights Article 14, Section 1. Another commenter also cited the International Covenant on Economic, Social and Cultural Rights (ICESCR) as providing a right to work that the proposed rule would contravene. This commenter also cited Article 45 of the Organization of American States (OAS), Article XIV of the American Declaration on the Rights and Duties of Man, and Article 6 of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights. Several commenters opposed the proposed rule, stating it contravenes the intent of the UN Refugee Convention and the Refugee Act of 1980. Another cited Articles 17 and 18 of the 1951 Refugee Convention as binding the United States to grant asylum-seekers the right to employment. The commenter provided examples of other nations with more generous work authorization laws.

Response: As a threshold matter, this rule does not abrogate the ability of asylum applicants to seek or receive employment authorization; rather, it

[29] *See* 59 FR 14779, 14780 (Mar. 30, 1994).

simply modifies the timeframes under which applications for such authorization may be adjudicated.

Although the United States is a party to the 1967 Protocol, which incorporates Articles 2 to 34 of the 1951 Refugee Convention, the Protocol is not self-executing. *See, e.g., INS* v. *Stevic,* 467 U.S. 407, 428 n.22 (1984); *Khan* v. *Holder,* 584 F.3d 773, 783 (9th Cir. 2009). The United States has implemented Article 34 of the 1951 Convention—which provides that party states ''shall as far as possible facilitate the assimilation and naturalization of refugees''—through the INA's asylum provision, section 208. *See INS* v. *Cardoza-Fonseca,* 480 U.S. 421, 441 (1987) (quotation marks omitted). As the Supreme Court has recognized, Article 34 is ''precatory'' and ''does not require [an] implementing authority actually to grant asylum to all'' persons determined to be refugees. *Id.* Nor is the United States required to provide work authorization for asylum applicants, let alone within a particular timeframe.

The INA provides that ''[a]n applicant for asylum is not entitled to employment authorization, but such authorization may be provided under regulation by the Attorney General.'' 8 U.S.C. 1158(d)(2). The implementing regulations establish that, subject to certain restrictions, an applicant for asylum shall be eligible to request employment authorization. 8 CFR 208.7(a). While the regulations allow asylum applicants to request employment authorization, the Act makes it clear that there is no entitlement to it. Additionally, the Act itself does not impose a temporal limitation on the agency to complete adjudications of asylum applicants' application for employment authorization. Eliminating the 30-day timeframe for adjudication of an asylum applicant's application for employment authorization is therefore consistent with the Act, which constitutes the U.S. implementation of the treaty obligations. *See Weinberger* v. *Rossi,* 456 U.S. 25, 34 (1982) (noting the general presumption that U.S. law conforms to U.S. international treaty obligations).

To the extent that commenters discussed other international treaties or instruments that articulate certain principles relating to a right to work, DHS acknowledges those treaties and instruments but notes that they are either non-self-executing or non-binding or are treaties to which the United States is not a party.[30] Here, Congress has enacted a specific statute authorizing the agency in the realm of employment for asylum seekers. This rule is within the Department's statutory authority. In any event, the rule does not bar an asylum applicant from applying for or receiving work authorization or qualifying for asylum; rather, it aligns DHS's processing of such applications with agency resources and provides sufficient flexibility for DHS to meet its core missions of enforcing and administering our immigration laws and enhancing security.

Other Legal Comments

Comments: A commenter stated that the proposed rule presents a due process issue in discriminating against asylum applicants by denying them timely adjudications. Another commenter agreed, stating that removing the timeframe would effectively allow the government to deny asylum claims by ''doing nothing'', because removing the timeframe would deprive applicants of an opportunity to challenge agency delays. A commenter stated that, by depriving asylum applicants the opportunity to receive timely 30-day notice of whether or not they have received employment authorization, this proposed rescinding of the 30-day timeline violates applicants' Fifth Amendment rights not to be deprived of life, liberty, or property without due process.

Response: USCIS disagrees with these comments that the rule violates due process. This rulemaking does not discriminate against asylum seekers or abridge their rights, as they are still able to apply for and receive employment authorization, but rather brings the regulatory scheme by which these applications are processed in line with processing for other types of applications for employment authorization. The rulemaking also does not effectively lead to denials of the underlying asylum claim because it does not amend any of the eligibility requirements or processes related to the asylum application. To the extent that it does cause delays in an applicant receiving an EAD, DHS notes that it expects to return to the processing timeframe in effect prior to *Rosario,* which the agency believes is a manageable and realistic timeframe. Further, providing employment authorization to those with pending asylum applications is statutorily authorized but not mandated, and this rulemaking is intended to ensure that limited resources are allocated in a manner which best allows the agency to process not only asylum seekers' initial applications for employment authorization timely, but also all other benefit requests.

Comments: A commenter stated that USCIS must provide a clear picture of the impact of a proposal in its proposed rule and that updating its analysis in the final rule does not provide an adequate opportunity for public comment.

Response: USCIS would direct the commenter to the regulatory impact analysis in the proposed rule. USCIS monetized the impacts where possible, and discussed qualitatively those that could not be monetized. In addition, data updates incorporated in this final rule have not substantially changed the assessments of the proposed impacts. *See, e.g.,* 84 FR at 47149 (''The impacts of this rule would include both distributional effects (which are transfers) and costs.[FN2] The distributional impacts would fall on the asylum applicants who would be delayed in entering the U.S. labor force. The distributional impacts (transfers) would be in the form of lost compensation (wages and benefits). USCIS does not know the portion of overall impacts of this rule that are transfers or costs. If companies can find replacement labor for the position the asylum applicant would have filled, this rule would have primarily distributional effects in the form of transfers from asylum applicants to others already in the labor market (or workers induced to return to the labor market). However, if companies cannot find reasonable substitutes for the labor the asylum applicants would have provided, this rule would primarily be a cost to these companies through lost productivity and profits. USCIS also solicited additional data and feedback from commenters. USCIS believes the proposal itself and the 60-day comment period provided more than sufficient opportunity for comment.

C. Removal of 30-Day Processing Timeframe

1. DHS Rationale and Need for the Rule

DHS received hundreds of submissions on the need for the proposed removal of the 30-day processing timeframe or DHS' rationale for the same.

[30] *See, e.g., Sosa* v. *Alvarez-Machain,* 542 U.S. 692, 734–35 (2004) (observing that the UDHR ''does not of its own force impose obligations as a matter of international law''); *id.* at 735 (''[T]he United States ratified the [International] Covenant [on Civil and Political Rights] on the express understanding that it was not self-executing and so did not itself create obligations enforceable in the federal courts.'').

Fraud and National Security

Comments: Commenters asserted that security and fraud detection do not conflict with the 30-day rule, and that USCIS can already take additional time to process EADs where there is suspected fraud. One commenter stated that there is no evidence that the 30-day timeframe resulted in increased grants of fraudulent applications.

Response: DHS disagrees with commenters that if DHS retains the 30-day timeframe it will be able to take additional time to vet certain asylum applicants for the EAD, and that fraud detection does not conflict with the 30-day timeframe. The regulatory timeframe and *Rosario* court order restrict the agency's ability to, in a sustainable manner, fully and thoroughly vet applicants. Additionally, in most cases where additional vetting was necessitated, the adjudication took longer than 30 days.

Adequately and thoroughly vetting applicants improves USCIS's ability to detect fraud and national security concerns on individual cases as well as identify trends and compile statistical data on cases involving fraud and/or national security concerns.

Comments: A commenter stated that the majority of EAD applications are not fraudulent and can be processed quickly, as evidenced by compliance with the *Rosario* litigation. The commenter stated that this indicates that EAD adjudication processes need to change, not the deadline itself. Similarly, an organization stated that USCIS failed to provide evidence of fraud impacting the EAD process. An individual also stated that USCIS has not conducted any investigation as to the extent of EAD fraud, but that a Government Accountability Office (GAO) report stated that ''only 374 asylum statuses were terminated for fraud between 2010–2014. In the same timeframe, well over 400,000 people fleeing war, disaster, political upheaval and imminent crisis were admitted to the United States to establish themselves for a better life and opportunity.'' An individual commenter stated that the reliance on ''fraud'' as the catch-all justification for every change that undermines the strength of this country's asylum program is ''tiresome.''

Response: USCIS agrees with commenters that the majority of (c)(8) EAD applicants are found eligible for employment authorization based on their pending asylum applications and recognizes the adjudication of employment authorization applications is not a flawless system. For reasons stated elsewhere in this rule, although USCIS is complying with the *Rosario* court order, *Rosario* v. *USCIS,* 365 F. Supp. 3d 1156 (W.D. Wash. 2018), doing so is causing a serious strain on agency resources.

Although USCIS has not published reports regarding fraud by aliens seeking an EAD based on a pending asylum application, it has internal procedures to monitor and vet applications and petitions for fraud risks. The GAO report focused on the merits of the underlying asylum application, and instances where an alien who was granted asylum status was later found to have obtained that status by fraud. Additionally, the GAO findings stated that USCIS has ''limited capabilities to detect asylum fraud. . . . Identifying and implementing additional fraud detection tools could enable USCIS to detect fraud more effectively while using resources more efficiently.'' [31] The adjudication of applications for (c)(8) employment authorization is limited in scope to the instant application, however, and does not render a determination on frivolity or fraud for the underlying asylum application. The GAO acknowledges the limitations USCIS faces in identifying and tracking fraud, and encouraged the agency to implement additional tools to detect fraud. With this rulemaking, USCIS hopes to provide its adjudicators with the requisite time to accommodate existing vetting requirements and to maintain flexibility should trends change.

Fraud is not a constant. It is ever-evolving and efforts to commit fraud become increasingly sophisticated as methods for detecting fraud improve. USCIS must be continuously vigilant in an effort to detect new and advanced efforts to commit fraud. Additionally, agency rigor and dedication to uncovering fraud schemes serves as a deterrent. No amount of effort will detect all attempts to commit fraud, but USCIS must remain focused and diligent in order to deter fraudulent claims. USCIS relies on all available systems and documents to detect attempts to commit fraud, which increases the time spent on each adjudication. Maintaining appropriate vetting while processing historically high numbers of applications makes the current 30-day timeframe untenable without diverting significant resources from other benefit request types.

Comments: Several commenters stated that DHS already has the option of stopping the 30-day adjudication timeframe if it suspects fraud by requesting additional proof from an applicant.

Response: While it is true that the 30-day adjudication timeframe may be paused or restarted in certain instances, according to certain regulations,[32] pausing or restarting the adjudication timeframe is not possible in all instances to accommodate routine background checks and fraud detection activities and investigations. USCIS disagrees that it can or should stop the adjudication timeframe in the manner proposed to accommodate typical adjudicative procedures rather than removing the timeframe altogether, as this rule does.

Comments: A commenter stated that DHS receives biometric information during the 150-day waiting period, during which it has ample time to conduct background checks. Another commenter stated that, by proposing this regulation, USCIS is ''broadcasting'' that it has not done security checks on asylum seekers whose applications have been pending for many months. A commenter stated that background checks can begin with an applicant's arrival at the border, when their biometrics are taken with the IDENT system and could be compared against FBI and Interpol databases. Similarly, an individual commenter questioned USCIS' statement that a slower process will increase national security because applicants who are seeking work authorization due to pending asylum applications already have supplied biometric and biographical data, which should allow processing to go quickly.

Response: USCIS acknowledges that biometric data is often collected prior to an asylum seeker applying for employment authorization, including at a border encounter, as part of USCIS' adjudication of an asylum application, and/or during removal proceedings.[33] When an alien submits an application or petition with an associated biometrics requirement (*e.g.,* a pending asylum application), the data collected in relation to the asylum application is not systematically linked to a subsequently filed ancillary application for

[31] GAO, Asylum: *Additional Actions Needed to Assess and Address Fraud Risks* (Dec. 2015), *available at https://www.gao.gov/assets/680/673941.pdf.*

[32] *See* 8 CFR 103.2(b)(10)(ii) and 8 CFR 208.7(a)(2).

[33] DHS plans to propose a rule to modify its biometrics procedures, establish consistent identity enrollment and verification policies, and align USCIS' biometrics collection with other immigration operations. Office of Management and Budget, Executive Office of the President, *Collection and Use of Biometrics by USCIS* (Fall 2019 Unified Agenda), *https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201910&RIN=1615-AC14.*

employment authorization. Vetting is triggered by individual benefit requests, in this case, the EAD application. Filing an application for an EAD triggers new vetting in association with this application. EAD officers are not permitted to ''refresh'' or otherwise rely on vetting performed in association with another application. Because USCIS's current vetting processes remain tied to the particular benefit request rather than the individual, vetting is initiated for the EAD application separate and apart from the asylum application. The proposed rule to eliminate the 30-day adjudication timeframe for initial (c)(8) EADs is not an admission of failing to conduct appropriate vetting in current adjudications, but rather is an operational necessity as asylum claims have reached historic levels in recent years, and because of the resources needed to adhere to the regulatory timeframe. Finally, USCIS notes that asylum seekers are not required to apply for an EAD and not all applicants will do so, so there is no operational efficiency to ''pre-adjudicate'' a benefit that may never be sought.

USCIS did not propose a slower process, but rather explained how its vetting procedures have changed since the 30-day timeframe was implemented more than 20 years ago, specifically to safeguard national security in response to the September 11, 2001, attacks. USCIS is removing this timeframe to provide its adjudicators a sustainable amount of time to complete these vetting procedures, as well as account for the historic number of filings in recent years.

Comments: Some commenters said fraud concerns are unfounded and should not cause delays, concluding that if DHS has a concern about an alien, then it should quickly vet the application, rather than delay it. Other commenters stated that USCIS' national security statements serve only to prompt the need for a speedier process to properly protect national security, rather than a proposal to delay the process further. Some commenters stated that this need for a speedier process is further compounded by the fact that the EAD applicants are asylum-seekers who are already residing in the United States, and having unvetted people in the U.S. subjected to a potentially indefinite review period seems contrary to the DHS's stated interests. An individual commenter concluded that any need for additional vetting prior to issuance of EADs could be addressed by means other than simply eliminating the processing parameters for all applicants.

Response: USCIS is charged with administering and safeguarding the integrity of the lawful immigration benefits. While some background checks are systematically initiated at intake, safeguarding against fraud and national security concerns also relies on manual processes in which officers analyze and assess the information available to them in the record and electronic databases. Likewise, officers are able to assess accurately whether a derogatory piece of information actually relates to the applicant, which allows applicants to receive a decision far more quickly than if any point of concern was routed outside of typical processing for additional scrutiny. Concerns involving fraud or national security are often identified in the course of adjudication, rather than quickly identified through an upfront review.

USCIS processes all EAD applications for asylum applicants as quickly as possible, including a careful review of those applications for aliens who may be flagged for additional scrutiny due to national security concerns. However, such additional review requires time, resources, and coordination with law enforcement agencies. Such review periods are not indefinite and are completed as expeditiously as possible.

Although there could be alternative means to address additional vetting, such as alternative timelines, USCIS believes eliminating the timeframe provides greater flexibility to the agency to balance its large workload efficiently.

Comments: Some commenters stated that not adjudicating EAD applications will not reduce national security threats, as asylum applicants are able to remain physically present in the United States regardless of the EAD decision. Others provided citations to articles relating unemployment and crime [34] to support assertions that the proposal could be counterproductive to public safety and security, as asylum applicants would be compelled to find illegitimate sources of income because of USCIS' refusal to provide them with EADs.

Response: USCIS disagrees that vetting of employment authorization applications does not reduce national security threats. As part of its mission as a screening and vetting agency, USCIS conducts national security and public safety checks on all applications, petitions, and benefit requests submitted to the agency. As indicated in response to a previous comment, vetting is triggered by individual benefit requests, in this case the EAD application. It is possible an asylum applicant became a potential threat to national security or public safety after the filing of the asylum application or that new information becomes available, but USCIS would not know until initiating security checks when the pending asylum EAD application is received. The agency is attempting to move away from these ''point in time'' checks, but that is something we continue to work toward. These checks, during the adjudication process, allow for referral to the Background Check Unit (BCU) or Center Fraud Detection Office (CFDO) for additional vetting where significant concerns are identified, as well as potential investigation by ICE, all of which take time which does not pause the 30-day regulatory timeframe. Further, in some circumstances, the findings may render the applicant subject to mandatory detention or ineligible for the underlying asylum claim and/or the EAD.

USCIS also does not agree that elimination of the 30-day timeframe and any potential attendant processing delays will negatively impact security or public safety by driving asylum seekers to criminal activity. The articles relied on by the commenter discuss studies conducted that generally find socio-economic status is strongly associated with crime, specifically property crime. USCIS recognizes that there may be a correlation between unemployment, socio-economic status, and crime; however, it does not concur that the extent of the change (returning to the adjudication timeframe pre-*Rosario*) would have such severe effects. Further, an asylum seeker who chooses criminal behavior to obtain a source of income, rather than waiting to receive employment authorization could be denied asylum as a result of such criminal activity, depending on its type and severity.

Comments: Some commenters stated that USCIS makes frequent reference to a rise in national security threats as a reason to spend more time and resources on each decision but has reported that it has been able to decide over 99 percent of EADs within the 30-day timeframe for over the past year, which proves the agency's ability to adequately vet requests in a timely manner. Another commenter stated that USCIS' national security justification is unsubstantiated, especially because USCIS explains that additional security

[34] The commenter cited to Karin Edmark, *Unemployment and Crime: Is There a Connection?,* 107, The Scandinavian Journal of Economics No. 2, 353, 370 (Jun. 2005); Steven Raphael and Rudolf Winter-Ebmer, *Identifying the Effect of Unemployment on Crime,* Vol. 44 The Journal of Law & Economics No. 1, 259, 280 (Apr. 2001); Mikko Aaltonen et al., *Social determinants of crime in a welfare state: Do they still matter?,* Vol. 54 Acta Sociologica No. 2,161 (June 2011).

and anti-fraud measures are already built into the EAD adjudication process. Others stated that the agency had a decade to implement the post-9/11 security checks that it now claims make the 30-day timeframe impracticable.

Response: As noted, the agency has had to comply with the *Rosario* court order, and as discussed elsewhere in this rule, continuing to adhere to the 30-day timeframe is not sustainable for USCIS and its adjudicators, and resources have been moved from other competing priorities in other product lines.

USCIS acknowledges that certain security checks are built into the EAD adjudication process across benefit types and this rule does not change those processes, it simply reflects that such procedures are resource intensive. Modernized vetting procedures are also not reflected in the current regulatory timeframe because that timeframe was created more than 20 years ago. Additionally, the level of fraud sophistication and the threat immigration-related national security concerns pose today are more complex than they were when the timeframe was created. Although the events of 9/11 prompted a new and intensive focus on national security, especially in the immigration context, vetting does not remain static as USCIS continually assesses its methods and systems to improve its ability to detect and deter those who would enter the United States to do harm. Those who do have ill intent continue to refine and improve their methods and USCIS must do the same. In all adjudications, USCIS works to provide thorough vetting and eligibility determinations and advance U.S. interests in fairly administering lawful immigration while detecting and deterring fraud and threats to national security and public safety.

Comments: One commenter asked how long it takes to vet somebody from another country without any paperwork or medical records.

Response: To the extent that the comment is relevant to this rulemaking, USCIS notes that the length of the vetting process varies, and this may depend on the documents an alien seeking asylum may have in their possession or to which they have access. USCIS uses a combination of systems, biometrics, and documents to vet aliens requesting benefits.

Resource Concerns and Efficiency

Comments: A commenter stated that the proposed rule would save costs by eliminating the need to litigate and comply with *Rosario.*

Response: USCIS has worked diligently to comply with the *Rosario* v. *USCIS* decision. Though USCIS predicts that this rule would end future litigation over the 30-day adjudication timeframe, even applications that are not subject to a set timeframe could, in some cases, be the subject of litigation on ''unreasonable delay'' theories. USCIS notes that cost-savings resulting from reduced litigation and the cost from potential future litigation on ''unreasonable delay'' are not monetized in the regulatory impact assessment below.

Comments: A commenter stated that USCIS cannot simply rely on the processing backlog to support its proposal, as the backlog was even greater when, in 1994, the Justice Department decided to finalize the 30-day rule. A commenter cited the proposal's statement that USCIS cannot predict future security needs and commented that no proposed rule can predict the future; however, USCIS faced the same uncertainty in 1994, when it finalized the 30-day timeframe rule. Others commented that changes to intake and EAD document production that have been in place for more than 15 years cannot justify the proposed rule, since logic would dictate that centralization would make the process more efficient. Another commenter cited the 2019 Ombudsman Report [35] as failing to list intake requirements or security and vetting as challenges to the timely adjudication of EAD applications.

Response: USCIS acknowledges that backlogs ebb and flow and agrees with commenters that, in some cases, an agency cannot predict future needs. Changing backlogs can result from any number of changed circumstances, including but not limited to, changes in receipt volumes, legal requirements, court rulings, regulation and policy changes, and changes to internal processing. Because of the many variables which contribute to changing backlogs, USCIS is best able to process the great number of benefit requests timely when it has flexibility to adjust workflows and staffing levels across form types. Hard processing timelines for one benefit type box the agency in and, as in this case, require the diversion of resources from other benefit types to maintain a processing time for one individual adjudication line.

With respect to the 1994 backlog, USCIS recognizes that there was a sharp increase in initial EAD applications in the mid-1990s. FY 1993 had 90,883 initial EAD applications, which jumped to 176,041 in FY 1994 and remained high with 158,938 in FY 1995 and 120,621 in FY 1996 before dropping below 50,000 per year for several years. USCIS notes that even at the peak in 1994, the amount of applications received in 1994 is considerably lower than the number of applications filed in recent years, which peaked at 262,965 in FY 2018. And regardless, DHS is not bound to forever retain the 30-day regulatory timeframe, even assuming that the INS adopted that timeframe with full knowledge of a growing backlog. DHS retains the authority to remove the timeframe, and it is doing so here for the reasons stated in this preamble.

