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FEDERAL REGISTER

Vol. 85 Thursday,
No. 128 July 2, 2020

Pages 39829–40086

OFFICE OF THE FEDERAL REGISTER

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0395; Project Identifier 2019–NE–11–AD; Amendment 39–21151; AD 2020–13–06]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney Canada Corp. Turboprop Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Pratt & Whitney Canada Corp. (P&WC) PW150A model turboprop engines. This AD was prompted by a determination by the manufacturer that certain PW150A engine high-pressure (HP) centrifugal impellers may exhibit a material microstructure anomaly that has a potential to adversely affect the low cycle fatigue characteristics of the part. This AD requires replacement of the affected HP centrifugal impellers. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective August 6, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of August 6, 2020.

ADDRESSES: For service information identified in this final rule, contact Pratt & Whitney Canada Corp., 1000 Marie-Victorin, Longueuil, Quebec, Canada, J4G 1A1; phone: 800–268–8000; fax: 450–647–2888; internet: *https://www.pwc.ca.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7759. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0395.

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–2019–0395; 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 mandatory continuing airworthiness information (MCAI), 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: Barbara Caufield, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7146; fax: 781–238–7199; email: *barbara.caufield@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 P&WC PW150A turboprop engines. The NPRM published in the **Federal Register** on June 24, 2019 (84 FR 29419). The NPRM was prompted by a determination by the manufacturer that certain PW150A engine HP centrifugal impellers may exhibit a material microstructure anomaly that has a potential to adversely affect the low cycle fatigue characteristics of the part. The NPRM proposed to require replacement of the affected HP centrifugal impellers. The FAA is issuing this AD to address the unsafe condition on these products.

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued AD CF–2018–12, dated April 27, 2018 (referred to after this as ''the MCAI''), to address the unsafe condition on these products. The MCAI states:

> Pratt & Whitney Canada (P&WC) has determined that certain PW150A engine HP centrifugal impellers, part number (P/N) 3049127–01, may exhibit a material microstructure anomaly which has a potential to adversely affect the low cycle fatigue (LCF) characteristics of the part, resulting in a lower LCF life than currently published in the engine model's Airworthiness Limitations. The identified discrepancy was related to specific parts having been exposed to inappropriate temperature levels during the manufacturing process.
>
> To address the subject potential material microstructure problem, P&WC issued SB 35331 Initial Issue, dated 16 March 2016, and then subsequently Revision 1, dated 3 May 2016, to recommend replacement of specific impeller serial numbers prior to the parts reaching the determined thresholds. Subsequent to the release of the SB, P&WC voluntarily initiated a fleet campaign to achieve this objective.
>
> The actions specified by this [TCCA] AD are to ensure that HP centrifugal impellers with this potential material anomaly condition are contained in order to prevent severe engine damage and possible aeroplane damage caused by an impeller failure.

You may obtain further information by examining the MCAI in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0395.

Comments

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

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed P&WC Service Bulletin (SB) PW150–72–35331, Revision No. 1, dated May 3, 2016. The SB describes procedures for the replacement of the affected HP centrifugal impeller. 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 20 engines 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
Replace HP centrifugal impeller	100 work-hours × $85 per hour = $8,500	$201,921	$210,421	$4,208,420

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 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):

2020–13–06 Pratt & Whitney Canada Corp.: Amendment 39–21151; Docket No. FAA–2019–0395; Project Identifier 2019–NE–11–AD.

(a) Effective Date

This AD is effective August 6, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Pratt & Whitney Canada Corp. (P&WC) PW150A model turboprop engines with a high-pressure (HP) centrifugal impeller, part number (P/N) 3049127–01, installed.

(d) Subject

Joint Aircraft System Component (JASC) 7230, Turbine Engine Compressor Section.

(e) Unsafe Condition

This AD was prompted by a determination by the manufacturer that certain HP centrifugal impellers installed on P&WC PW150A model turboprop engines may exhibit a material microstructure anomaly that has a potential to adversely affect the low cycle fatigue characteristics of the part. The FAA is issuing this AD to prevent failure of a certain HP centrifugal impeller. The unsafe condition, if not addressed, could result in uncontained release of the HP centrifugal impeller, damage to the engine, and damage to the airplane.