USCIS reviewed the 2019 Ombudsman Report and though it did not list intake requirements as a reason for increased EAD adjudication times, it did specifically state that ''background vetting on applications, including the predicate petitions or applications upon which EAD applications are based, also contribute to EAD processing times.''

The centralization of the agency's intake and EAD document production, though implemented in 2006, had led to a need to remove the 30-day timeframe. Centralized, rather than local, intake procedures provide efficiency in that USCIS is able to leverage contract staff to conduct high-volume data entry and other associated intake tasks. However, centralized intake, which occurs at offsite locations, also incurs delay and costs associated with shipping physical files to another location for adjudication. To comply with the *Rosario* court order, USCIS has been forced to conduct application intake onsite at the adjudicating office to avoid the delay caused by file shipment. This process is less efficient and more costly than Lockbox intake, but is necessary to attain compliance with the *Rosario* court order. These changes in intake procedures, coupled with the increased filings and modifications to vetting procedures, explain why the 30-day timeframe is no longer feasible.

Comments: A couple of commenters referenced DHS's statement that it expects to be able to meet FY 2017 adjudication timeframes, *i.e.,* to adjudicate 78 percent of EAD applications within 60 days. The commenters stated that this contention seems disingenuous considering that DHS does not propose a 60-day timeframe. The commenters went on to state that DHS's lack of commitment to a specific timeframe coupled with current EAD backlogs does not support

[35] USCIS Ombudsman, *Annual Report,* 78, (Jul. 2019), *available at https://www.dhs.gov/sites/default/files/publications/cisomb/cisomb_2019-annual-report-to-congress.pdf.*

DHS's claim of being able to adjudicate 78 percent of EAD applications within 60 days. Another commenter referenced the 78 percent statistic and asked if this would continue to occur if USCIS is not mandated to return them within 60 days. Another commenter stated that, even now, with guidelines in place, the agency fails to meet the 30-day mandate in more than half of cases.

Response: USCIS would like to provide clarity to commenters regarding the adjudication rates. USCIS stated that 78 percent of initial applications were adjudicated within 60 days prior to the *Rosario* court order, but since its issuance, USCIS has been in compliance with the order. USCIS continues to face a significant backlog but strives to provide timely adjudication across all form types, regardless of a regulatory timeframe. As stated in the proposed rule, DHS expects to return to the pre-*Rosario* timeframe with finalizing this rule, but it will not codify another regulatory timeframe at this time. While USCIS cannot predict ebbs and flows in receipts, removing the 30-day timeframe without creating another regulatory timeframe allows the agency to adjust workflows and staffing resources to maintain timely processing for this and other benefit requests.

Comments: A commenter stated that USCIS is unable to support either its justifications or its impact analysis without citation to recent and actual processing times. The commenter went on to state that USCIS explains that the court order has forced it to focus more resources on adjudicating initial EADs for asylum, but it does not explain how it allocated its resources before, which types of cases it prioritized, and which specific case types are suffering as a result of the court order. Further, this commenter said USCIS claims that the current rule is outdated, and the current adjudication process is more complex, but fails to recognize other important conditions that have changed since the rule was adopted (more funding, staff, and technology). Lastly, the commenter cited to the statement in the proposed rule that, if USCIS could predict a reduction in total application volume, such a reduction ''would not, on its own, serve as a sufficient basis to leave the 30-day adjudication timeline in place'' to demonstrate that USCIS admits that it would have proposed this rule regardless of the additional resource burden. The commenter states that this removes resource burden as a standalone justification for the proposed rule.

Response: USCIS's resource allocations and prioritizations are fluid and regularly adjusted based on demand, processing time constraints, resource availability, legislative and policy changes, and other considerations. To comply with the *Rosario* decision, USCIS increased officer hours for adjudication of initial (c)(8) applications, and centralized these adjudications to minimize time lost to file movement and allow for more accurate tracking of class members' applications, which has placed a strain on the agency's resources in a manner that is difficult to sustain. USCIS did provide recent and actual processing times in the proposed rule, and has supplemented this final rule with updated data. USCIS also explained in the proposed rule: (1) How its adjudications have changed and resources have shifted since the 30-day provision was promulgated, (2) how it prioritizes adjudications through LIFO [36], and (3) how changes in technology and security initiatives have impacted the process. While USCIS continues to work to improve efficiency and modernize adjudicative processes, the initial (c)(8) EAD applications continue to be filed on paper and processed using an older case management system. Unfortunately, modernizing intake and adjudication systems is a lengthy and labor intensive process and there is currently no expected timeframe in which USCIS expects a more modernized process for initial (c)(8) EAD applications.

With respect to the agency's statement on reduced application volume, USCIS disagrees with the commenter's understanding that it would have proposed this rule regardless of the current resource burden. While the number of applications received has dropped from peak levels in 2018, the situation created by unforeseen and sustained spikes in application volumes highlighted that such specific regulatory timeframes can cause significant operational burdens when circumstances outside USCIS' control and ability to anticipate occur. USCIS acknowledged that it could not predict how administrative measures and external factors, such as immigration court backlogs and changes in country conditions, would affect total volumes. It then acknowledged that even if it could predict such circumstances, it was proposing to remove the timeframe ''in light of the need to accommodate existing vetting requirements and to maintain flexibility should trends change.'' 84 FR at 47161.

Comments: Multiple commenters stated that USCIS' compliance with the *Rosario* court order demonstrates that a 30-day timeframe is practicable and that USCIS could comply with the 30-day timeframe and retain vetting procedures, contrary to the proposed rule's contention that USCIS would have to reduce or eliminate vetting to continue complying. Another commenter cited to the 2019 Ombudsman Report and commented that the EAD processing delays had been increasing before the *Rosario* decision and were unrelated to any reallocation of resources. One commenter stated that ''USCIS time frames posted publicly'' show that Form I–765 takes mere minutes to process. The commenter stated that because it takes mere minutes to process such applications, it is only reasonable to retain the 30-day timeframe.

Response: DHS recognizes that EAD processing times had been increasing prior to *Rosario,* but DHS asserted and continues to assert that its reallocation of resources occurred due to the litigation and in order to comply with the court order, and that such reallocation of resources is not a long-term, sustainable solution because USCIS has many competing priorities and many time-sensitive adjudication timeframes. Although USCIS is currently in compliance with the *Rosario* court order, it continues to reiterate that maintaining the 30-day timeframe is not sustainable. This rulemaking is intended to ensure that limited resources are allocated in a manner which best allows the agency to process not only asylum seekers' initial applications for employment authorization timely, but also all other benefit requests, as maintaining the current 30-day processing time is already significantly diverting resources from other adjudications and is expected to continue to do so. Further, since the initial (c)(8) application does not currently require the applicant to pay a fee,[37] other benefit requestors are bearing the cost of these adjudications while resources are pulled away from the adjudication for which they paid a fee. This rulemaking brings the regulatory scheme by which these applications are processed in line with

[36] USCIS did note in the proposed rule that it anticipated updating its data regarding LIFO in the final rule; however, the change to LIFO was accompanied by a historic increase in filings, and it has been difficult for USCIS to ascertain all of the impacts.

[37] DHS has proposed to set a $490 fee for initial employment authorization applications for those with pending asylum applications. *See U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements,* 84 FR 62280 (Nov. 14, 2019). DHS has not yet issued a final rule with respect to that proposal.

processing for other types applications for employment authorization.

DHS acknowledges that the time an officer spends on the actual adjudication may take ''mere minutes'' on applications without eligibility or fraud concerns, but the time an officer spends on a particular application is not indicative of the totality of work that is involved in receiving, vetting, adjudication, and document production. The USCIS Case Processing Time website provides regularly updated and accurate total case processing time information at *https://egov.uscis.gov/processing-times/.*

Other Comments

Comments: Several commenters stated that the true intent of the proposal is to serve as deterrent for asylum applicants seeking protections in the United States. Other commenters made similar statements, citing the Migrant Protection Protocols, and rules such as Asylum Eligibility and Procedural Modifications.[38] Similarly, another commenter said indefinitely blocking asylum seekers' ability to support themselves and their families is an abuse of discretion and an attempt to further deter people from seeking asylum in the United States.

Response: DHS acknowledges commenter concerns; however, this rulemaking is not intended as a deterrent and does not impede an alien's opportunity to seek asylum in the United States. Neither does this rulemaking change the process by which an alien seeks asylum or any eligibility criteria for obtaining asylee status. This rule solely affects a benefit an asylum seeker may request while their application for asylum has been pending for a period of at least 180 days. USCIS is simply removing a self-imposed agency processing timeline that is no longer operationally feasible, without impacting the underlying basis for the benefit request.

Employment authorization for applicants with a pending asylum application, however, is not a statutory entitlement, unlike employment authorization for asylees, who are eligible for employment incident to status, as the statute explicitly states. *Compare* INA section 208(c)(1)(B) *with* (d)(2) (''An applicant for asylum is not entitled to employment authorization[.]''). USCIS has provided a regulatory avenue for asylum applicants to seek employment authorization; thus, the agency has not indefinitely blocked an applicant's ability to support themselves and their families. USCIS strives to provide timely and efficient adjudications for all benefit requests, including asylum and related benefits, but the significant increases in applications for asylum in recent years are overtaxing agency resources to process ancillary benefits within the 30-day regulatory framework.

Comments: A commenter questioned the benefit of the proposed rule, reasoning that it would not reduce the immigration backlog any more quickly than the current timeframe and asking whether the purpose of the rule was to redirect resources to ICE. Similarly, a commenter questioned how the added ''flexibility'' from the proposal would help reduce immigration application backlogs, faulting DHS for refusing to commit to reducing other wait times as a result of eliminating the 30-day EAD timeframe. Another commenter stated that removing the incentive for USCIS to work quickly will result only in obligations being stripped and will not cause the agency to work more effectively.

Response: DHS did not assert that this change would reduce immigration benefit request backlogs, but rather that it was proposing this change, in significant part, because of the strain of the growing backlog coupled with the steady stream of new filings. This rulemaking is not an effort to redirect resources to ICE. In order to maintain the current 30-day processing time, USCIS has taken a number of dramatic measures to ensure compliance. This includes centralizing the workload in one service center to allow for close monitoring and reporting practices, eliminating lost time accrued through shipping physical files, and diverting both support and officer resources to ensure the timeline is met. With finalizing this rule, those diverted resources could return to the roles they performed prior to *Rosario.* DHS has chosen not to commit to defined adjudication times across all of its employment-authorization processing in order to provide flexibility for the agency to allocate its resources. As noted in the proposed rule, codifying by regulation any new adjudication timeframe for EADs would unnecessarily constrict adjudication workflows and the agency is unable to plan its workload and staffing needs with the level of certainty that a binding timeframe may require. Removing the 30-day timeline will allow greater flexibility, including to share this workload among other service centers and reallocate resources more evenly to meet demand.

Comments: A commenter cited a past rulemaking[39] to state that the 30-day deadline was initially implemented to ensure that bona fide asylees were eligible to obtain employment authorization as quickly as possible, not to ensure that USCIS and former INS had sufficient time to process applications.

Response: DHS has reviewed extensively the regulatory history of the promulgation of the employment authorization provisions for those with pending asylum applications. The rulemaking preamble cited to by commenter, and referenced in DHS's proposed rule, discusses the employment authorization provisions that ''ensure that applicants who appear to an asylum officer to be eligible for asylum but have not yet received a grant of asylum are able to obtain employment authorization.'' 62 FR 10317. The rulemaking then discusses the lengthy process of identity and fingerprint checks, and states that given the statutory requirement that asylum not be granted until inadmissibility, deportability, or ineligibility are determined at INA section 208(d)(5)(A)(i), an alien who would otherwise appear to be eligible may have to wait a lengthy period of time before being granted employment authorization. *Id.* at 10317–18. The agency believed such a result was contrary to a main goal of the asylum reforms promulgated in 1995: ''to ensure that bona fide asylees are eligible to obtain employment authorization as quickly as possible''. *Id.* ''Bona fide'' asylees are those who have been deemed eligible by the agency but have not yet received an approval.

USCIS is committed to adjudicating all employment authorization applications as quickly as practicable, however, both internal processes and external factors have changed in the intervening decades since the 30-day rule was promulgated.

3. Alternate Suggestions for Regulatory Amendments to 30-Day Timeframe

Approximately 310 commenters provided alternative suggestions for regulatory amendments to 30-day processing timeframe.

Alternative Proposals and Timeframes Rather Than Complete Removal

Comments: Some commenters said DHS should have proposed an alternative or extended adjudication

[38] 84 FR 33829 (July 16, 2019).

[39] Department of Justice, *Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures,* 62 FR 10312–01 (Mar. 6, 1997).

timeline, such as 45 or 60 days, or condition the length of the adjudication timeframe on reportable metrics, rather than a complete timeframe removal, in order to provide predictability and relief to asylum seekers. Some commenters stated that removing a timeframe without providing an alternative suggests that USCIS anticipates these applications being significantly delayed. Another commenter stated that the absence of an adjudication deadline is likely to result in unnecessarily lengthy adjudication periods for EAD applications, which are relatively simple to resolve and should not require more than 30 days. A few commenters stated that DHS has not sufficiently justified why an alternative or longer deadline would not be acceptable. Another commenter said amending a rule to limit the burden on USCIS to ensure the betterment of our country might be a good idea but doing so by removing the deadline without replacing it is not.

Response: DHS considered imposing a 90-day timeframe rather than removing the timeframe entirely, and discussed this extensively in the proposed rule. DHS appreciates commenters' suggestions regarding alternative timeframes, and recognizes that setting another timeframe could provide more predictability to asylum seekers and would provide USCIS with more time to adjudicate EAD applications. However, USCIS determined not to incorporate a new regulatory timeframe because USCIS is unable to plan its workload and staffing needs with the level of certainty that a binding timeframe may require, and has no way of predicting what national security and fraud concerns may be or what procedures will be necessary in the future. It is imprudent to impose hard processing deadlines, because USCIS cannot reliably predict future workload, processing, and other changes. Although imposing a deadline reliant on reportable metrics may alleviate some of the concern of a hard deadline, the commenter proposed no specific metrics and creating additional tracking and predictive assessments from the agency that have not yet been evaluated would be an imposition to the agency. Further, USCIS did not propose this approach or relevant metrics and thus to finalize such metrics in this final rule would be outside the scope of this rulemaking.

The processing of EAD applications is not simple, and increases in asylum-based filings in recent years, coupled with the changes to intake and vetting procedures, have placed a great strain on agency resources that lead to an increased processing time. DHS recognizes that removing the timeframe may cause concern to applicants regarding potential delays in adjudication; however, USCIS expects to return to the adjudicatory timeframe before *Rosario.* While USCIS anticipates this change may lead to short processing delays, this change brings initial EAD application processing in line with other similar applications and allows operational flexibility to shift workloads and continue to vet and adjudicate applications in the most timely fashion practicable without detrimental impact to other benefit request types.

Comments: A commenter drew similarities to the AC21 rule repealing former 8 CFR 274a.13(d), which guaranteed the adjudication of employment authorization applications for most immigrant and nonimmigrant categories within 90 days, replacing it with, what the commenter claimed was an inadequate automatic 180-day extension. This commenter stated that the lack of any processing deadline on initial applications has caused significant disruption in the lives of those subject to the changed rule. The commenter opposed this change for similar reasons, stating that, without a clear processing deadline, asylum seekers and their families are faced with uncertainty as to whether they will be able to support themselves, and this unpredictability will severely impact them and their communities.

Response: With respect to commenter's concerns regarding AC21, USCIS does not possess data or other evidence to address the commenter's subjective assertion that processing times for other EAD categories have caused ''significant disruption in the lives of those subject to [AC21].'' In FY 2017, USCIS processed 94.2 percent of EAD classifications, excluding (c)(8), within 180 days; in FY 2018 it was 83.4 percent, in FY 2019, 81.5 percent, and as of February 29, 2020, 84 percent within 180 days. USCIS acknowledges the potential effect of this change on asylum seekers and their social support networks, but must weigh that effect against the impacts on other benefit requestors and USCIS operational realities given changed vetting requirements and increased receipt volume in recent years. By allowing the agency flexibility to shift workloads and resources to accommodate external and internal changes in the application landscape, USCIS believes this rule will allow greater efficiency throughout EAD application types. USCIS recognizes the potential uncertainty that may result and routinely updates publicly available processing times [40] to provide applicants with accurate information to plan for when to file applications and their personal financial needs.

Comments: Some commenters suggested that USCIS allow asylum-seekers to submit their employment authorization applications earlier (for example, after 90 days or 120 days instead of 150 days), or concurrently with their asylum applications, to allow USCIS more time to properly vet each alien while reducing the risk of harm to each applicant and the economy. Some commenters stated that under INA section 208(d)(2), asylum seekers may not be granted an initial EAD until their asylum applications have been pending for 180 days, but nothing prevents USCIS from accepting initial EAD applications concurrently with the filing of the asylum application. Commenters also stated that the number of EAD applications has dropped since 2017 and will likely continue to do so. Another commenter said concurrent filings would reduce costs to legal services providers and asylum seekers, by allowing both the Form I–589, Application for Asylum and Withholding of Removal, and the Form I–765, Application for Employment Authorization, to be finalized in a single appointment.

Response: DHS appreciates commenters' suggestions to permit asylum applicants to file during the 150-day waiting period. USCIS thinks, however, that allowing an applicant to file for and obtain an EAD earlier based on a pending asylum claim creates an incentive to file non-meritorious asylum applications. Additionally, allowing asylum seekers to file earlier creates a different operational burden. Because the statutory scheme mandates that employment authorization cannot be granted until the asylum application has been pending for a minimum of 180 days, not including delays requested or caused by the applicant, USCIS would need to implement new tracking and records mechanisms to ensure applications would not be adjudicated too early. This would impede the agency's ability to nimbly move workloads between centers and officers. Allowing applicants to file earlier than the 150 day timeline currently in place would necessitate creation of a new clock system to track how long asylum applications were pending prior to approval, in order to avoid approving an EAD when the asylum application had

[40] Case processing time information may be found at *https://egov.uscis.gov/processing-times/,* and asylum applicants can access the web page for realistic processing times as USCIS regularly updates this information.

been pending less than 180 days. This would require tracking and potentially holding applications over a longer span of time, adding complexity, and would additionally complicate accounting for applications subject to the prior rules and those subject to this rule on or after its effective date.

The burden associated with statutory compliance would create new operational costs related to new and additional tracking as well as bifurcated requirements related to cases pending on or after the effective date of this rule while not creating new efficiencies. Asylum applications are adjudicated by Asylum Officers within the Refugee, Asylum, and International Operations directorate, while applications for EADs are processed by Immigration Services Officers within the Service Center Operations Directorate. Asylum Officers receive intensive and specialized training to understand the nuances and sensitivities involved in assessing eligibility for asylum. Immigration Services Officers also receive specialized training, but they are frequently trained to adjudicate many different benefit request types and, as located in service centers, and do not have face to face interactions with benefit requestors. In short, the nature of and procedures for these adjudications are very different. If USCIS allowed concurrent filing, the applications would still need to be adjudicated through completely different processes. Additionally, as the proposed rule did not contemplate allowing earlier filing, it is outside the scope of this rulemaking.

DHS acknowledges that the volume of initial (c)(8) EAD applications has dropped slightly as compared to 2017. However, as of FY 2019, this type of application remains historically high, with FY 2018 receipts at 262,965 and FY 2019 at 216,038; maintaining the 30-day timeframe poses an unsustainable burden during periods of high application volumes, while allowing applicants to file earlier would create additional administrative costs and burdens.

USCIS Should Acquire More Resources Instead of Removing the Timeframe

Comments: Several commenters stated that, rather than proposing this rule, DHS could acquire more resources for operations at each service center as well as at card production facilities (for example, by hiring more adjudication staff). A commenter said fees for other forms could be increased to accommodate the cost of hiring additional adjudicators. However, the commenter said, with the recent elimination of an entire category of eligibility for fee waivers, it seems likely that fee increases would not even be necessary to increase revenue. Similarly, another commenter proposed hiring more USCIS staff as a solution, even if that means including a fee payment I–765 on asylum applications. Several commenters took issue with DHS's rationale that hiring staff ''would not immediately'' shorten adjudication timeframes, stating that it is no excuse for not considering that alternative, and that the concern should be whether doing so would address the issue long-term. Another commenter stated that the temporary delay between hiring new employees and their ability to process applications does not require a permanent elimination of a fixed processing timeframe.

Response: DHS seeks to complete every request as soon as it possibly can while ensuring that benefits are provided only to those who are eligible. As stated in the proposed rule, DHS has determined that it should not be subject to a procedural deadline codified in regulations to adjudicate a certain immigration benefit request in a very short time. As the commenters note, USCIS is authorized by law to set fees at a level necessary to recover the full costs of adjudication and naturalization services. *See* INA section 286(m), 8 U.S.C. 1356(m). As required by the Chief Financial Officers Act of 1990 (CFO Act), 31 U.S.C. 901–03, USCIS analyzes its costs every two years to determine if its fees are adequate to recover its full costs. If fee revenue is projected to be too high or low, USCIS conducts rulemaking to adjust its immigration benefit request fees to the amounts necessary to cover its operating costs. *See, e.g.,* 84 FR 62280 (Nov. 14, 2019). In November of 2019, DHS published a proposed rule that proposes a new fee schedule, including a fee for an initial EAD for asylum applicants. *Id.* at 62320.