(f) Compliance

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

(g) Required Actions

Remove HP centrifugal impeller, P/N 3049127–01, with any serial number (S/N) listed in Table 2 of P&WC Service Bulletin (SB) No. PW150–72–35331, Revision No. 1, dated May 3, 2016, prior to accumulating 8,000 flight cycles since new or within 150 flight cycles after the effective date of this AD, whichever occurs later, and replace with a part eligible for installation.

(h) Installation Prohibition

After the effective date of this AD, do not install an HP centrifugal impeller, P/N 3049127–01, with any S/N listed in Table 1 or 2 of P&WC SB No. PW150–72–35331, Revision No. 1, dated May 3, 2016, onto any engine.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, ECO 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 ECO Branch, send it to the attention of the person identified in paragraph (j)(1) of this AD. You may email your request to: *ANE-AD-AMOC@faa.gov.*

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

(j) Related Information

(1) For more information about this AD, contact Barbara Caufield, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7146; fax: 781–238–7199; email: *barbara.caufield@faa.gov.*

(2) Refer to Transport Canada Civil Aviation (TCCA) AD CF–2018–12, dated April 27, 2018, for more information. You may examine the TCCA AD in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0395.

(k) Material Incorporated by Reference

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

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

(i) Pratt & Whitney Canada Corp. (P&WC) Service Bulletin PW150–72–35331, Revision No. 1, dated May 3, 2016.

(ii) [Reserved]

(3) For P&WC service information identified in this AD, contact Pratt & Whitney

Canada Corp., 1000 Marie-Victorin, Longueuil, Quebec, Canada, J4G 1A1; phone: 800–268–8000; fax: 450–647–2888; internet: *https://www.pwc.ca.*

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

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

Issued on June 17, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–14259 Filed 7–1–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Part 2560

RIN 1210–AB90

Default Electronic Disclosure by Employee Pension Benefit Plans Under ERISA; Correction

AGENCY: Employee Benefits Security Administration, Department of Labor.

ACTION: Final rule; correction.

SUMMARY: This document corrects an inadvertent error in paragraph numbering in the final rule entitled ''Default Electronic Disclosure by Employee Pension Benefit Plans under ERISA,'' published in the **Federal Register** on May 27, 2020 (85 FR 31884). That rule adopted a new safe harbor for plan administrators to use to furnish information to participants and beneficiaries of retirement plans subject to the Employee Retirement Income Security Act of 1974.

DATES: Effective July 27, 2020.

FOR FURTHER INFORMATION CONTACT: Rebecca Davis, Office of Regulations and Interpretations, Employee Benefits Security Administration, (202) 693–8500. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The final rule the Department of Labor adopted on May 27, 2020, ''Default Electronic Disclosure by Employee Pension Benefit Plans under ERISA'' (E-Disclosure Rule), made a number of conforming amendments to affected sections of the Code of Federal Regulations (CFR). With respect to a cross reference added to 29 CFR 2560.503–1, the numbering of paragraph (j) was incorrectly identified as paragraph (j)(1).[1] This document takes the administrative steps required to correct that error in the text of the CFR. This technical correction is a non-substantive, ministerial action that affects no legal rights or obligations and imposes no costs.

Administrative Procedure Act

The Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3)(B), does not require notice and an opportunity for public comment when the agency for good cause finds that notice and public comment are unnecessary, impracticable, or contrary to the public interest. The Department finds good cause for dispensing with public comments because this document merely corrects a cross-reference in the E-Disclosure Rule. This technical correction will become effective on the same date as the E-Disclosure Rule and imposes no new or substantive requirement on the public. As such, the Department has determined that notice and the opportunity for public comment on this final rule are unnecessary.

Other Procedural Matters

This final rule has been determined to be not significant for purposes Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review). Because this final rule is not a significant regulatory action under Executive Order 12866, it therefore is not subject to Executive Order 13771 (Reducing Regulations and Controlling Regulatory Costs). In addition, no analysis is required under the Regulatory Flexibility Act, 5 U.S.C. 601(2), or Sections 202 and 205 of the Unfunded Mandates Reform Act of 1995, Public Law 104–4, because, as noted in the above discussion regarding applicability of the APA, the Department is not required to engage in notice and comment. This final rule does not have significant Federal implications under Executive Order 13132. This final rule also is not subject to requirements under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.,* because it does not involve a collection of information as defined in 44 U.S.C. 3502(3).