DHS stated in the proposed rule for this rulemaking that providing the resources to meet this regulatory timeframe requires USCIS to use fees paid by other benefit requestors. *See* 84 FR at 47165. DHS believes USCIS requires the flexibility to devote its resources where they are needed to meet seasonal demands, filing surges, and DHS priorities and not to meet an outdated regulatory deadline. Therefore, DHS will remove the 30-day deadline from the regulations.

Further, even if and when the funds are available to hire additional staff and officers, there is a significant lag time in the course of posting job announcements, selecting candidates, background investigations for selectees, onboarding, and training and mentoring before new hires are able to adjudicate. Throughout this time, backlogs build and resources continue to be diverted to support programs with processing timelines.

While DHS recognizes that the suggested staffing solution may be more long-term, the agency does need an immediate solution, as resources continue to be strained. While USCIS strives to maintain the staffing necessary to timely process all benefit request types and continuously analyzes workload trends and production, simply hiring more people does not provide a short term fix and, even when new hires are working at full competency, shifting demands and priorities continuously present new challenges that are even more difficult to adjust to with a processing timeline in place. As noted in the proposed rule, hiring additional staff may not shorten adjudication timeframes in all cases because (1) additional time would be required to onboard and train new employees, and (2) for certain applications, additional time is needed to fully vet an applicant, regardless of staffing levels.

Comments: A commenter said the rule suggests that it would be too expensive to hire additional officers to keep up with timely processing and cites to ''the historic asylum backlog,'' but the commenter stated the reasoning appeared to be pretextual since the proposed regulations only deal with initial EADs filed by asylum seekers and not EAD renewals for asylum seekers whose cases are currently in the asylum office backlog.

Response: The USCIS Asylum Division received 44,453 affirmative asylum applications in FY 2013, with increases each year up to a peak of 142,760 in FY 2017. This more a than three-fold increase in four years not only created backlogs in processing asylum applications, but also caused a steep increase in the number of both initial and renewal applications for employment authorization, with FY 2018 totals at 324,991 and FY 2019 totals at 551,266.[41] Both the initial workload and renewal workload are processed by officers with different specialized training to provide a more streamlined and efficient adjudication

[41] EADs currently have a 2-year validity period and this can cause cyclical fluctuations in renewal rates. The renewal receipts for FY 2018 were 62,026, which reflects the lower initial filings in FY 2016 (although receipt and adjudication dates routinely cross fiscal years, so this may include a portion of initial filings from 2015 and 2017). It is noted that replacement filings are excluded from the figures, as they are not relevant to this rulemaking.

process. Further, EAD renewal applications for asylum seekers are not subject to adjudication timelines, and also have an automatic extension clause to mitigate any lapse in employment authorization for these aliens. The 30-day rule and *Rosario* court order have created the necessity for a centralized process to ensure compliance, which prevents USCIS from shifting workloads among officers trained to adjudicate EAD applications, when it may be more efficient and offer a more timely adjudicative process. This rulemaking aims to improve flexibility and efficiency by taking away barriers to using existing resources to the greatest effect.

Comments: A commenter stated that the proposals that USCIS should hire and train more adjudicators ignores Congress' mandate that USCIS benefits processing costs must be funded through user fees. The commenter stated that USCIS should not be compelled to arbitrarily adhere to a rigid and disruptive processing deadline for ''guaranteed'' 30-day asylum EAD processing unless and until user-provided fee revenue is available to fully fund the needed dedicated agency personnel and resources.

Response: While USCIS fees are set through rulemaking and hiring additional adjudicators would not ignore a Congressional mandate, USCIS appreciates the commenter's understanding of the constraints involved in resources and hiring.

Ombudsman Report

Comments: Several commenters said USCIS failed to consider recommendations from the 2019 USCIS Ombudsman Report, which recommends that the agency take several steps to ensure timely adjudication of EADs, including augmenting staffing, implementing a public education campaign to encourage applicants to file I–765 renewal applications up to 180 days before the expiration of the current EAD, and establishing a uniform process to identify and expedite processing of EAD application resubmissions filed due to service error. Another commenter stated that the rule ignored the Ombudsman's recommendation of incorporating the Form I–765 into the agency's eProcessing procedures, which the commenter indicated would expedite the review process and improve review for purposes of fraud and national security concerns.

Response: USCIS carefully considers the observations and recommendations provided by the USCIS Ombudsman and if it agrees with a recommendation, implements it to the extent practicable. The conclusions and recommendations referenced by commenters were the Ombudsman's recommendations for all EAD adjudications, and were not specific to the asylum-based applications and therefore not totally relevant to a 30-day processing timeframe. Nevertheless, as discussed elsewhere in response to comments, augmenting the staff dedicated to asylum-based EAD applications would not immediately and in all cases shorten adjudication timeframes, and would increase the cost-burden on the agency. With respect to implementing an education campaign, USCIS will update its public sources of information, such as the Policy Manual and website, provide updated information regarding the changes to expect relating to the promulgation of this rule, and continue to provide regular updates to processing times. With respect to establishing a uniform process to expedite resubmissions filed due to service error, USCIS has published guidance on its website [42] for obtaining a corrected EAD if there was a government error in the issuance as well as guidance for requesting expedited adjudication.[43]

USCIS is also working diligently to develop the IT infrastructure and systems needed for eProcessing, and acknowledges the benefits of eProcessing, especially with regard to efficiency and national security. This is a time and labor intensive endeavor, requiring the collaboration of developers and subject matter experts and others, as well as extensive testing and demos to ensure the new system and features function properly. USCIS is working and will continue to work towards full eProcessing across all benefit request types,[44] but there is currently no estimate available for when the application for an EAD will be available for eProcessing.

Other Suggestions

Comments: One commenter suggested providing each asylum applicant an option of temporary work permit that can be cancelled if any red flags are found during further screening of the individual applicant.

Response: USCIS disagrees with commenter's suggestion, as the agency believes providing a temporary work permit at the time of initial filing invites fraud and abuse. A benefit that would be bestowed automatically simply upon filing provides no opportunity for vetting and encourages frivolous filings to obtain even a short-term benefit. Frivolous filings, in turn, exacerbate backlogs and cause greater delays in processing applications for those with meritorious claims.

Comments: One commenter suggested increasing the validity of (c)(8) EADs from 2 years to 5.

Response: Though DHS recognizes that increasing the validity period of an EAD may reduce the burden to adjudicate renewal EAD applications, the agency does not believe doing so would alleviate the burden the agency faces in adjudicating initial filings, which was the main goal of this rulemaking. Additionally, renewals of EADs for aliens with a pending asylum applications are not subject to the 30-day adjudication deadline.

Comments: One commenter recommended creating a new document for those granted asylum that clearly states that the asylee is authorized to work in the United States without restrictions, which would eliminate the entire (a)(5) product line (for those granted asylum and authorized to work incident to status) and free up adjudicators to work on (c)(8)s.

Response: This rule pertains to applicants for asylum, meaning those who have applied for asylum status but have not yet had their asylum application adjudicated on the merits. If an alien is granted asylum status, they are authorized to work incident to status, meaning that he/she no longer needs to apply for employment authorization but receives such authorization as an automatic benefit of that status. *See* 8 CFR 274a.12(a)(5). Accordingly, the process contemplated by the commenter already exists and the agency still faces resource constraints.

Comments: A commenter stated that, if DHS is not able to meet a 30-, 60-, or even 90-day deadline in all cases, it could institute a tiered or alternative system of deadlines for cases that require additional security vetting. The commenter said a stop-time mechanism for cases that require additional vetting would be a feasible way to maintain a fixed processing deadline without sacrificing the agency's flexibility. A commenter stated that USCIS does not

[42] USCIS, Employment Authorization Document (last updated Apr. 5, 2018), *https://www.uscis.gov/greencard/employment-authorization-document.*

[43] USCIS, How to Make an Expedite Request (last updated May 10, 2019), *https://www.uscis.gov/forms/forms-information/how-make-expedite-request.*

[44] *See* Office of Management and Budget, Executive Office of the President, *Electronic Processing of Immigration Benefit Requests* (Fall 2019 Unified Agenda), *https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201910&RIN=1615-AC20;* USCIS, *USCIS Accelerates Transition to Digital Immigration Processing* (May 22, 2019), *https://www.uscis.gov/news/news-releases/uscis-accelerates-transition-digital-immigration-processing-0.*

explain why it did not consider the simple option of adding a stop-clock for the small percentage of applications referred to the Background Check Unit (BCU) and Service Center Fraud Detection Operation (CFDO), akin to the stop-clock currently in place for applications that require Requests for Evidence (RFEs). Just as an RFE pauses the 30-day processing timeframe until additional documentation is received, a new stop clock for BCU and CFDO referrals could pause processing from the time of referral until additional information is received from BCU and/or CFDO.

Response: While it is true that the 30-day adjudication timeframe may be paused and restarted in certain instances, according to certain regulations,[45] pausing and restarting the adjudication timeframe may not be possible in all instances to accommodate routine background checks and fraud detection. The agency initially scans specifically for indicators of national security concerns and those concerns are vetted immediately without respect to the 30-day adjudication timeframe. The vetting process, when a concern is identified, can be lengthy and sometimes requires consultation with or referral to outside agencies which cannot be completed within the 30-day timeline. Additional vetting also occurs during adjudication, which may warrant investigative action or require additional information but USCIS disagrees that it can or should stop the adjudication timeframe to accommodate typical adjudicative procedures rather than removing the timeframe altogether, as this rule does. Introducing additional pause and restart mechanisms for routine processing actions would also add a new administrative burden for USCIS to track the pending time of a broader swath of cases.

D. Removal of 90-Day Filing Requirement

1. Necessity of Rule and DHS Rationale

Approximately 10 commenters mentioned DHS's rationale for the 90-day filing requirement.

Comments: A couple of commenters agreed with the proposal to rescind the 90-day deadline for EAD renewals, stating that it is more efficient, more consistent with other regulations, and more fair to applicants to automatically extend an EAD when the alien files a renewal application prior to the current document's expiration. Another agreed that eliminating the 90-day renewal requirement would mitigate confusion and reduce pressure on those that have an EAD. Another commenter stated that the three pre-conditions in the AC21[46] rule for automatic extension eligibility will adequately ensure that renewal applications are not automatically granted to applicants whose asylum applications since have been denied.

Response: USCIS appreciates these comments in support of removing the 90-day renewal requirement.

Comments: A commenter supported the rule change but urged DHS to set a timeframe for adjudicating renewals due to concerns about applicants not receiving their EAD renewal cards by the time the automatic extension ends.

Response: USCIS respectfully disagrees that there is a need to set an adjudicative timeframe for adjudicating renewals. USCIS believes the ability to apply for renewal earlier, coupled with an automatic extension of 180 days provides adequate time for adjudication and poses minimal risk that an applicant will experience a lapse in employment authorization. In FY 2019, the average processing time for EAD classifications excluding the (c)(8) applications was 127 days and the median processing time was 100 days. While USCIS acknowledges cases may occasionally pend longer than 180 days due to unusual facts or circumstances or applicant-caused delays, the 180-day automatic extension has proven to avoid lapses in employment authorization for the majority of applicants. In FY 2017, 94.2 percent of applications were adjudicated within 180 days, in FY 2018, 83.4 percent, in FY 2019, 81.5 percent, and as of February 29, 2020, 84 percent of non-(c)(8) applications were adjudicated within 180 days in FY 2020.

E. Statutory and Regulatory Requirements

1. Costs and Benefits (E.O. 12866 and 13563)

k. Costs Associated With Hiring Additional Immigration Officers

Comments: Some commenters noted that the economic analysis did not attempt to take into account the costs and benefits of hiring additional USCIS officers to meet the 30-day timeframe. One stated that until cost-benefit analysis of additional hiring is done, and more detailed security protections are explained, this rule change should be viewed as arbitrary and capricious. Another commenter said USCIS' failure to estimate these costs is ''simply irrational'' and fails to satisfy the most basic cost-benefit obligations the agency must meet under the APA.

An individual commenter said the rule argues that ''the cost of hiring and training employees to adjudicate EADs would be passed onto asylum seekers, in the form of lost wages and higher application fees. However, USCIS offers no direct evidence of these transferred costs. It merely points to an accounting statement by the Office of Management and Budget for 2017 to predict possible costs for 2020–2029.''

Response: USCIS included an extensive and plainly sufficient analysis of the proposed rule. USCIS acknowledges that it does not conduct a quantitative cost-benefit assessment of the costs and benefits of hiring additional USCIS officers to meet the 30-day timeframe. But this is because, at bottom, USCIS is unable to plan its workload and staffing needs with the level of certainty that a binding timeframe may require and has no way of predicting what national security and fraud concerns may be or what procedures will be necessary in the future.

In any case, the proposed rule did not state that hiring and training additional employees would result in lost wages for asylum seekers. With respect to application fees, the proposed rule stated, among other things, that providing the resources to meet this regulatory timeframe would require USCIS to use a significant amount of fees that are currently paid by other benefit requestors. DHS does not understand the remainder of the comment regarding an accounting statement by the Office of Management and Budget for 2017. The accounting statement in the proposed rule was prepared by DHS and is amply supported by the surrounding text.

DHS believes USCIS requires the flexibility to devote its resources where they are needed. Further, even if and when the funds are available to hire additional staff and officers (which requires increases to USCIS' operational budget and therefore possible increases to immigration benefit fees), there is a significant lag time in the course of posting job announcements, selecting candidates, background investigations for selectees, onboarding, and training and mentoring before new hires are able to adjudicate. Throughout this time, backlogs build and resources continue to be diverted to support programs with processing timelines. While DHS recognizes that the staffing solution may be more long-term, the agency does

[45] *See* 8 CFR 103.2(b)(10)(ii) and 8 CFR 208.7(a)(2).

[46] The preconditions are that the application is properly filed before the EAD's expiration date, based on the same category on their EAD and based on a class of aliens eligible to apply for an EAD notwithstanding expiration of the EAD. 8 CFR 274a.13(d)(1).

need an immediate solution, as resources continue to be strained. While USCIS strives to maintain the staffing necessary to timely process all benefit request types and continuously analyzes workload trends and production, simply hiring more people does not provide a short term fix and, even when new hires are working at full competency, shifting demands and priorities continuously present new challenges that are even more difficult to adjust to with a processing timeline in place. As noted in the proposed rule, hiring additional staff may not shorten adjudication timeframes in all cases because: (1) Additional time would be required to onboard and train new employees; and (2) for certain applications, additional time is needed to fully vet an applicant, regardless of staffing levels.

l. Population and Effect of Rule on Processing Times

Comments: Commenters questioned USCIS's choice to adopt the 2017 level of I–765 applications as its forecast for the future number of applications. Commenters suggested that a trendline, or a range of estimates would be better than using one year's level as a default prediction.

Response: In the NPRM, USCIS wrote that USCIS does not use a trend line to forecast future projected initial I–765 applications because various factors outside this rulemaking may result in either a decline or, conversely, a continued rise of applications received. *See* 84 FR at 47162. For example, USCIS said that the number of initial I–765 applications has some correlation with changes in applications for asylum and that the return to LIFO for processing affirmative asylum applications may also impact initial I–765 applications. While DHS agrees with the commenter that using one year's level as a default prediction is not ideal, USCIS notes again that many factors affect USCIS's ability to predict the future number of initial I–765 applications. For example, Table 8 in this final rule shows that the number of initial I–765 receipts grew significantly from 2013 to 2017, held approximately constant in 2018 and declined in 2019. In addition, if finalized, the broader asylum applicant EAD rule may also affect the number of future initial I–765 applications. This illustrates that assuming a trend or range might not be as simple as the commenter suggests. USCIS believes that assuming a level of applications from a known year is a better approach than assuming an upward trendline, especially considering the decline in 2019.

Comments: Multiple commenters questioned USCIS' reliance on the assumption that it would return to its adjudication rate from 2017, before the *Rosario* court order. Commenters stated that it is unlikely and unrealistic to expect that USCIS would return to the pre-*Rosario* scenario without a timeline to do so or staffing increases, and that in reality, delays and costs will be more significant than estimated. An advocacy group claimed that the pre-*Rosario* baseline fails to account for ''the historic asylum application backlog'' that has increased over the past 5 years, which according to DHS is one of the reasons cited for eliminating the 30-day deadline.

One commenter explained that the improvement in processing times from 2015 to 2017 reflects the pending litigation and therefore using the FY 2017 processing numbers are inaccurate. This commenter said a more accurate baseline would be to look to the numbers for initial I–765 processing from before the Rosario class action was filed, which show that in FY 2015, only 27.2 percent of initial filings were completed within 30 days, as compared to 36.3 percent in FY 2016 and 52.4 percent in FY 2017.

Another commenter said DHS should provide the following data needed to better judge the reasonableness of estimated processing times under the rule: Average processing times for all EADs (with the exception of those initial EADs filed by asylum applicants) and average processing times for renewals of EADs based on pending asylum applications.

Response: Cost benefit analysis often involves making estimates of future outcomes (*ex ante*) based on the best information available to the agency at the time. USCIS believes FY 2017 provides a reasonable assessment of probable processing times under the adoption of this rule and reflects processing times that are sustainable and realistic, even though the future processing times cannot be predicted with precision and could vary due to any number of factors.

As of the drafting of this final rule, USCIS sees no reason why the FY 2017 processing times are unrealistic and as such, should not be utilized as the expected processing times after this rule is finalized. This rule allows for increases in processing times when necessary to identify fraud and to address other unforeseen requirements. The rule takes into consideration the asylum application processing times during the pre-*Rosario* baseline and we respectfully disagree that the improvement in processing times from 2015 to 2017 was solely a consequence of pending litigation. USCIS consistently evaluates and shifts workloads and resources to meet changing circumstances, such as increased backlogs, and legislative and policy changes. The changes in processing times from 2015 to 2017 were likely driven by a number of factors. USCIS chose FY 2017 because it represents the latest year prior to the *Rosario* court order. While USCIS relies on 2017 processing times, we acknowledge that if the actual processing times are longer than assumed, then the cost of the rule would be higher than estimated. Conversely, if processing times are shorter than assumed, then the cost of the rule would be lower than estimated.

USCIS also believes that average processing times for all EADs (with the exception of those initial EADs filed by asylum applicants) and average processing times for renewals of EADs based on pending asylum applications would not be demonstrative because there are about 50 EAD eligibility categories that USCIS processes, with a wide range of descriptions and variations in terms of applicant type. For any number of reasons, the asylum category could diverge from a generalized processing rate.

Comment: A commenter noted that the proposed rule fails to consider the significant impact on asylum applicants in defensive proceedings as much of the analysis in the NPRM focuses on affirmative asylum applicants only. As a result, by excluding defensive asylum EADs, the economic analysis fails to capture the full impacts. The commenter stated that DHS must provide further analysis germane to EAD applications from defensive asylum applicants. In addition, the commenter claims that the removal of the 30-day deadline will create additional backlogs in immigration courts and create investigatory burdens for the Internal Revenue Service (IRS) and Department of Labor (DOL).

Response: The analysis presented in the NPRM and updated in this final rule reflects data and information that includes receipts from both affirmative and defensive pending asylum applicants. *See* 84 FR at 47161. Although Table 7—Total Annual Form I–589 Receipts Received from Affirmative Asylum Applicants—addresses only affirmative cases, all parts of the analysis regarding I–765 receipts include both affirmative and defensive applicants because USCIS adjudicates all I–765 applications. Hence, the impacts do take into consideration defensive asylum EADs.

As it relates to the concerns regarding investigatory burdens, USCIS does not believe it is appropriate to assume causation between this rule and such stated impacts. The fact that tax losses may occur does not automatically map to more IRS investigations, just as the possibility that the timing of some EADs may be impacted does not causally map to increases in unauthorized work, wage theft, and dangerous work practices.

m. Wage Bases for Labor Earnings

Comments: Several commenters expressed concern with the wage benchmarks USCIS utilized in its analysis. One commenter claimed that the wide range of potential lost compensation ($255.9 million to $774.8 million) was excessively wide and that it is reasonable to assume that EAD applicants will be paid the average wage in the economy, and implied that USCIS did not take into account demographic and socioeconomic characteristics.

A couple of commenters stated that the rule's lower-bound estimate of lost earnings is an understatement because it assumes an $8.25 minimum wage. The commenters stated that 28 States plus the District of Columbia currently have minimum wages exceeding that $8.25 minimum.

Another commenter stated that calculating lost compensation by multiplying a constant wage rate by the projected length of the delay fails to account for the trajectory of future earnings. The commenter said data shows that asylum seekers' wage rates do not remain constant while they work, but rather rise the longer they have been in the work force. The commenter also challenged DHS's treatment of the future earnings of pending asylum applicants as unrelated to the length of delay before they have work authorization. The commenter cited a study by the Immigration Policy Lab at Stanford University that found a seven-month delay in work authorization for German asylum-seekers dragged down their economic outcomes for a decade after.

A couple of commenters challenged DHS's assertion that EAD holders ''would not have been in the labor force long and would thus not be expected to earn relatively high wages.'' The commenters cited the salaries of participants in the Upwardly Global program, specifying that asylum seekers who have completed the program earn an average of $54,875 annually, significantly higher than the national annual mean wage of $51,960, and several program alumni earned six-figure salaries. However, another commenter commended the assumptions regarding the lower and upper bounds on asylee wage rates (minimum wage and national wage, respectively), stating that, based on the New Immigrant Survey data, they are reliable.

Response: USCIS recognizes that the wage bounds relied upon generate a wide range of potential lost compensation. However, data are not directly available on the earnings of asylum seekers and, faced with uncertainty, DHS made reasonable estimates of the bounds.

In regard to the prevailing minimum wage, USCIS frequently relies on such a lower wage for recent or new labor force entrants in its rulemakings. We agree with commenters who note that some states and localities have adopted their own minimum wage. For this reason, USCIS chose to use an estimate of the prevailing minimum wage, as opposed to the base federal minimum wage, as a lower bound estimate. In addition, USCIS applied a multiplier of 1.46 to the $8.25 prevailing minimum wage to adjust for benefits. Therefore, the analysis used a full compensation cost of $12.05 ($8.25 × 1.46) to estimate the lower bound impacts, not the $8.25 base prevailing minimum wage. Again, this results in a lower bound wage that is higher than the actual prevailing minimum wage, although it is unlikely that all positions would provide such benefits.

Regarding the upper bound wage, USCIS does not have demographic or socioeconomic characteristics about asylum applicants and thus uses the national average wage as an upper bound estimate. USCIS agrees it is possible for some of the workers impacted to earn wages higher than the upper bound estimate, the national average across all occupations, just as it is plausible that some earn less than the burdened prevailing minimum wage. The lower and upper bounds simply represent estimates of the range for this population's average wage.

Regarding the rule's effect on earnings over time, USCIS agrees that earnings generally rise over time, and therefore that the earnings of EAD holders could be larger at a point in the future. In the NPRM, USCIS estimates that this rule will delay applicants' receipt of an EAD for an average of 31 calendar days, or 22 working days, if processing times returned to those achieved in FY 2017.[47] This is much less than the seven months the commenter cited from the study. However, USCIS acknowledges that a 31-day delay caused by the rule could theoretically affect the stream of applicants' future earnings but believes it is too speculative to estimate.

n. Lost Wages and Benefits

Comments: Numerous commenters stated that asylum seekers would lose wages and benefits as a result of delayed entry into the U.S. labor force, which will cause an outsized, devastating amount of harm to this already-vulnerable community. Many commenters reasoned that a lack of income would lead to not being able to afford food, housing, emergency services, and other benefits and assistances.

Many commenters cautioned that the rule change would cause significant hardship to applicants and their families, including destabilizing the financial and health situation of their children, spouses, parents, and other family members. One commenter cited reports indicating that a 6-month gap in employment contributes to ''microeconomic scarring, or the damage a period of unemployment inflicts on individuals or household's [sic] future economic health even after the spell of joblessness ends.''

Response: USCIS notes that asylum seekers statutorily cannot receive employment authorization prior to 180 days after filing an asylum application, but acknowledges that asylum applications that require additional processing time will delay applicants' entry into the U.S. labor force. USCIS does not anticipate the adoption of the rule to result in processing times that exceed the FY 2017 pre-*Rosario* processing times. This final rule allows for increases in processing times when necessary to reduce fraud and to address other unforeseen requirements, and variations in processing could occur due to unforeseen events and circumstances. In the NPRM, USCIS estimated an average delay of 31 calendar days if processing times returned to those achieved in FY 2017. As described in the NPRM, USCIS acknowledges the distributional impacts during this delay onto the applicant's support network. USCIS assumes the longer an asylum applicant's EAD is delayed, the longer the applicant's support network is providing assistance to the applicant.

o. Impact on Support Network

Comments: Approximately 250 commenters commented on the rule's impact on the support networks of asylum-seekers. Many commenters said the proposed ''delayed'' issuance of

[47] Table 10 at 84 FR 47164. 119,088 applications completed after 30 days for a total of 3,651,326 lost calendar days and 2,655,429 working days. 3,651,326/119,088 = an average of 30.7 calendar days delayed and 2,655,429/119,088 = an average of 22.3 working days delayed.

EADs would over-burden organizations that provide financial, housing, legal, or other forms of assistance to asylum applicants. Multiple commenters contended that the rule would render asylum applicants unable to work and force them to become a public charge to welfare programs. These commenters stated that this rule is in direct contrast to the overall initiative of the administration and will create a financial burden for the United States.

As it relates specifically to the costs, a commenter stated that the rule explicitly refuses to factor into its cost analysis ''distributional impacts for those in an applicant's support network.'' Similarly, a commenter said USCIS failed to fully consider the costs of delayed EAD adjudication to an asylum seeker's family and makes the statement that its own workload priorities outweigh these financial strains. Another commenter also stated that USCIS miscalculated the cost to support networks, citing data on community groups' limited budgets and resources.

Another commenter disagreed with USCIS' cost analysis and provided an alternative suggestion of measurement. The commenter calculated that the cost of providing for an individual is roughly equivalent to the prevailing wage, which would mean the actual cost of the proposed rule only to applicants' support networks would be at least twice that calculated by USCIS.

Response: USCIS notes this rule does not directly regulate private support networks or any state program. How the states or private organizations allocate their resources is a choice by the state or organization and is not compelled by this rule. USCIS notes that asylum seekers statutorily cannot receive employment authorization prior to 180 days after filing an asylum application but acknowledges that asylum applications that require additional processing time may delay applicants' entrance into the U.S. labor force. This final rule allows for increases in processing times when necessary to identify fraud and to address other unforeseen requirements, and variations in processing could occur due to unforeseen events and circumstances. In the NPRM, USCIS estimated an average delay of 31 calendar days if processing times return to those achieved in FY 2017. In the NPRM, USCIS acknowledged ''the longer an asylum applicant's EAD is delayed, the longer the applicant's support network is providing assistance to the applicant.'' *See* 84 FR at 47165. The impacted social networks could include, but are not limited to, family members and friends, relatives, non-profit providers, nongovernmental organizations (NGOs), religious and community based affiliations, and charities. In addition, there could be impacts to state and local governments as well in terms of both their burden and taxes.

In the NPRM DHS requested comment on data or sources that demonstrate the amount or level of assistance provided to asylum applicants who have pending EAD applications. *See* 84 FR at 47165. One commenter specifically suggested that the cost of the proposed rule to applicants' support network is roughly equivalent to the prevailing wage. USCIS agrees that the immediate indirect impact of this rule to an applicant's support network is likely not significantly more than the wages and benefits the applicant would have earned without this rule.

p. Costs Related to Socioeconomic Factors and Impacts

Comments: Numerous commenters provided feedback concerning the impacts of the proposed rule involving loss of income to individuals linked to groups in terms of various socioeconomic factors. For example, multiple commenters warned that asylum seekers who are not authorized to work would have problems obtaining healthcare and medical treatment. Multiple commenters said that many asylum seekers will be without healthcare due to the lack of employer provided insurance and thus would be far more likely to skip the preventative care that keeps them healthy which will increase contagious diseases, decrease vaccinations, and overall negatively impact national public health. Another commenter said state-only Medicaid would likely be the only affordable health insurance option for asylum applicants who do not have an EAD; however, applicants will most likely not apply for Medicaid out of concern that receipt of any form of public assistance will harm their ability to adjust status under the DHS Public Charge Rule.

Several commenters said the rule would increase homelessness in communities. One discussed research on the already limited housing available for asylum applicants that will be negatively impacted by this rule, citing sources. A few commenters, citing research studies warned of the adverse short- and long-term consequences associated with homelessness, including chronic physical and mental health, behavioral problems, learning and cognition, academic achievement, and lifelong adult problems.

Numerous commenters asserted that asylum seekers without an EAD due to the rule would have difficulty obtaining important documents, including a driver's license, state identification, and social security number. Others said obtaining a social security card is often essential to get into job training programs, to enroll in college, and to take many other steps towards integration into a community. Some commenters warned that not having a U.S. government-issued identification document can further limit an applicant's access to transportation, banking, education, heating and electricity, many government facilities and school grounds, as well as hinder the ability to get married.

Multiple commenters warned that asylum seekers who are not authorized to work and therefore lack sufficient funds as a result of this rule would have impeded access to competent legal services and counsel. Several commenters cited studies showing that immigrants who are represented by legal counsel are much more likely to win their cases than those appearing in immigration court without an attorney.

A few commenters reasoned that asylum applicants who do find pro bono or low cost representation, are unable, without work authorization, to pay for other costs inherent in immigration cases, including transportation to get to and from meetings with their attorney or even to court appearances.

A number of submissions cautioned that the above impacts would especially be serious for vulnerable groups, such as children, and that the rule stands to increase vulnerability to labor abuse, exploitation, human trafficking, and violence. In addition, some claimed that particular groups, including women, children, and lesbian, gay, bisexual, transgender, queer (LGBTQ) and HIV-positive asylum seekers, would face negative consequences.

Response: USCIS endeavors to process all benefits requests as quickly as possible and this rulemaking does not change the eligibility requirements or process by which asylum seekers obtain employment authorization or asylum status. This rulemaking does not aim to create undue hardships, including added stress or anxiety, on applicants for employment authorization or to cause unnecessary delays in processing applications. Regardless of the underlying basis for applying for employment authorization, all applicants filing initially are subject to some period of processing time that may delay their ability to obtain employment or other services.

Individual state governments determine the documentary requirements for state-issued

identifications. States may choose to rely on documents issued by USCIS, but these requirements are outside USCIS' purview. This rulemaking does not change the eligibility requirements or process by which asylum seekers obtain employment authorization. USCIS appreciates the concerns raised over impacts to particular groups. Furthermore, USCIS does not question the commenters' claims that asylum seeking in the U.S. tends to involve groups of persons with particular socioeconomic characteristics and situations. However, USCIS is unable to quantify the impacts to them as USCIS does not differentiate between the particular groups in adjudicating the EAD applications. As we have described, the rule only stands to possibly impact the timing under which some EADs could be approved.

q. Impacts to Companies and Employers

Comments: About 50 commenters focused on the impacts presented in the NPRM in terms of the effects on businesses and companies. Multiple commenters asserted that this rule would negatively impact United States employers and corporations.

Some commenters stated that, under the rule, companies that would otherwise employ asylum seekers will either have insufficient access to labor or bear the costs of finding alternative labor. Several commenters said the jobs that asylum seekers fill will be extremely hard to replace due to their skills, and because many Americans may not want to do their jobs.

Another commenter cited unemployment data and discussed a labor shortage, arguing that employers will be adversely affected by delaying asylum applicants' lawful labor force participation. Also addressing a labor shortage, another commenter cited that there were seven million unfilled U.S. job openings in 2019 and the proposal will block these from being filled. Multiple commenters discussed the significant labor shortage this rule would create for industries such as health care, agriculture, manufacturing, construction, and technology, citing research. Another cited the percentage of the state's workforce made up of immigrants, remarking that immigrants are a key solution to the state's workforce challenges due to the retiring baby boomer population.

Citing several sources, a couple of commenters described the significant financial loss to businesses that would absorb the cost to find and replace asylum seekers jobs. A few commenters stated that USCIS does not adequately analyze the costs to employers in the rule and should more accurately quantify the impacts of hiring new employees.

Response: USCIS agrees there is a possibility a portion of the impacts of this rule could be borne by companies that would have hired the asylum applicants. USCIS has also reviewed the Bureau of Labor Statistics (BLS) data and other references cited by the commenters, and does not necessarily dispute the figures and statistics referenced for 2019. USCIS also notes that, as of November 2019, BLS data also showed approximately 4.3 million workers are considered to be ''part time for economic reasons,'' such as slack work or unfavorable business conditions, inability to find full-time work, or seasonal declines in demand.[48] USCIS recognizes that when unemployment rates are low, providing EADs to pending asylum applicants potentially fills an economic need. However, even during those times USCIS must first be sufficiently assured of applicant eligibility and ensure all background and security checks are completed.

Although the rule would possibly impact the timing that some asylum applicants might experience in entering the labor force, USCIS has no reason, as of the drafting of this final rule, to anticipate that processing times will be vastly different (on average) than those in FY 2017 and reiterates there should not be a significant increase, barring unforeseen variations and circumstances. In the NPRM, USCIS estimated an average delay of 31 calendar days if processing times returned to those achieved in FY 2017. The rule should allow sufficient time to address national security and fraud concerns, and to maintain technological advances in document production and identity verification without having to add any resources.

The rule has taken into consideration that a subset of asylum applicants' opportunity to participate in the labor market could be delayed if their application requires additional time to process. The analysis has also acknowledged that for the companies who are unable to substitute the labor that would have been provided by the asylum applicants, they could potentially experience a reduction in profit.

Comments: Some commenters said the rule would force the companies to become less competitive by shrinking the ability to recruit a diverse and skilled workforce. Another commenter cited research, saying that USCIS failed to consider that asylum seekers bring a variety of professional experience to their work that cannot be replaced by a native workforce.

Another said the rule would make it more difficult for it to hire a diverse and talented workforce to meet the needs of individuals with psychiatric disabilities and require additional expenditures to recruit otherwise authorized employees.

Response: USCIS has reviewed the sources and figures presented in the comments, but does not see any compelling reason to assert that this rule, which could affect the timing under which some EADs are obtained by aliens with a pending asylum application, would hamper companies from achieving a diverse and talented workforce.

Comments: Some commenters described the spending power of immigrants in each state and the negative impact this rule would have on private profits, citing research and figures. Another, citing research, stated that asylum workers specifically fill in gaps that make businesses more productive and stimulate industries through entrepreneurship. Another commenter cited the NPRM's figure that the rule will result in a loss of $775 million annually, which will affect business profits.

Response: USCIS recognizes the research and literature concerning immigrants being involved in innovation and entrepreneurship. However, USCIS does not believe that this rule will reduce innovation and entrepreneurial activity, as it only stands to possibly impact the timing under which some asylum seekers are able to obtain an EAD. In the NPRM, USCIS estimated an average delay of 31 calendar days if processing times return to those achieved in FY 2017.

USCIS acknowledges that if companies cannot find reasonable substitutes for the position the asylum applicant would have filled, this rule will result in lost productivity and profits to companies.

Comments: A commenter commented that the rule would force asylum applicants to work illegally, which in turn could lower labor treatment for the United States labor force.

Response: The rule only stands to possibly impact the timing in which an asylum applicant can obtain an EAD, where asylum applicants are only eligible to receive employment authorization after their asylum application has been pending 180 days.

[48] Bureau of Labor Statistics, *Employment Situation News Release—November 2019,* Table A–8 Employed persons by class of worker and part-time status, February 21, 2020. Available at *https://www.bls.gov/news.release/archives/empsit_12062019.pdf.*

Moreover, we see no reason at present that there will be an increase in average EAD processing times, beyond what was occurring pre-*Rosario,* although some EADs may take longer than average to adjudicate.

Comment: Another commenter noted that because DHS has said the rule would have no effect on wages, it implies that in the cases where businesses are able to find replacement labor for the position the asylum applicant would have filled, they would be shifting workers from elsewhere in the labor force rather than inducing people to shift away from leisure. The commenter said that means the rule is expected to shrink real output and that total lost wages therefore approximately represent the total economic cost of the rule, and not merely transfers.

Response: USCIS does not agree that under the scenario where businesses are able to find replacement workers, this rule would shrink real output. It is plausible that a currently unemployed (or underemployed) worker could fill a job that would have been filled by an asylum seeker without an increase in wages for that job. USCIS acknowledges that in economic theory, wage rates and income are economic variables that individuals consider when choosing between leisure and labor, and that changes in wage rates can either decrease or increase hours of work. This rule will have a short-term impact on labor availability for a relatively small population. The NPRM estimated that this rule would delay per year approximately 120,000 asylum applicants' entrance into the labor force by, on average, 31 calendar days. *See* 84 FR at 47164. As discussed later in this document in the ''Labor Market Overview'' section, the U.S. labor force as of November 2019, is approximately 164 million workers. While DHS does not have information about the industries in which asylum applicants work, DHS notes that applicants are not restricted to a certain industry and therefore these short-term delays to the relatively few number of workers are not concentrated in a single location or industry. Given the short-term nature and relatively small number of laborers disrupted, DHS maintains that the lost wages to asylum applicants is a transfer from asylum applicants to other workers when companies are able to find reasonable labor substitutes for the position the asylum applicant would have filled. DHS acknowledges that there likely are, however, other unquantified costs under this scenario, such as overtime pay or opportunity costs.

r. Tax Impacts

Comments: Many commenters said this rule would negatively affect tax revenue, with many citing USCIS projected losses. Commenters, including individuals, a few advocacy groups, and a professional association, raised concerns regarding the rule's impact on tax losses, stating that these losses will negatively impact government programs and the economy. Multiple commenters, including a federal elected official and a few advocacy groups, discussed the loss of tax dollars and its impact on Medicare and social security. An advocacy group said this rule would contribute to the depletion of streets, schools, and healthier citizens through tax dollar loss.

A commenter stated that, while estimating the lost tax revenue based on the lost earnings estimate, the proposed rule notes, but does not try to quantify, the significant additional lost state income tax revenues. This commenter went on to say that rule does not mention that asylum seekers' earnings translate into lower spending on rent, food, and consumer goods, with the corresponding lost profits and tax revenues that those expenditures would generate. Similarly, another commenter said that USCIS miscalculates tax losses by only using employment taxes, while it should be using federal, state, and local income taxes.

Others said the rule does not account for the cost of losing tax revenue to local governments, which they expect to be significant. Multiple commenters, citing studies, estimated the loss in tax revenue for different individual states as a result of the proposed rule. Another projected that their state would suffer an estimated loss of $1.3 to 4 million dollars on top of lost federal tax dollars if the proposed rule was implemented and requested that USCIS withdraw the rule change. Another said the rule would force the applicants to work ''under the table,'' thus negatively affecting the economy by violating tax, insurance, and employment laws.

Response: USCIS appreciates the concerns of commenters and the acknowledgement of the potential projected tax loss stated in the rule. USCIS agrees with commenters that in circumstances in which a company cannot transfer additional work onto current employees and cannot hire replacement labor for the position the asylum applicant would have filled there would be an impact to state and local tax collection. The NPRM stated ''there may also be state and local income tax losses that would vary according to the jurisdiction.'' *See* 84 FR at 47150. USCIS notes the tax rates of the states vary widely, and many states impose no income tax at all.[49] It is also difficult to quantify income tax losses because individual tax situations vary widely. The NPRM noted that more than 44 percent of Americans pay no federal income tax. *See* 47 FR at 47150. Although USCIS is unable to quantify potential lost income taxes, USCIS has provided a quantified estimate of lost employment taxes. We were able to estimate potential lost employment taxes since there is a uniform national rate (6.2 percent social security and 1.45 percent Medicare for both the employee and employer, for a total of 15.3 percent tax rate) for certain employment taxes. *See* 84 FR at 47150. USCIS recognizes that this quantified estimate is not representative of all potential tax losses by federal, state, and local governments and we made no claims this quantified estimate included all tax losses. We continue to acknowledge the potential for additional federal, state and local government tax loss in the scenario where a company cannot transfer additional work onto current employees and cannot hire replacement labor for the position the asylum applicant would have filled.

s. Small Entity Impacts

Comments: A few commenters discussed the rule's impact on small entities. Some said the proposed rule would negatively impact small businesses and make it difficult for them to find workers. Another commenter, citing research, said immigrants represent 25 percent of entrepreneurs, arguing that this rule would disproportionality and negatively affect small businesses. Another said small town economic development is also hindered because family members who host asylum seekers awaiting EADs must expend material support during this time of limbo instead of starting or continuing small businesses.

Response: This rule may result in lost compensation for some initial applicants whose EAD processing is delayed beyond the 30-day regulatory timeframe. However, the rule does not directly regulate employers. In the NPRM USCIS stated that if companies cannot find reasonable substitutes for the labor the asylum applicants would have provided, this rule would primarily be a cost to these companies through lost productivity and profits. USCIS uses the lost compensation to

[49] *See generally* Turbotax, 'States with the Highest and Lowest Taxes,'' *https://turbotax.intuit.com/tax-tips/fun-facts/states-with-the-highest-and-lowest-taxes/L6HPAVqSF* (last visited Feb. 24, 2020).

asylum applicants as a proxy for businesses' cost for lost productivity. *See* 84 FR at 47156.

DHS is unable to identify the next best alternative to hiring a pending asylum applicant and is therefore unable to reliably estimate the potential indirect costs to small entities from this rule. This rule will directly regulate pending asylum applicants, or individuals, applying for work authorization. DHS cannot reliably estimate how many small entities may be indirectly impacted as a result of this rule, but DHS believes the number of small entities directly regulated by this rule is zero.

t. Benefits

Comments: Approximately a dozen submissions provided comments on the NPRM's discussion of benefits. A few stated that the lack of quantitative benefits does not support DHS's rationale for the rule. Some questioned whether the qualitative benefits that DHS presents were adequately weighed against the stated millions of dollars of revenue loss and lost wages. One commenter said the discussion of benefits lacks details regarding how DHS would be able to achieve the rule's goals. Another stated that the financial costs to individuals, businesses, and the federal government in the form of lost taxes far outweigh the financial benefits to USCIS. This commenter also said it is also ''highly inappropriate'' for USCIS to include the end of litigation as a benefit.

One commenter stated that USCIS failed to quantify benefits correctly, questioning why monetary benefits of not having to hiring additional workers is not described or estimated. This commenter also questioned why there was no evidence provided to suggest that removing adjudication standards would speed up the adjudication process. Another commenter stated that the stated benefits of the rule are achievable with a mere extension of the deadline and DHS has provided no evidence to the contrary.

Response: By eliminating the 30-day provision, DHS stands to be able to operate under long-term sustainable case processing times for initial EAD applications for pending asylum applicants, to allow sufficient time to address national security and fraud concerns, and, to maintain technological advances in document production and identity verification that USCIS must fulfill as a part of its core mission within DHS. Applicants would rely on up-to-date processing times, which provide realistic expectations and predictability of adjudication times. While we believe we have discussed the benefits appropriately, it is not possible to monetize them.