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* generally provides that the agency promulgating an action must submit a report, including a copy of the action, to each House of Congress and to the Comptroller General of the United States before certain actions may take effect. This final rule is administrative and only makes a technical correction in the E-Disclosure Rule. The Department has determined for good cause, as described above, that notice and public procedure are unnecessary and that this technical correction will take effect on July 27, 2020.

List of Subjects in 29 CFR Part 2560

Employee benefit plans, Pensions.

For the reasons stated in the preamble, the Department amends 29 CFR part 2560 by making the following correcting amendment:

PART 2560—RULES AND REGULATIONS FOR ADMINISTRATION AND ENFORCEMENT

■ 1. The authority citation for part 2560 continues to read as follows:

Authority: 29 U.S.C. 1132, 1135, and Secretary of Labor's Order 1–2011, 77 FR 1088 (Jan. 9, 2012). Section 2560.503–1 also issued under 29 U.S.C. 1133. Section 2560.502c–7 also issued under 29 U.S.C. 1132(c)(7). Section 2560.502c–4 also issued under 29 U.S.C. 1132(c)(4). Section 2560.502c–8 also issued under 29 U.S.C. 1132(c)(8).

■ 2. Amend § 2560.503–1 by revising the second sentence of paragraph (j) introductory text to read as follows:

§ 2560.503–1 Claims procedure.

* * * * *

(j) * * * Any electronic notification shall comply with the standards imposed by 29 CFR 2520.104b–1(c)(1)(i), (iii), and (iv), or with the standards imposed by 29 CFR 2520.104b–31 (for pension benefit plans). * * *

* * * * *

Signed at Washington, DC, June 12, 2020.

Jeanne Wilson,

Acting Assistant Secretary, Employee Benefits Security Administration, Department of Labor.

[FR Doc. 2020–13084 Filed 7–1–20; 8:45 am]

BILLING CODE 4510–29–P

[1] 85 FR 31884, 31924 (May 27, 2020).

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2020–0391]

Safety Zones; Annual Firework Displays Within the Captain of the Port, Puget Sound Area of Responsibility

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce five safety zones for annual firework displays in the Captain of the Port, Puget Sound Zone during the dates and times noted under **SUPPLEMENTARY INFORMATION**. This action is necessary to prevent injury and to protect life and property of the maritime public from hazards associated with the firework displays. During the enforcement periods, entry into, transit through, mooring, or anchoring within these safety zones is prohibited unless authorized by the Captain of the Port, Puget Sound or their Designated Representative.

DATES: The regulations in 33 CFR 165.1332 will be enforced for the five safety zones identified in the **SUPPLEMENTARY INFORMATION** section below from 5 p.m. on July 4, 2020, until 1 a.m. on July 5, 2020.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email Chief Warrant Officer William E. Martinez, Sector Puget Sound Waterways Management Division, U.S. Coast Guard; telephone 206–217–6051, email *SectorPugetSoundWWM@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce regulations in 33 CFR 165.1332 for five safety zones established for Annual Fireworks Displays within the Captain of the Port, Puget Sound Area of Responsibility. These regulations will be enforced from 5 p.m. on July 4, 2020, until 1 a.m. on July 5, 2020, at the following locations:

Event name	Location	Latitude	Longitude
Alderbrook Resort & Spa Fireworks	Hood Canal	47°21.033′ N	123°04.1′ W.
Sheridan Beach Community	Lake Forest Park	47°44.783′ N	122°16.917′ W.
Port Angeles	Port Angeles Harbor	48°07.033′ N	123°24.967′ W.
Friday Harbor Independence	Friday Harbor	48°32.255′ N	123°0.654′ W.
Roche Harbor Fireworks	Roche Harbor	48°36.7′ N	123°09.5′ W.

The special requirements listed in 33 CFR 165.1332(b) apply to the activation and enforcement of these safety zones. To seek permission from the Captain of the Port or their Designated Representative to enter any of these zones, you may contact the Coast Guard Sector Puget Sound Joint Harbor Operations Center (JHOC) on VHF Ch 16 or via telephone at (206) 217–6002. You may not enter the zone unless you have obtained that permission. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation.