2. Other Statutory and Regulatory Requirements

Comments: Several commenters addressed the broad statutory and regulatory requirements. One commenter noted the lack of analysis under Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs,'' which states that any regulation must result in a net cost of $0 or be paid for by eliminating other regulations. Another commenter said this rule violates Executive Order 13771 because it has estimated costs between $295 and $893 million dollars to the US economy (plus additional tax revenue loss and uncalculated costs), with no quantitative economic benefits estimated. The commenter said no offsetting regulations were identified nor were subsequent offsetting costs estimated.

Multiple commenters said that this rule does not contain an adequate analysis of federalism concerns or the proposal's fiscal impact. The commenters stated that USCIS did not analyze the harms to states' programs and a substantial loss in revenue. Further, the commenters stated that USCIS did not provide analysis required under the Unfunded Mandates Reform Act that would require it to fully consider reasonable alternatives to the rule.

Response: This rule has been designated a ''significant regulatory action'' that is economically significant regulatory under section 3(f)(1) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget. This rule is a regulatory action under Executive Order 13771. DHS is not required by law to include in this rulemaking further discussion regarding Executive Order 13771, such as discussions regarding offsets, but DHS intends to continue to comply with the Executive Order.

DHS did consider federalism concerns and determined that the rule would not have a substantial direct effect on the states, on the relationship between the Federal Government and the states, or on the distribution of power and responsibilities among the various levels of government, as it only removes an adjudicatory timeframe that is within the purview and authority of USCIS and does not directly affect states.

With respect to the Unfunded Mandates Reform Act, the proposed rule and this final rule each explain DHS's position with respect to that Act. In addition, contrary to the commenters' position, the alternatives analysis provisions of that Act do not apply to rules, such as this one, that do not contain a covered Federal mandate. *See* 2 U.S.C. 1532(a), 1535(a). DHS nonetheless included an alternatives analysis in the regulatory analysis portion of the proposed rule, *see* 84 FR at 47166 *et seq.,* and this final rule, *see infra.*

F. Out of Scope

1. Comments on the Broader Asylum EAD NPRM

Comments: Approximately 10 submissions provided comments on the broader Asylum EAD proposed rule. *See* 84 FR 62374 (Nov. 14, 2019). A commenter said evaluation of the government's arguments is ''essentially impossible'' in light of their apparent inconsistency with the anticipated ''Broader EAD NPRM'' called for by a 2019 presidential memorandum. The commenter said USCIS only briefly notes that the rule's impact could be overstated if, as directed by the President, the Broader EAD NPRM is implemented. The commenter stated that USCIS simultaneously argues that the agency needs flexibility to handle increases in EAD applications, which would be false if, under the Broader EAD NPRM, most applicants became ineligible for EADs. The commenter concluded that USCIS must consider the two issues—EAD eligibility and processing timelines—jointly to determine accurately the costs and impact of its future EAD regime. Since the proposed rule is predicated on a situation that the agency intends to obviate by other policy changes, the commenter said its stated reasoning is irrational and fails to satisfy the APA.

Response: The two rules are intended to address different problems and are therefore the subject of separate proceedings. Although the broader asylum rule has been proposed, it is not yet final, and may not be finalized as proposed. USCIS recognizes that this rule and the proposed broader asylum-EAD rule could have some interaction, and to the extent that there is interaction or overlap, DHS will address such concerns if it finalizes the broader rule. USCIS disagrees with the comment claim based on a reduction of EADs under the broad rule because of increased ineligibility. USCIS would still receive many EAD filings, although it is possible that more applications may not be approved due to the additional and/or modified eligibility criteria proposed. In reality, because of the added criteria under the broader

proposed rule, adjudication may become more complex.

2. Other Out of Scope Comments

There were just over 600 comments that we have reviewed and determined are out of scope regrading this rule. These submissions can be bracketed generally as: (i) General requests for reform to the immigration system (a few of the comments specifically referred to immigration law; USCIS notes that statutory changes are outside of USCIS' authority. Other changes, such as specific regulatory changes not pertaining to the issues addressed by this rulemaking, would be outside the scope of this rulemaking); (ii) general support for President Trump; (iii) opinions on building a wall on the Southern border and securing American borders; (iv) opposition to illegal immigration and all forms of immigration; (v) support only for legal immigration; and (vi) suggestions that the government enforce immigration laws.

IV. Statutory and Regulatory Requirements

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

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if a regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13771 (''Reducing Regulation and Controlling Regulatory Costs'') directs agencies to reduce regulation and control regulatory costs and provides that ''for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.''

This rule has been designated as a ''significant regulatory action'' that is economically significant, under section 3(f)(1) of Executive Order 12866. Accordingly, the Office of Management and Budget (OMB) has reviewed this regulation. This final rule is considered an E.O. 13771 regulatory action.

1. Summary

DHS notes that the estimates from the NPRM regarding unemployment, number of asylum applicants per year, and USCIS processing are not currently applicable as COVID–19 has had a dramatic impact on all three. DHS offers this analysis as a glimpse of the potential impacts of the rule, but the analysis relies on assumptions related to a pre-COVID economy. While future economic conditions are currently too difficult to predict with any certainty, DHS notes that a higher unemployment rate may result in lower costs of this rule as replacing pending asylum applicant workers would most likely be easier to do. Consequently, as unemployment is high, this rule is less likely to result in a loss of productivity on behalf of companies unable to replace forgone labor.

This rule removes the timeline to adjudicate initial EAD applications for pending asylum applicants within 30 days and is enacting the proposal without change. In FY 2017, prior to the *Rosario* v. *USCIS* court order, the adjudication processing times for initial Form I–765 under the Pending Asylum Applicant category exceeded the regulatory set timeframe of 30 days more than half the time. However, USCIS adjudicated approximately 78 percent of applications within 60 days. In response to the *Rosario* v. *USCIS* litigation and to comply with the court order, USCIS continues to dedicate increased resources to adjudication of pending asylum EAD applications. USCIS has dedicated as many resources as practicable to these adjudications, but continues to face an asylum application backlog, which in turn increases the numbers of applicants eligible for pending asylum EADs. However, this reallocation of resources is not a long-term sustainable solution because USCIS has many competing priorities and many time-sensitive adjudication timeframes. Reallocating resources to adjudicate asylum EAD applications with the current regulatory-imposed timeframe in the long-term is not sustainable due to work priorities in other product lines. USCIS could hire more officers, but that would not immediately and in all cases shorten adjudication timeframes because: (1) Additional time would be required to recruit, vet, onboard and train new employees; and, (2) for certain applications, additional time is needed to fully vet an applicant, regardless of staffing levels. Further, simply hiring more officers is not always feasible due to budgetary constraints and the fact that USCIS conducts notice and comment rulemaking to raise fees and increase revenue for such hiring actions.

There is currently no fee for asylum applications or the corresponding initial EAD applications, and the cost to the agency for adjudication is covered by fees paid by other benefit requesters. As a primary goal, USCIS seeks to adequately vet applicants and adjudicate applications as quickly and efficiently as possible. USCIS acknowledges this rule may delay the ability for some initial applicants whose EAD processing is delayed beyond the 30-day regulatory timeframe to work.

The impacts of this rule are measured against a baseline. While we have added some more recent data and information, pursuant to public comments, the costs are benchmarked to 2017, in keeping with the NPRM. This baseline reflects the best assessment of the way the world would look absent this action. In the NPRM, USCIS assumed that in the absence of this rule the baseline amount of time that USCIS would take to adjudicate all applications would be 30 days. USCIS also assumes that upon this rule going into effect, adjudications will align with USCIS processing times achieved in FY 2017 (before the *Rosario* v. *USCIS* court order). This is our best estimate of what will occur when this rule becomes effective. USCIS believes the FY 2017 timeframes are sustainable and USCIS expects to meet these timeframes. Therefore, USCIS analyzed the impacts of this rule by comparing the costs and benefits of adjudicating initial EAD applications for pending asylum applicants within 30 days compared to the actual time it took to adjudicate these EAD applications in FY 2017.

USCIS notes that in FY 2018, 80.3 percent of applications were processed within 30 days and 97.5 percent were processed within 60 days. In FY 2019, the figures were 96.9 percent and 99.2 percent, respectively. In the analysis of impacts of this rule, USCIS assumed 100 percent of adjudications happened within 30 days.[50] However, because actual adjudications in FYs 2018 and 2019 within the 30-day timeframe are slightly less than the 100 percent analyzed, USCIS has over-estimated the impacts of this rule with respect to this variable when less than 100 percent of adjudications happen within 30 days. It is noted that the reliance on the 100 percent rate slightly overstates the costs.

The impacts of this rule may include both distributional effects (which are

[50] The information regarding the processing of these applications was provided by USCIS Office of Performance and Quality (OPQ).

transfers) and costs.[51] The distributional impacts fall on the asylum applicants who would be delayed in entering the U.S. labor force. The distributional impacts (transfers) come in the form of lost compensation (wages and benefits). A portion of this lost compensation might be transferred from asylum applicants to others that are currently in the U.S. labor force, possibly in the form of additional work hours or overtime pay. A portion of the impacts of this rule may also be borne by companies that would have hired the asylum applicants had they been in the labor market earlier but were unable to find available workers. These companies may incur a cost, as they could lose productivity and potential profits the asylum applicant would have provided had the asylum applicant been in the labor force earlier.[52] Companies may also incur opportunity costs by having to choose the next best alternative to immediately filling the job the asylum applicant would have filled. USCIS does not know what this next best alternative may be for those companies. As a result, USCIS does not know the portion of overall impacts of this rule that are transfers or costs. If companies can find replacement labor for the position the asylum applicant would have filled, this rule would have primarily distributional effects in the form of transfers from asylum applicants to others already in the labor market (or workers induced to return to the labor market). USCIS acknowledges that there may be additional opportunity costs to employers such as additional search costs. However, if companies cannot find reasonable substitutes for the labor the asylum applicants would have provided, this rule would primarily be a cost to these companies through lost productivity and profits.

USCIS uses the lost compensation to asylum applicants as a measure of the overall impact of the rule—either as distributional impacts (transfers) or as a proxy for businesses' cost for lost productivity. These quantified impacts do not include additional costs to businesses for lost profits and opportunity costs or the distributional impacts for those in an applicant's support network. The lost compensation to asylum applicants could range from $255.88 million to $774.76 million annually depending on the wages the asylum applicant would have earned. The 10-year total discounted lost compensation to asylum applicants at 3 percent could range from $2.183 billion to $6.609 billion and at 7 percent could range from $1.797 billion to $5.442 billion (years 2020–2029). USCIS recognizes that the impacts of this rule could be overstated if the provisions in the broader asylum EAD NPRM are finalized as proposed. Specifically, the broader asylum EAD NPRM proposes to limit or delay eligibility for employment authorization for certain asylum applicants. Accordingly, if the population of affected aliens is less than estimated as a result of the broader asylum EAD rule, the estimated impacts of this rule could be overstated because the population affected may be lower than estimated in this rule.

In instances where a company cannot transfer additional work onto current employees and cannot hire replacement labor for the position the asylum applicant would have filled, USCIS acknowledges that delays may result in tax losses to the government. It is difficult to quantify income tax losses because individual tax situations vary widely [53] but USCIS estimates the potential loss to other employment tax programs, namely Medicare and social security which have a combined tax rate of 7.65 percent (6.2 percent and 1.45 percent, respectively).[54] With both the employee and employer not paying their respective portion of Medicare and Social Security taxes, the total estimated tax loss for Medicare and social security is 15.3 percent.[55] Lost wages ranging from $255.88 million to $774.76 million would result in employment tax losses to the government ranging from $39.15 million to $118.54 million annually.[56] Adding the lost compensation to the tax losses provide total monetized estimates of this rule that range from $275.46 million to $834.03 million annually in instances where a company cannot hire replacement labor for the position the asylum applicant would have filled.[57] Again, depending on the circumstances of the employee, there could be additional federal income tax losses not estimated here. There may also be state and local income tax losses that would vary according to the jurisdiction.

This rule will potentially result in reduced opportunity costs to the Federal Government. Since *Rosario* compelled USCIS to comply with the 30-day provision in FY 2018, USCIS has redistributed its adjudication resources to work up to full compliance. With removing the 30-day timeframe, USCIS expects these redistributed resources could be reallocated, potentially reducing delays in processing of other applications and avoiding costs associated with hiring additional employees. USCIS has not estimated these avoided costs. Additionally, USCIS does not anticipate that removing the separate 90-day EAD filing requirement would result in any costs to the Federal Government.

This rule will benefit USCIS by allowing it to operate under long-term sustainable case processing times for initial EAD applications for pending asylum applicants, to allow sufficient time to address national security and fraud concerns, and to maintain technological advances in document production and identify verification. Applicants will be able to rely on up-to-date processing times, which will provide accurate expectations of adjudication times. The technical change to remove the 90-day filing requirement is anticipated to reduce confusion regarding EAD renewal requirements for pending asylum applicants and ensure the regulatory text reflects current DHS policy and regulations under DHS's final 2017 AC21 Rule.[58]

[51] Transfer payments are monetary payments from one group to another that do not affect total resources available to society. *See* OMB Circular A–4 pages 14 and 38 for further discussion of transfer payments and distributional effects. Circular A–4 is available at: *https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A4/a-4.pdf*

[52] The analysis accounts for *delayed* entry into the labor force and does not account for the potential circumstance under which this rule may completely foreclose an alien's entry into the labor force. Such a possible circumstance could occur if USCIS ultimately denies an EAD application that was pending past 30 days due to this rule, solely because the underlying asylum application had been denied during the pendency of the EAD application. In such a scenario, there would be additional costs and transfer effects due to this rule. Such costs and transfer effects are not accounted for below. Similarly, the rule does not estimate avoided turnover costs to the employer associated with such a scenario.

[53] *See* More than 44 percent of Americans pay no federal income tax (September 16, 2018) available at *https://www.marketwatch.com/story/81-million-americans-wont-pay-any-federal-income-taxes-this-year-heres-why-2018-04-16.*

[54] The various employment taxes are discussed in more detail at *https://www.irs.gov/businesses/small-businesses-self-employed/understanding-employment-taxes. See* IRS Publication 15, Circular E, Employer's Tax Guide for specific information on employment tax rates. *https://www.irs.gov/pub/irs-pdf/p15_18.pdf.*

[55] Calculation: (6.2 percent social security + 1.45 percent Medicare) × 2 employee and employer losses = 15.3 percent total estimated tax loss to government.

[56] Calculations: Lower bound lost wages $255.88 million × 15.3 percent estimated tax rate = $39.15 million. Upper bound lost wages $774.76 million × 15.3 percent estimated tax rate = $118.54 million.

[57] Calculation: Lower bound lost wages $255.88 million + lower bound tax losses $19.58 million = total lower bound cost $275.46 million. Upper bound lost wages $774.76 million + upper bound tax losses $59.27 million = total upper bound cost $834.03 million.

[58] In the 2017 AC21 final rule, 81 FR 82398, USCIS amended 8 CFR 274a.13 to allow for the automatic extension of existing, valid EADs for up to 180 days for renewal applicants falling within certain EAD categories as described in the regulation and designated on the USCIS website. *See* 8 CFR 274a.13(d). Among those categories is

Table 4 provides a detailed summary of the regulatory changes and the expected impacts of this rule.

TABLE 4—SUMMARY OF PROVISIONS AND IMPACTS

Current provision	Change to provision	Expected costs and transfers from changed provision	Expected benefits from changed provision
USCIS has a 30-day initial EAD adjudication timeframe for applicants who have pending asylum applications.	USCIS is eliminating the provisions for the 30-day adjudication timeframe and issuance of initial EADs for pending asylum applicants.	*Quantitative:* This provision could delay the ability of some initial applicants to work. A portion of the impacts of the rule would be the lost compensation transferred from asylum applicants to others currently in the workforce, possibly in the form of additional work hours or overtime pay. A portion of the impacts of the rule would be lost productivity costs to companies that would have hired asylum applicants had they been in the labor market, but who were unable to find available workers. USCIS uses the lost compensation to asylum applicants as a measure of these distributional impacts (transfers) and as a proxy for businesses' cost for lost productivity. The lost compensation due to processing delays could range from $255.88 million to $774.76 million annually. The total ten-year discounted lost compensation for years 2020–2029 averages $4.396 billion and $3.619 billion at discount rates of 3 and 7 percent, respectively. USCIS does not know the portion of overall impacts of this rule that are transfers or costs. Lost wages ranging from $255.88 million to $774.76 million would result in employment tax losses to the government ranging from $39.15 million to $118.54 million annually.	*Quantitative:* Not estimated.
		Qualitative: In cases where companies cannot find reasonable substitutes for the labor the asylum applicants would have provided, affected companies would also lose profits from the lost productivity. In all cases, companies would incur opportunity costs by having to choose the next best alternative to immediately filling the job the pending asylum applicant would have filled. There may be additional opportunity costs to employers such as search costs. There may also be additional distributional impacts for those in an applicant's support network beyond a minimum of 180 days—if applicants are unable to work legally, they may need to rely on resources from family members, friends, non-profits, or government entities for support.	*Qualitative:* DHS would be able to operate under long-term sustainable case processing times for initial EAD applications for pending asylum applicants, to allow sufficient time to address national security and fraud concerns, and to maintain technological advances in document production and identity verification without having to add any resources.
		DHS notes that the estimates from the NPRM regarding unemployment, number of asylum applicants per year, and USCIS processing are not currently applicable as COVID–19 has had a dramatic impact on all three. DHS offers this analysis as a glimpse of the potential impacts of the rule, but the analysis relies on assumptions related to a pre-COVID economy. While future economic conditions are currently too difficult to predict with any certainty, DHS notes that a higher unemployment rate may result in lower costs of this rule as replacing pending asylum applicant workers would most likely be easier to do. Consequently, as unemployment is high, this rule is less likely to result in a loss of productivity on behalf of companies unable to replace forgone labor.	This rule would result in reduced opportunity costs to the Federal Government. USCIS may also be able to reallocate the resources it redistributed to comply with the 30-day provision, potentially reducing delays in processing of other applications and avoiding costs associated with hiring additional employees.
Applicants can currently submit a renewal EAD application 90 days before the expiration of their current EAD.	USCIS is removing the 90-day submission requirement for renewal EAD applications.	*Quantitative:* None *Qualitative:* None	*Quantitative:* None. *Qualitative:* Applicants— • Reduces confusion regarding EAD renewal requirements. Some confusion may nonetheless remain if applicants consult outdated versions of regulations or inapplicable DOJ regulations. DHS/USCIS— • The regulations are being updated to match those of other EAD categories.

As previously discussed, USCIS does not know the portion of overall impacts of this rule that are transfers or costs, but estimates that the maximum monetized impact of this rule from lost compensation is $774.76 million annually. If all companies are able to easily find reasonable labor substitutes for all of the positions the asylum applicants would have filled, they will bear little or no costs, so the maximum of $774.76 million will be transferred

asylum applicants. To benefit from the automatic extension, an applicant falling within an eligible category must (1) properly file his or her renewal request for employment authorization before its expiration date, (2) request renewal based on the same employment authorization category under which the expiring EAD was granted, and (3) will continue to be authorized for employment based on his or her status, even after the EAD expires, and is applying for renewal under a category that does not first require USCIS to adjudicate an underlying application, petition, or request.

from asylum applicants to workers currently in the labor force or induced back into the labor force (we assume no tax losses as a labor substitute was found). Conversely, if companies are unable to find any reasonable labor substitutes for the positions the asylum applicants would have filled, then $774.76 million is the estimated maximum monetized cost of the rule and $0 is the estimated minimum in monetized transfers from asylum applicants to other workers. In addition, under this scenario, because the jobs would go unfilled there would be a loss of employment taxes to the Federal Government. USCIS estimates $118.54 million as the maximum decrease in employment tax transfers from companies and employees to the Federal Government. The two scenarios described above represent the estimated endpoints for the range of monetized impacts resulting from this rule and are summarized in Table 5 below.

TABLE 5—SUMMARY OF RANGE OF MONETIZED IMPACTS

Category	Description	Scenario: No replacement labor found for asylum applicants		Scenario: All asylum applicants replaced with other workers		Primary (half of the highest high for each row)
		Low wage	High wage	Low wage	High wage	
Cost	Lost compensation used as proxy for lost productivity to companies.	$255.88	$774.76	$0.00	$0.00	$387.38
Transfer	Compensation transferred from asylum applicants to other workers.	0.00	0.00	255.88	774.76	387.38
Transfer	Lost employment taxes paid to the Federal Government.	39.15	118.54	0.00	0.00	59.27

As required by OMB Circular A–4, Table 6 presents the prepared A–4 accounting statement showing the costs and transfers associated with this regulation. For the purposes of the A–4 accounting statement below, USCIS uses the mid-point as the primary estimate for both costs and transfers because the total monetized impact of the rule from lost compensation cannot exceed $774.76 million and as described, USCIS is unable to apportion the impacts between costs and transfers. Likewise, USCIS uses a mid-point for the reduction in employment tax transfers from companies and employees to the Federal Government when companies are unable to easily find replacement workers. USCIS notes that there may be some un-monetized costs such as additional opportunity costs to employers that would not be captured in these monetized estimates.

TABLE 6—OMB A–4–ACCOUNTING STATEMENT

[$ millions, 2017]

[Period of analysis: 2019–2028]

Category	Primary estimate		Minimum estimate	Maximum estimate	Source citation (RIA, preamble, etc.)
Benefits:					
Monetized Benefits	(7%)	N/A	N/A	N/A	RIA.
	(3%)	N/A	N/A	N/A	RIA.
Annualized quantified, but un-monetized, benefits.		0	0	0	RIA.
Unquantified benefits	Applicants would benefit from reduced confusion over renewal requirements. DHS would be able to operate under sustainable case processing times for initial EAD applications for pending asylum applicants, to allow sufficient time to address national security and fraud concerns, and to maintain technological advances in document production and identity verification				RIA.
Costs:					
Annualized monetized costs (discount rate in parenthesis).	(7%)	$387.38	$0	$774.76	RIA.
	(3%)	$387.38	$0	$774.76	RIA.
Annualized quantified, but un-monetized, costs	N/A		N/A	N/A	RIA.
Qualitative (unquantified) costs	In cases where companies cannot find reasonable substitutes for the labor the asylum applicants would have provided, affected companies would also lose profits from the lost productivity. In all cases, companies would incur opportunity costs by having to choose the next best alternative to immediately filling the job the pending asylum applicant would have filled. There may be additional opportunity costs to employers such as additional search costs				RIA.
Transfers:					
Annualized monetized transfers: "on budget"	(7%)	$0	$0	$0	RIA.

TABLE 6—OMB A–4–ACCOUNTING STATEMENT—Continued

[$ millions, 2017]

[Period of analysis: 2019–2028]

	(3%)	$0	$0	$0	
From whom to whom?	N/A				N/A.
Annualized monetized transfers: Compensation.	(7%) (3%)	$387.38 $387.38	$0 $0	$774.76 $774.76	RIA.
From whom to whom?	From asylum applicants to workers in the U.S. labor force or induced into the U.S. labor force. Additional distributional impacts from asylum applicant to the asylum applicant's support network that provides for the asylum applicant while awaiting an EAD				RIA.
Annualized monetized transfers: Taxes	(7%) (3%)	$59.27 $59.27	$0 $0	$118.54 $118.54	RIA.
From whom to whom?	A reduction in employment taxes from companies and employees to the Federal Government. There could also be a transfer of federal, state, and local income tax revenue				
Category	Effects				Source citation (RIA, preamble, etc.)
Effects on state, local, and/or tribal governments	None; no significant impacts to national labor force or to the labor force of individual states is expected. Possible loss of tax revenue				RIA.
Effects on small businesses	None				RFA.
Effects on wages	None				RIA.
Effects on growth	None				RIA.

2. Background and Purpose of the Final Rule

Aliens who are arriving or physically present in the United States generally may apply for asylum in the United States irrespective of their immigration status. To establish eligibility for asylum, an applicant must demonstrate, among other things, that they have suffered past persecution or have a well-founded fear of future persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. Applicants, with limited exceptions, are required to apply for asylum within one year of their last arrival in the United States. USCIS does not currently charge filing fees for certain humanitarian benefits, including asylum applications and applications concurrently filed with asylum applications. Asylum applicants whose cases remain pending without a decision for at least 150 days are eligible to apply for employment authorization, unless any delays are caused by the applicant (such as a request to reschedule an interview). 8 CFR 208.7, 274a.12(c)(8), 274a.13(a)(2). Applicants who are granted asylum (''asylees'') may work immediately. *See* INA section 208(c)(1)(B), 8 U.S.C. 1158(c)(1)(B). An asylee may choose to obtain an EAD for convenience or identification purposes, but this documentation is not necessary for an asylee to work. 8 CFR 274a.12(a)(5).

Currently, DHS regulations at 8 CFR 208.7(a)(1) provide that USCIS adjudicates a Form I–765 within 30 days of receiving a properly filed application from a pending asylum applicant. Asylum applicants must wait 150 days from the time of filing the asylum application before they can file a Form I–765. USCIS cannot grant employment authorization until the applicant has accumulated a total of 180 days, not including any delays caused or requested by the applicant, meaning the applicant's asylum case has been pending for a total of 180 days. 8 CFR 208.7(a)(1)–(2). This is known as the 180-Day Asylum EAD clock.[59] If USCIS approves the Form I–765, USCIS mails an EAD according to the mailing preferences indicated by the applicant. If USCIS denies the Form I–765, the agency sends a written notice to the applicant explaining the basis for denial.

However, if USCIS requires additional documentation from the applicant before a decision can be made, USCIS sends a request for evidence (RFE) and the 30-day processing timeframe for processing a Form I–765 is paused until additional documentation is received. Once USCIS receives all requested information in response to the RFE, the 30-day timeframe continues from the point at which it stopped. In some instances, applications may require additional vetting by the Background Check Unit (BCU) and the Center Fraud Detection Operations (CFDO), for instance, to verify an applicant's identity. The 30-day timeframe does not stop in these situations, though these cases may take longer than 30 days to process. USCIS would make a decision only after all eligibility and background checks relating to the EAD application have been completed.

DHS considers the 30-day adjudication timeframe to be outdated, as it no longer reflects current DHS operational realities. In the 20-plus years since the timeframe was established, there has been a shift to centralized processing as well as increased security measures, such as the creation of tamper-resistant EAD cards. These measures reduce opportunities for fraud but can require additional processing time, especially as filing volumes remain high. By eliminating the 30-day provision, DHS will be able to maintain accurate case processing times for initial EAD applications for pending asylum applicants since, prior to the *Rosario* v. *USCIS* court order, it was not meeting the 30-day regulatory timeframe most of the time (53 percent), to address national security and fraud concerns for those applications that require additional vetting through RFEs or referrals to BCU and/or CFDO, and to

[59] *See* The 180-Day Asylum EAD Clock Notice (May 9, 2017) *https://www.uscis.gov/sites/default/files/USCIS/Humanitarian/Refugees%20%26%20Asylum/Asylum/Asylum_Clock_Joint_Notice_-_revised_05-10-2017.pdf.*

maintain technological advances in document production and identity verification that USCIS must fulfill as a part of its core mission within DHS such as the centralized production and creation of tamper-resistant cards.

The need for this final rule results in part from the resource burden associated with adjudicating, within the 30-day adjudication timeframe, a large number of initial Forms I–765 under the Pending Asylum Applicant category. The large number of applications results from a range of factors, such as recent growth in USCIS' asylum backlog, which USCIS continues to address through a number of different measures.

For example, in an effort to stem the growth of the agency's asylum backlog, USCIS returned to processing affirmative asylum applications on a ''last in, first out'' (LIFO) basis. Starting January 29, 2018, USCIS began prioritizing the most recently filed affirmative asylum applications when scheduling asylum interviews. The former INS first established this interview scheduling approach as part of asylum reforms implemented in January 1995 and it remained in place until December 2014. USCIS has returned to this approach in order to deter aliens from using asylum backlogs solely as a means to obtain employment authorization by filing frivolous, fraudulent or otherwise non-meritorious asylum applications. Giving priority to recent filings allows USCIS to promptly adjudicate asylum applications.[60]

Another possible effect of reinstating LIFO is that in the future, fewer affirmative asylum applications would remain pending before USCIS for 150 days. However, the majority of asylum applications filed with USCIS have been referred to the Department of Justice Executive Office for Immigration Review (EOIR) for consideration of the asylum application by an immigration judge. In FY 2017, 53 percent of asylum filings processed by USCIS resulted in a referral to an immigration judge.[61] These applicants may be eligible to apply for an initial EAD under the (c)(8) category once the Asylum EAD Clock reaches 150 days.

In the end, however, USCIS cannot predict with certainty how LIFO and other administrative measures, as well as external factors such as immigration court backlogs and changes in country conditions, will ultimately affect total application volumes and the attendant resource burdens on USCIS. In addition, in light of the need to accommodate existing vetting requirements and to maintain flexibility should trends change, USCIS believes that even if it could reliably project a reduction in total application volume, such reduction would not, on its own, serve as a sufficient basis to leave the 30-day adjudication timeframe in place.

Finally, once an EAD is approved under the (c)(8) Pending Asylum Applicant category, it is currently valid for two years and requires renewal to extend an applicant's employment authorization if the underlying asylum application remains pending.[62] Currently, DHS regulations at 8 CFR 208.7(d) require that USCIS must receive renewal applications at least 90 days prior to the employment authorization expiration.[63] Removing the 90-day requirement will bring 8 CFR 208.7(d) in line with 8 CFR 274a.13(d), as amended in 2017; such amendments automatically extend renewal applications for up to 180 days. Additionally, under the 2017 AC21 Rule, applicants eligible for employment authorization can have the validity of their EADs automatically extended for up to 180 days from the document's expiration date, if they (1) file before its expiration date, (2) are requesting renewal based on the same employment authorization category under which the expiring EAD was granted, and (3) will continue to be authorized for employment based on their status, even after the EAD expires and are applying for renewal under a category that does not first require USCIS to adjudicate an underlying application, petition, or request.

3. Population

In this section, we have updated filing volumes and some additional metrics to capture FY 2018 and 2019 data and information. However, consistent with the NPRM, the costs and analysis is still benchmarked to FY 2017 processing times (before the *Rosario* v. *USCIS* court order). In FY 2019, USCIS received a total of 96,861 affirmative filings of Form I–589 applications for asylum. The number of total receipts for asylum applicants rose consistently from FY 2013 to FY 2017, before declining in FY 2018 and FY 2019 (Table 7). As the number of asylum applicants increases, the backlog continues to grow,[64] resulting in a greater number of people who are eligible to apply for EADs while they await adjudication of their asylum application.

TABLE 7—TOTAL ANNUAL AFFIRMATIVE FORM I–589 RECEIPTS RECEIVED FROM ASYLUM APPLICANTS[65]

Fiscal year	Total receipts
2013	44,453
2014	56,912
2015	84,236
2016	115,888
2017	142,760
2018	106,041
2019	96,861

Source: All USCIS Application and Petition Form Types, All Form Types Performance Data (Fiscal Year 2013–2019, 4th Qtr), *https://www.uscis.gov/tools/reports-studies/immigration-forms-data/data-set-all-uscis-application-and-petition-form-types*.

This larger number of Form I–765 filings linked to asylum claims has strained resources and led to longer processing times for adjudication. Table 8 shows the total, initial, and renewal applications received for Form I–765 for asylum applicants for FY 2013 to FY 2019.[66]

[60] USCIS now schedules asylum interviews based on three priority levels. First priority: Applications scheduled for an interview, but the interview had to be rescheduled at the applicant's request or the needs of USCIS. Second priority: Applications pending 21 days or less. Third priority: All other pending affirmative asylum applications, which will be scheduled for interviews starting with newer filings and working back towards older filings. *See* Affirmative Asylum Interview Scheduling (Jan. 26, 2018), available at *https://www.uscis.gov/humanitarian/refugees-asylum/asylum/affirmative-asylum-interview-scheduling.*

[61] *See* Notes from Previous Engagements, Asylum Division Quarterly Stakeholder Meeting (Feb. 7, May 2, Aug. 11, and Nov. 3, 2017), *https://www.uscis.gov/outreach/notes-previous-engagements?topic_id=9213&field_release_date_value%5Bvalue%5D%5Bmonth%5D=&field_release_date_value_1%5Bvalue%5D%5Byear%5D=&multiple=&items_per_page=10.*

[62] EADs issued prior to October 5, 2016 had a validity period of one year. *See* USCIS Increases Validity of Work Permits to Two Years for Asylum Applicants (Oct. 6, 2016), available at *https://www.uscis.gov/news/alerts/uscis-increases-validity-work-permits-two-years-asylum-applicants.*

[63] For renewal applications, a properly filed application for pending asylum applicants is one that is complete, signed, accompanied by all necessary documentation and the current filing fee of $410.

[64] As of June 2018, the asylum backlog was still increasing, but its growth rate has begun to stabilize.

[65] These numbers only address the affirmative asylum applications that fall under the jurisdiction of USCIS' Asylum Division. Defensive asylum applications, filed with the Department of Justice's Executive Office for Immigration Review (EOIR) are also eligible for (c)(8) EADs. There is an ongoing backlog of pending defensive asylum cases at EOIR, which has approximately 650,000 cases pending. *See* Memorandum from Jeff Sessions, Attorney General, *Renewing Our Commitment to the Timely and Efficient Adjudication of Immigration Cases to Serve the National Interest* (Dec. 5, 2017). The defensive asylum backlog at EOIR also contributes to an increase in both initial and renewal (c)(8) EAD applications.

[66] Since LIFO was reinstated at the end of January 2018, there is not yet enough data currently available to determine the impact on asylum applications or initial EAD applications.

TABLE 8—TOTAL ANNUAL FORM I–765 RECEIPTS RECEIVED FROM PENDING ASYLUM APPLICANTS

Fiscal year	Total receipts *	Total initial receipts	Total renewal receipts
2013	78,882	41,021	37,861
2014	109,272	62,169	47,103
2015	178,589	106,030	72,559
2016	298,580	169,970	128,610
2017	474,037	261,782	212,255
2018	324,991	262,965	62,026
2019	551,226	216,038	335,188

Source: File Tracking Data, USCIS, Office of Performance and Quality
* Total receipts do not include replacement receipts.
Note: This data includes receipts received from both affirmative and defensive pending asylum applicants.

In FY 2019, USCIS received a total of 551,226 (non-replacement) applications for Form I–765 from pending asylum applicants, with less than half as initial applications (216,038 or 39.2 percent). There were 335,188 renewal applications (60.8 percent) in FY 2019. For this analysis, USCIS does not use a trend line to forecast future projected applications because various factors outside of this rulemaking may result in either a decline or, conversely, a continued rise of applications received. For example, while the number of initial applicants and renewals rose sharply during the last five years, peaking in 2017, DHS assumes the increase in initial EAD applications has some correlation with the high volumes of asylum applications in the same years. As pending asylum applications increased, the length of time it takes to adjudicate those applications increases, and it is reasonable to assume that the number of applicants who seek employment authorization on the basis of that underlying asylum application would also rise. On the other hand, initial EAD applications may decline. For instance, USCIS' return to a LIFO interview schedule to process affirmative asylum applications, may help stem the growth of the agency's asylum backlog, and may result in fewer pending asylum applicants applying for an EAD. But USCIS cannot predict such an outcome with certainty at this time. Therefore, since DHS anticipates similar outcomes to those achieved in FY 2017, USCIS anticipates receiving approximately 474,037 Form I–765 applications annually from pending asylum applicants, with an estimated 261,782 initial applications and 212,255 renewal applications.

In order to analyze USCIS processing times for Form I–765, USCIS obtained data on completed initial applications, which included the length of time to complete adjudication and information on investigative factors that may prolong the adjudication process. Table 9 differentiates between initial applications that USCIS adjudicated within the 30-day timeframe, and those that it did not. Specifically, Table 9A presents the data for FY 2017, reflecting the anticipated outcome of this rule, while Table 9B presents information for 2019, which reflect current processing times under the *Rosario* v. *USCIS* court order. The table also includes the initial applications that were adjudicated within a 60-day timeframe, along with the corresponding initial applications that required additional vetting. This additional vetting includes the issuance of RFEs and referrals for identity verification by the BCU and the CFDO, which can cause delays in processing. DHS notes that the 30-day timeframe pauses for RFEs but does not pause for BCU or CFDO checks, nor any referrals to outside agencies that may be needed. Delays could also be caused by rescheduled fingerprinting.

TABLE 9A—PERCENTAGE OF COMPLETIONS FOR INITIAL FORM I–765 FOR PENDING ASYLUM APPLICANTS IN FY 2017

Number of days the initial application was pending	No additional vetting required (percent)		Additional vetting required (percent)		Total (percent)
	Approved initial applications	Denied initial applications	Approved initial applications	Denied initial applications	
0–30	42	2	3	0	47
31–60	22	2	6	1	31
Over 60	12	2	6	2	22
Total (Percent)	76	5	16	3	100

TABLE 9B—PERCENTAGE OF COMPLETIONS FOR INITIAL FORM I–765 FOR PENDING ASYLUM APPLICANTS IN FY 2019

Number of days the initial application was pending	No additional vetting required (percent)		Additional vetting required (percent)		Total (percent)
	Approved initial applications	Denied initial applications	Approved initial applications	Denied initial applications	
0–30	67	14	9	3	93
31–60	1	0	2	0	3

TABLE 9B—PERCENTAGE OF COMPLETIONS FOR INITIAL FORM I–765 FOR PENDING ASYLUM APPLICANTS IN FY 2019—Continued

Number of days the initial application was pending	No additional vetting required (percent)		Additional vetting required (percent)		Total (percent)
	Approved initial applications	Denied initial applications	Approved initial applications	Denied initial applications	
Over 60	1	0	2	1	4
Total (Percent)	69	14	13	5	100

Source: File tracking data, USCIS, Office of Performance and Quality.
Note: Additional vetting includes the applications issued an RFE, referred to BCU/CFDO and both.

In FY 2019, USCIS adjudicated within the 30-day timeframe the majority (93 percent) [67] of all initial Form I–765 applications received. USCIS approved within 30 days 67 percent [68] of the initial applications received and denied 14 percent that did not require any additional vetting. Of the 76 percent of approved applications, only 9 percent required additional vetting, while 67 percent did not. USCIS' completion rate within a 60-day timeframe increased to 96 percent overall, with 79 percent [69] of the 96 percent of applications approved and 17 percent [70] of the 96 percent of applications denied. Only 14 percent [71] of the 96 percent of applications adjudicated within 60 days required additional vetting, while the majority of applications did not (82 percent of the 96 percent of applications adjudicated within 60 days).[72]

By comparison, in FY 2017, the anticipated outcome of this rule, USCIS adjudicated within the 30-day timeframe just under half (47 percent) of all initial Form I–765 applications received. USCIS approved within 30 days 45 percent [73] of the initial applications received and denied 2 percent that did not require any additional vetting. Among the approved applications, only 3 percent of the total required additional vetting, while 42 percent did not. USCIS' completion rate within a 60-day timeframe increased to 78 percent overall, with 73 percent [74] of applications approved and 5 percent [75] denied. Only 10 percent [76] of applications adjudicated within 60 days required additional vetting, while the majority of approved applications did not (68 percent of the total).[77]

In FY 2017, prior to the *Rosario* v. *USCIS* court order, the majority of applications (53 percent) did not meet the required 30-day adjudication timeframe. In fact, it took up to 60 days for USCIS to adjudicate the majority of applications. For applications that require additional vetting, most applications took more than 30 days to adjudicate as well. ''Additional vetting'' cases include those where an RFE is issued, which pauses the regulatory processing time. The findings in Table 9A underscore that while additional vetting and other delays may contribute to increased processing times, it may not be the only reason processing times have increased. It is likely that the increasing number of initial EAD applications is due to historically-high asylum receipt numbers in recent years, the asylum interview backlogs, and updated operations as outlined in the background of this rule.

With the removal of the 30-day adjudication timeframe, DHS anticipates similar outcomes to those achieved in FY 2017. DHS's primary goal is to adequately vet applicants and adjudicate cases as quickly and efficiently as possible.

4. Transfers, Costs, and Benefits of the Rule

a. Transfers and Costs

This final rule removes the 30-day adjudication timeframe in order to better align with DHS processing times achieved in FY 2017. USCIS recognizes that removing the 30-day regulatory timeframe could potentially result in longer processing times for some applicants and in such situations, this could lead to potential delays in employment authorization for some initial EAD applicants. As described above, these delays would have both distributional effects (which are transfers) and costs. Any delay beyond the regulatory 30-day timeframe would prevent an EAD applicant, if his or her application were approved, from earning wages and other benefits until authorization is obtained. A portion of this lost compensation would be a distributional impact and considered a transfer from asylum applicants to

[67] This figure is rounded from 92.8 percent. USCIS notes that earlier in the preamble, we conveyed that the FY 2019 processing rate for-under 30 days was 96.9 percent. The difference is due to the time deductions associated with requests for evidence (RFE). The latter, lower figure excludes RFE time deductions. A similar adjustment was made for the NPRM analysis benchmarked to FY 2017, which is what we base the costs on.

[68] Calculation of 30-day Approved: 67 (No Additional Vetting Percent Approved 0—30 days) + 9 (Additional Vetting Percent Approved 0—30 days) = 76 percent.

[69] Calculation of 60-day Approved: 67 (No Additional Vetting Percent Approved 0–30 days) + 1 (No Additional Vetting Percent Approved 31–60 days) + 9 (Additional Vetting Percent Approved 0–30 days) + 2 (Additional Vetting Percent Approved 31–60 days) = 79 percent.

[70] Calculation of 60-day Denied: 14 (No Additional Vetting Percent Denied 0–30 days) + 0 (No Additional Vetting Percent Denied 31–60 days) + 3 (Additional Vetting Percent Denied 0–30 days) + 0 (Additional Vetting Percent Denied 31–60 days) = 17 percent.

[71] Calculation of 60-day Additional Vetting: 9 (Additional Vetting Percent Approved 0–30 days) + 2 (Additional Vetting Percent Approved 31–60 days) + 0 (Additional Vetting Percent Denied 31–60 days) + 3 (Additional Vetting Percent Denied 0–30 days) = 14 percent.

[72] Calculation of 60-day No Additional Vetting: 67 (No Additional Vetting Percent Approved 0–30 days) + 1 (No Additional Vetting Percent Approved 31–60 days) + 14 (No Additional Vetting Percent Denied 0–30 days) + 0 (No Additional Vetting Percent Denied 31–60 days) = 82 percent.

[73] Calculation of 30-day Approved: 42 (No Additional Vetting Percent Approved 0–30 days) + 3 (Additional Vetting Percent Approved 0—30 days) = 45 percent.

[74] Calculation of 60-day Approved: 42 (No Additional Vetting Percent Approved 0–30 days) + 22 (No Additional Vetting Percent Approved 31–60 days) + 3 (Additional Vetting Percent Approved 0–30 days) + 6 (Additional Vetting Percent Approved 31–60 days) = 73 percent.

[75] Calculation of 60-day Denied: 2 (No Additional Vetting Percent Denied 0—30 days) + 2 (No Additional Vetting Percent Denied 31–60 days) + 1 (Additional Vetting Percent Denied 31ndash;60 days) = 5 percent.

[76] Calculation of 60-day Additional Vetting: 3 (Additional Vetting Percent Approved 0–30 days) + 6 (Additional Vetting Percent Approved 31–60 days) + 1 (Additional Vetting Percent Denied 31–60 days) = 10 percent.

[77] Calculation of 60-day No Additional Vetting: 42 (No Additional Vetting Percent Approved 0–30 days) + 22 (No Additional Vetting Percent Approved 31–60 days) + 2 (No Additional Vetting Percent Denied 0–30 days) + 2 (No Additional Vetting Percent Denied 31–60 days) = 68 percent.

others that are currently in the U.S. labor force, possibly in the form of additional work hours or overtime pay. In cases where companies that would have hired asylum applicants had they been in the labor market earlier are not able to find available workers, the lost compensation to asylum workers would be considered a proxy for the cost of lost productivity to those companies. However, USCIS does not know the portion of the overall impacts of this rule that are transfers or costs. One reason USCIS is unable to apportion these impacts is because the industries in which asylum applicants will work with their employment authorization is unknown; companies' responses to such a situation will vary depending on the industry and location of the company (for example, truck drivers are limited to the number of overtime hours they can work). Additional uncertainty in how companies will respond exists because while the official unemployment rate was low as of November 2019, there is still evidence of some labor market slack.[78] While USCIS is unable to apportion these impacts between transfers and costs, USCIS does use the lost compensation to asylum applicants, as described below, as a measure of these total impacts.

In FY 2017, the processing times for initial Form I–765 filings under the Pending Asylum Applicant category exceeded the regulatory set timeframe of 30 days more than half the time. However, USCIS adjudicated approximately 78 percent of applications within 60 days. In FY 2019, USCIS adjudicated approximately 96 percent of applications within 60 days. To estimate lost wages and other benefits, USCIS used FY 2017 daily processing time data as compared to the baseline, which assumes 100 percent of applications are adjudicated within 30 days. In FY 2017, USCIS adjudicated 119,088 approved applications[79] past the regulatory set timeframe.

USCIS recognizes that pending asylum EAD applicants do not currently participate in the U.S. labor market, and, as a result, are not represented in national average wage calculations. Further, USCIS recognizes that pending asylum applicants who obtain an EAD are not limited to certain types of employment or occupations nor does USCIS track the type of employment applicants obtain. Because the Form I–765 for the (c)(8) category does not include or legally require, at the initial or renewal stage, any data on employment, and, since it does not involve an associated labor condition application, DHS has no information on wages, occupations, industries, or businesses that may involve such workers.

In some DHS rulemakings, the estimates of distributional impacts and time-related opportunity costs are linked to the federal minimum wage for new entrants to the labor force. This reliance is grounded in the notion that most of the relevant EAD holders would not have been in the labor force long, and would thus not be expected to earn relatively high wages. In this rulemaking, we rely on a slightly more robust ''prevailing'' minimum wage of $8.25. As is reported by the Economic Policy Institute (EPI, 2016), many states have their own minimum wage, and, even within states, there are multiple tiers.[80] Although the minimum wage could be considered a lower-end bound on true earnings, the prevailing minimum wage is fully loaded, at $12.05, which is 13.8 percent higher than the federal minimum wage.[81] DHS also does not rule out the possibility that some portion of the population might earn wages at the average level for all occupations. Therefore, for the purpose of this analysis, USCIS uses both the prevailing minimum hourly wage rate of $8.25 to estimate a lower bound and a national average wage rate of $24.98[82] to take into consideration the variance in average wages across states as an upper bound. USCIS's lower and upper bounds represent estimates of the range for this population's average wage, understanding that it is possible that some workers may earn more than the average wage across all occupations, and, that some may earn lower than the prevailing minimum wage, such as federal minimum wage.

In order to estimate the fully loaded wage rates, to include benefits such as paid leave, insurance, and retirement using BLS data, USCIS calculated a benefits-to-wage multiplier of 1.46[83] and multiplied it by the prevailing minimum hourly wage rate. The fully loaded per hour wage rate for someone earning the prevailing minimum wage rate is $12.05[84] and $36.47[85] for someone earning the average wage rate. Multiplying these fully loaded hourly wage rates by 8 to reflect an assumed 8-hour workday produces daily wage rates of $96.36 and $291.77,[86] respectively. USCIS also assumes that EAD holders would work 5 out of every 7 days, or an average of 21 days per month.

In the proposed rule, using FY 2017 data, USCIS estimated that the 119,088 approved EAD applicants experienced an estimated total 2,655,429 lost working days, and lost compensation could range from $255.88 million to $774.76 million.[87] USCIS understands that not all EAD recipients would work in minimum or average wage occupations, but provides these estimates as possible lower and upper bounds for approved applicants who would engage in full-time employment. Table 10 shows the number of applications completed in a period longer than the 30-day regulatory timeframe in FY 2017, the associated number of lost working days, and an estimate of the resulting lost compensation. The two categories over 120 days show the declining number of

[78] See Bureau of Labor Statistics, *Employment Situation News Release—November 2019,* Table A–8 Employed persons by class of worker and part-time status, February 21, 2020. Available at *https://www.bls.gov/news.release/archives/empsit_12062019.pdf.*

[79] In FY 2017, USCIS adjudicated 15,860 denied (c)(8) EAD applications past the regulatory set timeframe. Since denied applicants would not obtain work authorization and would not lose working days, this population is not impacted by this rule and are therefore not included in the analysis for lost compensation.

[80] *See When it comes to the minimum wage, we cannot just 'leave it to the states'* (November 10, 2016) available at: *https://www.epi.org/publication/when-it-comes-to-the-minimum-wage-we-cannot-just-leave-it-to-the-states-effective-state-minimum-wages-today-and-projected-for-2020//.* There are multiple tiers of minimum wages across many states that apply to size of business (revenue and employment), occupations, working hours, and other criteria. Some of these variations per state are described at: *https://www.minimum-wage.org.*

[81] Calculations (1) for prevailing minimum wage: $8.25 hourly wage × benefits burden of 1.46 = $12.05; for federal minimum wage: $7.25 hourly wage × benefits burden of 1.46 = $10.59 *See* Minimum Wage, U.S. Department of Labor available at *https://www.dol.gov/general/topic/wages/minimumwage;* (2) (($12.05 wage − $10.59 wage)/$10.59)) wage = .1378, which rounded and multiplied by 100 = 13.8 percent.

[82] The wage update in April 2018 reflects the 2017 average for all occupations nationally. The data are found at the BLS Occupational Employment and Wage Estimates, United States, found at: *https://www.bls.gov/oes/2018/may/oes_nat.htm#00-0000.*

[83] The benefits-to-wage multiplier is calculated by the Bureau of Labor Statistics (BLS) as follows: ($36.32 Total Employee Compensation per hour)/($24.91 Wages and Salaries per hour) = 1.458 (1.46 rounded). *See* U.S. Department of Labor, Bureau of Labor Statistics, Economic News Release, Table 1. Employer costs per hour worked for employee compensation and costs as a percent of total compensation: Civilian workers, by major occupational and industry group (April 2019), available at *https://www.bls.gov/news.release/archives/ecec_03192019.pdf.*

[84] Calculation: $8.25 × 1.46 = $12.05 per hour.

[85] Calculation: $24.98 × 1.46 = $36.47 per hour.

[86] Calculations: $12.05 per hour × 8 hours = $96.36 per day; $36.47 per hour × 8 hours = $291.77 per day.

[87] Calculations: 2,655,429 lost working days * ($96.36 per day) = $255.88 million; 2,655,429 lost working days * ($291.77 per day) = $774.76 million.

applications that remain pending after 200 days and the maximum number of days it took to adjudicate an initial EAD completed in FY 2017, which was 810 calendar days.

TABLE 10—SUMMARY OF CALCULATIONS FOR INITIAL FORM I–765 FOR PENDING ASYLUM APPLICANTS THAT TOOK LONGER THAN

[FY 2017]

	31–60 Days	61–90 Days	91–120 Days	121–200 Days	201–810 Days	Total
FY 2017 Completions	71,556	31,356	11,734	4,048	394	119,088
Lost Calendar Days	899,402	1,377,308	817,073	466,524	91,019	3,651,326
Lost Working Days	691,314	992,880	581,237	330,038	59,960	2,655,429
Lost Compensation (lower bound)	$66,615,017	$95,673,917	$56,007,997	$31,802,462	$5,777,746	$255,877,138
Lost Compensation (upper bound)	$201,702,197	$289,689,023	$169,585,427	$96,293,999	$17,494,313	$774,764,960

Source: USCIS analysis.

Note: The prevailing minimum wage is used to calculate the lower bound while a national average wage is used to calculate the upper bound lost compensation.

If companies can find replacement labor for the position the asylum applicant would have filled, this rule would have primarily distributional effects in the form of transfers from asylum applicants to others already in the labor market (or workers induced to return to the labor market). USCIS acknowledges that there may be additional opportunity costs to employers such as additional search costs. However, if companies cannot find reasonable substitutes for the labor the asylum applicants would have provided, this rule would primarily be a cost to these companies through lost productivity.

USCIS also recognizes that companies would incur additional costs not captured in the estimates of lost compensation above. In cases where companies cannot find reasonable substitutes for the labor the asylum applicants would have provided, affected companies would also lose profits from the lost productivity. In all cases, companies would incur opportunity costs by having to choose the next best alternative to immediately filling the job the pending asylum applicant would have filled.

USCIS continues to resource the adjudication of pending asylum EAD applications. In response to the *Rosario* v. *USCIS* litigation and to comply with the court order, USCIS has dedicated as many resources as practicable to these adjudications but continues to face an increasing asylum application backlog, which in turn increases the numbers of applicants eligible for pending asylum EADs. However, this reallocation of resources is not a long-term sustainable solution because USCIS has many competing priorities and many time-sensitive adjudication timeframes. Reallocating resources in the long-term is not sustainable due to work priorities in other product lines. USCIS could hire more officers, but that would not immediately and in all cases shorten adjudication timeframes because (1) additional time would be required to onboard and train new employees and (2) for certain applications, additional time is needed to fully vet an applicant, regardless of staffing levels. In addition, there is currently no fee for asylum applications or the corresponding initial EAD applications, and the cost of adjudication is covered by fees paid by other benefit requesters. USCIS is uncertain of the actual cost impacts of hiring additional adjudicators to process these EAD applications at this time. If the backlog dissipates in the future, USCIS may seek to redistribute adjudication resources. USCIS may also redistribute adjudication resources for other operational needs.

This rule may result in a delay for some applicants to earn compensation if EAD processing is delayed beyond the current 30-day regulatory timeframe. The lost compensation to asylum applicants could range from $255.88 million to $774.76 million annually, depending on the wages the asylum applicant would have earned. The ten-year total discounted costs at 3 percent could range from $2.182 billion to $6,609 billion, and at 7 percent could range from $1.797 billion to $5.442 billion (years 2020–2029). USCIS recognizes that the anticipated impacts of this rule could be overstated if the provisions in the broader asylum EAD NPRM are finalized as proposed. Specifically, the broader asylum EAD NPRM proposes to limit or delay eligibility for employment authorization for certain asylum applicants. Accordingly, if the population of aliens is less than estimated as a result of the broader asylum EAD rule, the estimated impacts of this rule could be overstated because the population affected may be lower than estimated in this rule.

In instances where a company cannot hire replacement labor for the position the asylum applicant would have filled, USCIS acknowledges that delays may result in tax revenue losses to the government. It is difficult to quantify income tax losses because individual tax situations vary widely [88] but USCIS estimates the potential loss to other employment tax programs, namely Medicare and Social Security which have a combined tax rate of 7.65 percent (6.2 percent and 1.45 percent respectively).[89] With both the employee and employer not paying their respective portion of Medicare and Social Security taxes, the total estimated tax loss for Medicare and social security is 15.3 percent.[90] Lost wages ranging from $255.88 million to $774.76 million

[88] *See* More than 44 percent of Americans pay no federal income tax (September 16, 2018) available at *https://www.marketwatch.com/story/81-million-americans-wont-pay-any-federal-income-taxes-this-year-heres-why-2018-04-16.*

[89] The various employment taxes are discussed in more detail at *https://www.irs.gov/businesses/small-businesses-self-employed/understanding-employment-taxes. See* IRS Publication 15, Circular E, Employer's Tax Guide for specific information on employment tax rates. *https://www.irs.gov/pub/irs-pdf/p15.pdf* (last viewed December 9, 2019).

[90] Calculation: (6.2 percent social security + 1.45 percent Medicare) × 2 employee and employer losses = 15.3 percent total estimated tax loss to government.

would result in employment tax losses to the government ranging from $39.15 million to $118.54 million annually.[91] Again, depending on the circumstances of the employee, there could be additional federal income tax losses not estimated here. There may also be state and local income tax losses that would vary according to the jurisdiction.

In addition to taxes, USCIS also considered the effects of this rule on USCIS resources. In response to the *Rosario* v. *USCIS* litigation and to comply with the court order, USCIS has dedicated as many resources as practicable to adjudications of initial EAD applications for pending asylum applicants, but continues to face a historic asylum application backlog, which in turn increases the numbers of applicants eligible for pending asylum EADs. However, this reallocation of resources is not a long-term, sustainable solution because USCIS has many competing priorities and many time-sensitive adjudication timeframes. Reallocating resources in the long-term is not sustainable due to work priorities in other product lines. Hiring more officers could bring improvements but that would not immediately shorten adjudication timeframes because additional time would be required to onboard new employees and train them. In addition, there is currently no fee for asylum applications or the corresponding initial EAD applications, and the cost of adjudication is covered by fees paid by other benefit requesters. USCIS is uncertain of the actual cost impacts of hiring additional adjudicators to process these EAD applications at this time. Finally, USCIS has found that certain applications inherently cannot be processed in a specific number of days due to vetting procedures and background checks that simply require additional time (see Table 10 where processing days in FY 2017 reached a maximum 810 days). Therefore, meeting the 30-day timeframe does not solely depend on hiring more adjudication officers because for certain applications additional time is needed for processing. Thus, USCIS is removing the 30-day timeline rather than increasing the number of adjudication officers in the long-term.

This rule is expected to result in reduced opportunity costs to the Federal Government. Since *Rosario* compelled USCIS to comply with the 30-day provision in FY 2018, USCIS has redistributed its adjudication resources to work up to full compliance. When the 30-day timeframe is removed, these redistributed resources may be reallocated, potentially reducing delays in processing of other applications and avoiding costs associated with hiring additional employees. USCIS has not estimated these avoided costs.

DHS also acknowledges the distributional impacts associated with an applicant waiting for an EAD onto the applicant's support network. DHS assumes the longer an asylum applicant's EAD is delayed, the longer the applicant's support network is providing assistance to the applicant. DHS cannot determine how much monetary or other assistance is provided to such applicants.

USCIS does not anticipate that removing the separate 90-day EAD filing requirement would result in any costs to applicants or the Federal Government, as it makes a procedural change that benefits the applicant.

b. Benefits

By eliminating the 30-day provision, DHS will be able to operate under long-term sustainable case processing times for initial EAD applications for pending asylum applicants, to allow sufficient time to address national security and fraud concerns, and to maintain technological advances in document production and identity verification that USCIS must fulfill as a part of its core mission within DHS.

Applicants will rely on up-to-date processing times, which provide realistic expectations of adjudication times.

This rule would end future litigation over the 30-day adjudication timeframe, such as the litigation referenced above. Even applications that are not subject to a set timeframe, however, could in some cases be the subject of litigation on ''unreasonable delay'' theories. And more important, as indicated above, as a primary goal, USCIS seeks to adequately vet applicants and adjudicate applications as quickly and efficiently as possible.

USCIS will benefit from the removal of the 90-day renewal requirement, because regulations are being updated to match that of other EAD categories and it would ensure that the regulatory text reflects current DHS policy and regulations under DHS's 2017 AC21 Rule.

c. Labor Market Overview

As discussed in the population section of this analysis, USCIS anticipates receiving approximately 474,037 (non-replacement) Form I–765 applications annually from pending asylum applicants with an estimated 261,782 initial applications and 212,255 renewal applications. Since this rule will only affect initial applicants who experience potential delays in processing, USCIS estimates the affected population to be approximately 119,088 applications.[92] The U.S. labor force consists of a total of 164,404,000, according to November 2019 data.[93] Therefore, the population affected by this rule represents 0.07 percent of the U.S. labor force, suggesting that the number of potential workers no longer expecting a 30-day processing timeframe make up a very small percentage of the U.S. labor market.[94]

In any case, USCIS notes that this rule does not introduce any newly eligible workers into the labor force, or permanently prevent any eligible workers from joining the labor force. This rule only amends the processing of initial and renewal employment authorizations for pending asylum applicants. The ability of pending asylum applicants to be eligible for requesting employment authorization in certain circumstances is in existing regulations; this rulemaking is not seeking to alter which pending asylum applicants are eligible to apply for employment authorization. Therefore, this rule will not change the composition of the population of the estimated 261,782 initial applicants who may apply for employment authorization or the number of workers entering the labor force; rather, this rule could delay 119,088 pending asylum applicants from entering the U.S. labor market by an average of approximately 31 calendar days each, for a total of 3,651,326 days.[95]

d. Alternatives

(1) Alternative: 90-Day Regulatory Timeframe

DHS considered an alternative to removing the 30-day regulatory timeframe, to instead extend the regulatory timeframe to 90 days. Currently, under the *Rosario* v. *USCIS* court order, USCIS must comply with its existing regulation requiring a 30-day

[91] Calculations: Lower bound lost wages $255.88 million × 15.3 percent employee tax rate = $39.15 million. Upper bound lost wages $774.76 million × 15.3 percent employee tax rate = $118.54 million.

[92] In FY 2017, USCIS adjudicated 119,088 approved applications past the regulatory set timeframe.

[93] Figures obtained from Bureau of Labor Statistics, *Employment Situation News Release—November 2019,* Table A–8 Employed persons by class of worker and part-time status, February 21, 2020. Available at *https://www.bls.gov/news.release/archives/empsit_12062019.pdf.*

[94] Calculation: (119,088 approximate initial applicants who could experience processing delays per year/164,404,000 workers) *100 = 0.07 percent.

[95] Calculation: 3,654,326 total days/119,088 applicants = 31 days (rounded).

timeframe and process all initial EAD applications for asylum applicants within 30 days. Under this alternative, USCIS would instead process all future applications within 90 days. In FY 2017, prior to the *Rosario* v. *USCIS* court order, USCIS was able to sustainably process approximately 47 percent of applications within 30 days. USCIS, therefore, assumes 47 percent of applicants would remain unaffected under this 90-day alternative. USCIS assumes the remaining 53 percent of applicants would have their processing time extended under this alternative. In FY 2017 there were a total of 119,088 approved applications for which processing took more than 30 days. USCIS assumes approved applications that were processed in 31–60 days, and 61–90 days in FY 2017 (71,556 and 31,356 applicants, respectively) would be processed in a similar amount of time under this alternative. For the 16,176 approved applications that took more than 90 days to process in FY 2017, USCIS assumes the processing time under this alternative would be 90 days, as this alternative would set the maximum processing time at 90 days. USCIS notes that while processing for this group under the 90-day alternative would be longer than the current 30-day processing time under the *Rosario* v. *USCIS* court order, it would be shorter as compared to this rule, which removes any processing timeframe.[96]

Based on the analysis provided in the Transfers and Costs section, USCIS used FY 2017 daily processing data to estimate lost wages, lost taxes, and other benefits for this alternative proposal. In FY 2017, USCIS adjudicated 102,912 approved applications[97] between 31 and 90 days. USCIS estimates that under this alternative the 102,912 approved EAD applicants would have experienced an estimated total 1,684,194 lost working days, and lost compensation could have ranged from $158.82 million to $480.89 million[98] annually depending on the wages the asylum applicant would have earned. In FY 2017, USCIS adjudicated 16,176 approved applications in greater than 90 days. USCIS estimates that under this alternative the 16,176 approved EAD applicants would have experienced an estimated total 679,392 lost working days, and lost compensation could have ranged from $65.47 million to $198.23 million annually depending on the wages the asylum applicants would have earned. Table 11 shows the number of approved applications completed in more than 30 days in FY 2017, the associated number of lost working days, and an estimate of the resulting lost compensation.

TABLE 11—SUMMARY OF CALCULATIONS FOR INITIAL FORM I–765 FOR PENDING ASYLUM APPLICANTS IN FY 2017

	31–60 Days	61–90 Days	Greater than 90 days	Total
FY 2017 Completions	71,556	31,356	16,176	119,088
Lost Calendar Days	899,402	1,377,308	970,560	3,247,270
Lost Working Days	691,314	992,880	679,392	2,377,451
Lost Compensation (lower bound)	$66,615,017	$95,673,917	$65,466,213	$227,755,147
Lost Compensation (upper bound)	$201,702,197	$289,689,023	$198,223,758	$689,614,978

Source: USCIS analysis.
Note: The prevailing minimum wage is used to calculate the lower bound while a national average wage is used to calculate the upper bound lost compensation.

In addition to the lost wages, USCIS acknowledges that such processing delays may result in the loss in tax revenue to the government. As was done in the analysis in the Transfers and Costs section, USCIS estimates the potential loss to Medicare and social security. Lost wages ranging $227.76 million to $689.61 million would result in employment tax revenue losses to the government ranging from $34.85 million to $105.51 million annually.[99] Again, depending on the circumstances of the employee, there could be additional federal income tax losses not estimated here. There may also be state and local income tax losses that would vary according to the jurisdiction. The ten-year total discounted lost compensation to asylum applicants at 3 percent could range from $1.943 billion to $5.883 billion, and, at 7 percent could range from $1.600 billion to $4.844 billion (years 2020–2029). USCIS recognizes that the impacts of this alternative could be overstated if the provisions in the broader asylum EAD NPRM are finalized as proposed. Specifically, the broader asylum EAD NPRM proposed to limit or delay eligibility for employment authorization for certain asylum applicants.

As previously discussed, USCIS does not know the portion of overall impacts of this rule that are transfers or costs, but estimates that the maximum monetized impact of this 90-day alternative from lost compensation is $689.61 million annually. Accordingly, if companies are unable to find reasonable labor substitutes for the position the asylum applicant would have filled then $689.61 million is the estimated maximum monetized cost of the rule and $0 is the estimated minimum in monetized transfers. Additionally, under this scenario, there would be a reduction of $105.51 million in employment tax transfers from companies and employees to the Federal Government. Conversely, if all companies are able to easily find reasonable labor substitutes, they will bear little or no costs, so $689.61 million will be transferred from asylum applicants to workers currently in the labor force or induced back into the labor force (we assume no tax losses as a labor substitute was found).

(2) Comparison of Alternatives

Currently, the *Rosario* v. *USCIS* court decision, 365 F. Supp. 3d 1156 (W.D. Wash. 2018), requires USCIS to process asylum EAD applications in accord with the current regulatory timeframe of 30 days. This rule removes any adjudication timeframe for processing future asylum EAD applications. USCIS also considered an alternative under which USCIS would process all future applications within 90 days. In the table

[96] In FY 2017, USCIS adjudicated 16,176 approved and 5,202 denied (c)(8) EAD applications in over 90 days.

[97] In FY 2017, USCIS adjudicated 10,658 denied (c)(8) EAD applications between 31 and 90 days. Since denied applicants would not obtain work authorization and would not lose working days, this population is not be impacted by this rule and are therefore not included in the analysis for lost compensation.

[98] Calculations: 1,648,194 lost working days * ($96.36 per day) = $158.82 million; 1,648,194 lost working days * ($291.77 per day) = $480.89 million.

[99] Calculations: Lower bound lost wages $227.76 million × 15.3 percent employee tax rate = $34.85 million. Upper bound lost wages $689.61 million × 15.3 percent employee tax rate = $105.51 million.

below, USCIS compares the lost working days and associated lost compensation and taxes under the 90-day alternative with the rule. As previously discussed, if companies can find replacement labor for the position the asylum applicant would have filled, the effects of this rule would be primarily transfers from asylum applicants to others already in the labor market (or induced to return). If companies cannot find reasonable substitutes, the rule would primarily be a cost to these companies through lost productivity and profits, and also result in a decrease in employment tax transfers from employees to the government. USCIS uses the lost compensation to asylum applicants as a measure of the overall impact of the rule—either as distribution impacts (transfers) or as a proxy for businesses' cost for lost productivity.

TABLE 12—COMPARISON OF ALTERNATIVES, USING FY 2017 ANNUAL DATA

	Number of applicants impacted by change (FY 2017)	Lost working days	Lost compensation (lower bound)	Lost compensation (upper bound)	Lost employment taxes when replacement labor is not found (lower bound)	Lost employment taxes when replacement labor is not found (upper bound)
Current 30-day Processing Timeframe (*i.e.,* no action baseline)	N/A	N/A	N/A	N/A	N/A	N/A
90-day Adjudication Timeframe Alternative	119,088	2,377,451	$227,755,147	$689,614,978	$34,846,537	$105,511,092
No Adjudication Timeframe	119,088	2,655,429	255,877,138	774,764,960	39,149,202	118,539,039

Source: USCIS analysis.

The distribution of existing government resources would vary under the baseline, the final rule, and the 90-day alternative. When *Rosario* compelled USCIS to comply with the 30-day regulatory provision in FY 2018 (the baseline), USCIS redistributed its adjudication resources to work up to full compliance. When the 30-day timeframe is removed all of these redistributed resources may be reallocated back to the way they were pre-*Rosario* (which USCIS assumes will look like FY 2017). Under the 90-day alternative, some of the resources could be moved back, but not all of them because in FY 2017 USCIS was able to adjudicate 92 percent of applicants in 90 days.

DHS did not pursue the 90-day alternative because although it would provide USCIS with more time to adjudicate initial EAD applications from pending asylum applicants and applicants with a new expected timeframe, it would not provide USCIS with the certainty and flexibility it needs to fulfill its core mission. Further, under DHS's final 2017 AC21 Rule, USCIS removed the 90-day timeframe for all other EAD categories. Maintaining any adjudication timeframe for this EAD would unnecessarily constrict adjudication workflows. Ultimately, USCIS is unable to plan its workload and staffing needs with the level of certainty that a binding timeframe may require and has no way of predicting what national security and fraud concerns may be or what procedures would be necessary in the future. DHS therefore declined to adopt a 90-day regulatory timeframe.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121 (March 29, 1996), requires federal agencies to consider the potential impact of regulations on small entities during the development of their rules. The term ''small entities'' refers to small businesses, not-for-profit organizations that are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. This rule will continue to provide employment authorization to asylum applicants who voluntarily apply for such benefits. This rule only removes the 30-day adjudication timeframe and the corresponding 90-day renewal requirement. For the purposes of the RFA, DHS estimates that approximately 119,088 aliens may be impacted by this rule annually. Individuals are not considered by the RFA to be a small entity. As previously explained, this rule may result in lost compensation for some initial applicants whose EAD processing is delayed beyond the 30-day regulatory timeframe. However, the rule does not directly regulate employers.

The RFA does not require agencies to examine the impact of indirect costs to small entities. Regardless, DHS is unable to identify the next best alternative to hiring a pending asylum applicant and is therefore unable to reliably estimate the potential indirect costs to small entities from this rule.

Several public comments claimed that the rule would pose burdens to small entities, but no such comments claimed that the rule directly regulates or burdens small entities. USCIS emphasizes that the rule will not regulate employers and only regulate individuals. A final regulatory flexibility analysis (FRFA) follows.

(1) A Statement of the Need for, and Objectives of the Rule

This rule removes the 30-day regulatory timeframe for the adjudication of initial EAD applications by pending asylum applicants because it is outdated, does not account for the recent volume of applications and no longer reflects current operations. The rule also makes a technical change to remove the 90-day filing requirement to reduce confusion regarding EAD renewal requirements for pending asylum applicants and ensure the regulatory text reflects current DHS policy and regulations under DHS's final 2017 AC21 Rule.

(2) A Statement of the Significant Issues Raised by the Public Comments in Response to the Initial Regulatory Flexibility Analysis, a Statement of the Assessment of the Agency of Such Issues, and a Statement of any Changes Made in the Rule as a Result of Such Comments

Several commenters made reference to small entities.

Comments: A couple of commenters mentioned that refugees and asylees engage in entrepreneurial projects and employment at a higher rate than U.S.-born citizens, creating small businesses and thus jobs that drive growth in the US economy, and that the small businesses and the jobs they create are the engines of growth, innovation, and stability. A couple commenters claimed that lost wages to asylum-seekers would likely result in losses to small businesses in asylum-seekers, and that

the rule would have significant negative impact not only on asylum seekers, but also on employers, small businesses, communities, and the economy as a whole.

USCIS Response: USCIS appreciates the commenters' input. As we have explained in our earlier responses and in the regulatory analysis, the rule might impact the timing under which asylum seekers are able to earn labor income, but it does not regulate employers. In the NPRM, USCIS acknowledged that if companies cannot find reasonable substitutes for the labor the asylum applicants would have provided, these companies would incur costs through lost productivity and profits. No commenters claimed that the rule directly regulates or directly impacts small entities. The rule is being adopted without material change from the NPRM.

(3) The Response of the Agency to any Comments Filed by the Chief Counsel for Advocacy of the Small Business Administration in Response to the Proposed Rule, and a Detailed Statement of any Change Made to the Proposed Rule in the Final Rule as a Result of the Comments

DHS did not receive comments on this rule from Chief Counsel for Advocacy of the Small Business Administration.

(4) A Description of and an Estimate of the Number of Small Entities to Which the Rule Will Apply or an Explanation of Why No Such Estimate Is Available

This rule directly regulates pending asylum applicants, or individuals, applying for work authorization. However, DHS presents this FRFA as the rule may indirectly impact small entities who incur opportunity costs by having to choose the next best alternative to immediately filling the job the asylum applicant would have filled. DHS cannot reliably estimate how many small entities may be indirectly impacted as a result of this rule, but DHS believes the number of small entities directly regulated by this rule is zero.

(5) A Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Rule, Including an Estimate of the Classes of Small Entities Which Will Be Subject to the Requirement and the Type of Professional Skills Necessary for Preparation of the Report or Record

This rule would not directly impose any reporting, recordkeeping, or other compliance requirements on small entities. Additionally, this rule would not require any additional professional skills.

(6) A Description of the Steps the Agency Has Taken To Minimize the Significant Economic Impact on Small Entities Consistent With the Stated Objectives of Applicable Statutes, Including a Statement of the Factual, Policy, and Legal Reasons for Selecting the Alternative Adopted in the Final Rule and Why Each One of the Other Significant Alternatives to the Rule Considered by the Agency Which Affect the Impact on Small Entities Was Rejected

DHS is not aware of any alternatives to the rule that accomplish the stated objectives and that would minimize the economic impact of the rule on small entities as this rule imposes no direct costs on small entities.

C. Congressional Review Act

The Office of Information and Regulatory Affairs has determined that this is a major rule, as defined by 5 U.S.C. 804. Accordingly, absent exceptional circumstances, this rule will take effect 60 days after its publication. On or before the date of publication, DHS will submit to each House of Congress and the Comptroller General the reports required by 5 U.S.C. 801.

D. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (UMRA) requires each federal agency to prepare a written statement assessing the effects of any federal mandate in a proposed or final agency rule that may result in a $100 million or more expenditure (adjusted annually for inflation) in any one year by state, local, and tribal governments, in the aggregate, or by the private sector. The value equivalent of $100 million in 1995, adjusted for inflation to 2020 levels by the Consumer Price Index Inflation Calculator, is $172 million.[100]

Some private sector entities may incur a cost, as they could be losing the productivity and potential profits the asylum applicant could have provided had the asylum applicant been in the labor force earlier. Entities may also incur opportunity costs by having to choose the next best alternative to immediately filling the job the asylum applicant would have filled. In such instances, USCIS does not know if or to what extent this would impact the private sector, but assesses that such impacts would result indirectly from delays in employment authorization, and would not be a consequence of an enforceable duty. As a result, such costs would not be attributable to a mandate under UMRA. *See* 2 U.S.C. 658(6), (7) (defining a federal private sector mandate as, *inter alia,* a regulation that imposes an enforceable duty upon the private sector except for a duty arising from participation in a voluntary Federal program); 2 U.S.C. 1502(1). Similarly, any costs or transfer effects on state and local governments would not result from a mandate under UMRA. *See* 2 U.S.C. 658 (5), (6) (defining a federal intergovernmental mandate as, *inter alia,* a regulation that imposes an enforceable duty upon State, local, or tribal governments, except for a duty arising from participation in a voluntary Federal program); 2 U.S.C 1502(1).

E. Executive Order 13132 (Federalism)

This rule would not have substantial direct effects on the states, on the relationship between the Federal 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 (Federalism), it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

F. Executive Order 12988 (Civil Justice Reform)

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (Civil Justice Reform).

G. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, Public Law 104–13, all agencies are required to submit to OMB, for review and approval, any reporting requirements inherent in a rule. *See* Public Law 104–13, 109 Stat. 163 (May 22, 1995). This rule does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act.

H. Family Assessment

DHS has assessed this action in accordance with section 654 of the Treasury General Appropriations Act, 1999, Public Law 105–277, Div. A. With respect to the criteria specified in section 654(c)(1), DHS has determined that the rule may delay the ability for some initial applicants to work, which could decrease disposable income of families, as the lost compensation to asylum applicants could range from $255.88 million to $774.76 million annually depending on the wages the

[100] U.S. Bureau of Labor Statistics, *Consumer Price Index Inflation Calculator,* January 1995 to January 2020, available at *https://data.bls.gov/cgi-bin/cpicalc.pl* (last visited Feb. 26, 2020).

asylum applicant would have earned. For the reasons stated elsewhere in this rule, however, DHS has determined that the benefits of the action justify the potential financial impact on the family. Further, the potential for lost compensation does not account for the fact that compliance with the 30-day timeframe is not sustainable in the long-term, as DHS has been unable to meet the 30-day processing timeframe in certain cases even with additional adjudication resources.

I. Executive Order 13175

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

J. National Environmental Policy Act (NEPA)

DHS Directive (Dir) 023–01 Rev. 01 and Instruction (Inst) 023–01–001 Rev. 1 establish the policies and procedures that DHS and its components use to comply with NEPA and the Council on Environmental Quality (CEQ) regulations for implementing NEPA, 40 CFR parts 1500–1508.

The CEQ regulations allow federal agencies to establish, with CEQ review and concurrence, categories of actions (''categorical exclusions'') which experience has shown do not individually or cumulatively have a significant effect on the human environment and, therefore, do not require an Environmental Assessment (EA) or Environmental Impact Statement (EIS). 40 CFR 1507.3(b)(1)(iii), 1508.4. Inst. 023–01–001 Rev. 01 establishes Categorical Exclusions that DHS has found to have no such effect. Inst. 023–01–001 Rev. 01 Appendix A Table 1. Inst. 023–01–001 Rev. 01 requires the action to satisfy each of the following three conditions: (1) The entire action clearly fits within one or more of the categorical exclusions; (2) the action is not a piece of a larger action; and (3) no extraordinary circumstances exist that create the potential for a significant environmental effect. Dir. 023–01 Rev. 01 section V.B (1)–(3).

This rule removes the following purely administrative provisions from an existing regulation: (1) The 30-day adjudication provision for EAD applications filed by asylum applicants, and (2) the provision requiring pending asylum applicants to submit Form I–765 renewal applications 90 days before their employment authorization expires. 8 CFR 208.7(a)(1), (d).

This rule clearly falls within categorical exclusions number A3(a) in Inst. 023–01–001 Rev. 01, Appendix A, Table 1: ''Promulgation of rules . . . strictly of an administrative or procedural nature'' and A3(d) for rules that interpret or amend an existing regulation without changing its environmental effect. Further, this rule is not part of a larger action and presents no extraordinary circumstances creating the potential for significant environmental effects. Therefore, this rule is categorically excluded from further NEPA review.

K. National Technology Transfer and Advancement Act

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standard bodies. This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

L. Executive Order 12630

This rule would not cause the taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

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

Executive Order 13045 requires agencies to consider the impacts of environmental health risk or safety risk that may disproportionately affect children. DHS has reviewed this rule and determined that this rule is not a covered regulatory action under Executive Order 13045. Although the rule is economically significant, it would not create an environmental risk to health or risk to safety that might disproportionately affect children. Therefore, DHS has not prepared a statement under this executive order.

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

Executive Order 13211 requires agencies to consider the impact of rules that significantly impact the supply, distribution, and use of energy. DHS has reviewed this rule and determined that this rule would not have a significant adverse effect on the supply, distribution, or use of energy. Therefore, this rule does not require a Statement of Energy Effects under Executive Order 13211.

O. 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 in 8 CFR Part 208

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements.

Accordingly, DHS amends part 208 of chapter I of title 8 of the Code of Federal Regulations as follows:

PART 208—PROCEDURES FOR ASYLUM AND WITHHOLDING OF REMOVAL

■ 1. 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.

§ 208.7 [Amended]

■ 2. Amend § 208.7 by:

■ a. In paragraph (a)(1), removing the words ''If the asylum application is not so denied, the Service shall have 30 days from the date of filing of the request employment authorization to grant or deny that application, except that no'' and adding, in their place, the word ''No'' and removing the words ''the Service'' wherever they appear and adding, in their place, the word ''USCIS'';

■ b. In paragraph (c)(3), removing the words ''the Service'' and adding, in its place, the word ''DHS''; and

■ c. Removing paragraph (d).

Chad R. Mizelle,

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

[FR Doc. 2020–13391 Filed 6–19–20; 8:45 am]

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Federal Register

Vol. 85, No. 120

Monday, June 22, 2020

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Presidential Documents	
Executive orders and proclamations	**741–6000**
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Privacy Act Compilation	**741–6050**

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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
36307–36466 16
36467–36714 17
36715–36994 18
36995–37330 19
37331–37546 22

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
10050 36467

Executive Orders:
13925 34079
13926 34951
13927 35165
13928 36139
13929 37325

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
Notice of June 17, 2020 37329
Presidential Determinations:
No. 2020–06 of June 5, 2020 36995

5 CFR

2634 36715
2635 36715

6 CFR

27 36469

Proposed Rules:
27 37393

7 CFR

1 34085
3 36670
9 35799
400 36670
761 36670
765 36670
766 36670
772 36670
792 36670
985 35545
1403 36670
1951 36670
1956 36670

Proposed Rules:
205 34651
301 34537
966 35222

8 CFR

208 37502
270 36469
274a 36469
280 36469

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
34 36307
35 33527
36 36307
39 36307
50 34087
72 36307
170 37250
171 37250

Proposed Rules:
9 33581
35 33581
72 33582
170 34370
429 35700
430 .....35382, 35700, 36512
431 .....33036, 34111, 34541, 35382, 35383, 35394, 36517

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
Ch. X 37331
1005 34870

Proposed Rules:
745 34545
Ch. X 37394
1026 36938

13 CFR

120 .....33004, 33010, 35550, 36308, 36717, 36997
121 35550

14 CFR

29 34493
39 .....34088, 34090, 34597, 34599, 35175, 35177, 35553, 35555, 36143, 36145, 36312, 36318, 37000, 37333
71 .....33536, 34602, 34604, 36320, 37003
97 .....35800, 35803
Proposed Rules:
25 36351
39 .....33043, 33046, 33583, 34118, 34121, 34136, 34139, 34141, 34371, 34375, 34655, 34656, 34658, 34661, 34664, 35227, 35602, 35604, 35812, 35814, 35816, 36352, 36519, 36816, 37031
71 .....33587, 33589, 33590, 34144, 34146, 34148, 34666, 35229, 35231, 35818, 36172, 36174, 36355, 37033

15 CFR

4a 35374
744 .....34495, 34503, 36719
748 36483
772 36719
774 .....34306, 36483

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

18 CFR

Ch. 1 36321

19 CFR

4 36469
Proposed Rules:
24 .....34549, 34836
111 .....34549, 34836
360 37397

21 CFR

112 34508
573 33538
1308 .....34607, 36148
Proposed Rules:
1308 36819

22 CFR

42.34 36323
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

28 CFR

85 37004
540 37335

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

27 36469
100 .....33543, 33547, 34633, 34634, 37337, 37339
117 33550
165 .....33553, 33561, 33566, 33568, 33570, 34104, 34519, 34520, 34639, 34641, 35806, 36328, 36492, 37011
207 34643
326 34643
Proposed Rules:
100 .....33592, 35404
165 .....34668, 37397
166 37034

34 CFR

361 33021
668 36494
Ch. III 36329
Proposed Rules:
Ch. III 34554

36 CFR

13 35181
Proposed Rules:
251 34378

37 CFR

1 36335
201 37341
202 37341
Proposed Rules:
2 37040
7 37040
201 .....34150, 37399

38 CFR

9 35562
71 34522

39 CFR

3030 35807
Proposed Rules:
551 35404
3050 37403

40 CFR

9 35191
52 .....33021, 33023, 33571, 34106, 34108, 34357, 34524, 35198, 35377, 35809, 36154, 36161, 36342, 36343, 36504, 36748
63 34326
70 33023
81 35377
174 34646
180 .....34359, 36752, 36755, 37013
228 35564
271 33026
282 .....34361, 37347
372 37354
721 35191
Proposed Rules:
52 .....33049, 33052, 34379, 34381, 34559, 34671, 34673, 34675, 34677, 34681, 34686, 35607, 35852, 36359, 36823, 37405, 37411
80 34688
81 34381
82 35874
83 .....35612, 37057
180 33059
282 .....34395, 37413
300 36368
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
438 37160
440 37160
460 37160
Proposed Rules:
136 36182
136a 37414
433 37286
438 37286
447 37286
456 37286

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

64 .....36507, 37019
67 34648

45 CFR

86 37160
92 37160
147 37160
155 37160
156 37160
302 35201
303 35201
305 35201
307 35201
309 35201
1168 35566
Proposed Rules:
153 33595

47 CFR

0 34525
1 .....33578, 36758, 37364
2 33578
11 35567
51 35208
54 .....33578, 34525, 36758, 37022
73 .....35567, 36786
74 35567
76 36798
Proposed Rules:
1 .....35405, 36522
2 35405
18 35405
54 .....35627, 36522
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
804 36348
805 36348
849 36348
852 36348
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
1503 36469

Proposed Rules:

191 35240
192 35240
572 33617

50 CFR

17 35574
216 35379
300 ....35379, 37023, 37376
622 ....36164, 36165, 36166
635 37390
648 ....33027, 33579, 35209, 36802
660 ....35210, 35594, 36803, 37027
679 ....35381, 36509

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 19, 2020

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