In addition to this notice of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of this enforcement period via the Local Notice to Mariners.

Dated: June 27, 2020.

L.A. Sturgis,

Captain, U.S. Coast Guard, Captain of the Port Puget Sound.

[FR Doc. 2020–14326 Filed 7–1–20; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2020–0385]

Safety Zone; Southern California Annual Firework Events for the San Diego Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a safety zone for the Sea World Fireworks on the waters of Mission Bay, CA on specific evenings from Memorial Day to Labor Day in 2020. This safety zone is necessary to provide for the safety of the participants, spectators, official vessels of the events, and general users of the waterway. Our regulation for the Southern California annual fireworks for the San Diego Captain of the Port Zone identifies the regulated area for the events. During the enforcement period, no spectators shall anchor, block, loiter in, or impede the transit of official patrol vessels in the regulated area without the approval of the Captain of the Port, or his designated representative.

DATES: The regulations in 33 CFR 165.1123, Table 1, Item 7, will be enforced from 8:30 p.m. through 9 p.m. each Saturday and Sunday from July 5, 2020, through August 23, 2020.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email Lieutenant Briana Biagas, Waterways Management, U.S. Coast Guard Sector San Diego, CA; telephone 619–278–7656, email *D11MarineEventsSD@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the regulations in 33 CFR 165.1123, Table 1, item number 7, for a safety zone for the Sea World Fireworks on the waters of Mission Bay, CA from 8:30 p.m. through 9 p.m. on specific evenings from Memorial Day to Labor Day in 2020. This action is being taken to provide for the safety of life on navigable waterways during the fireworks events. Our regulation for Southern California annual fireworks events for the San Diego Captain of the Port Zone, Table 1 to § 165.1123, item number 7, specifies the location of the regulated area for the Sea World Fireworks Events. During the enforcement periods, as reflected in § 165.1123(b), a vessel may not enter the regulated area, unless it receives permission from the Captain of the Port, or his designated representative. Spectator vessels may safely transit outside the regulated area but may not anchor, block, loiter, or impede the transit of participants or official patrol vessels. The Coast Guard may be assisted by other Federal, State, or Local law enforcement agencies in enforcing this regulation.

In addition to this notice of enforcement in the **Federal Register**, the

Coast Guard plans to provide notification of this enforcement period via the Local Notice to Mariners and local advertising by the event sponsor.

If the Captain of the Port or his designated representative determines that the regulated area need not be enforced for the full duration stated on this document, he or she may use a Broadcast Notice to Mariners or other communications coordinated with the event sponsor to grant general permission to enter the regulated area.

Dated: June 29, 2020.

T.J. Barelli,

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

[FR Doc. 2020–14451 Filed 7–1–20; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF EDUCATION

34 CFR Chapter III

[ED–2020–OSERS–0034]

Final Waiver and Extension of the Project Periods for Television Access Grants

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), Department of Education.

ACTION: Final waiver and extension of project periods.

SUMMARY: The Secretary waives the requirements in the Education Department General Administrative Regulations that generally prohibit project periods exceeding five years and project period extensions involving the obligation of additional Federal funds. The waiver and extension enable five projects under Catalog of Federal Domestic Assistance (CFDA) number 84.327C to receive funding for an additional period, not beyond September 30, 2021.

DATES: The waiver and extension of the project periods are effective July 2, 2020.

FOR FURTHER INFORMATION CONTACT: Glinda Hill, U.S. Department of Education, 400 Maryland Avenue SW, Room 5173, Potomac Center Plaza, Washington, DC 20202–5076. Telephone: 202–245–7376. Email: *Glinda.Hill@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:

Background

On January 14, 2015, the Department of Education (Department) published in the **Federal Register** (80 FR 1900) a notice inviting applications for five video description and captioning projects for fiscal year (FY) 2015 under the Educational Technology, Media, and Materials program, authorized under sections 674 and 681(d) of the Individuals with Disabilities Education Act (IDEA).

The purpose of the video description and captioning projects is to improve the learning opportunities for children with disabilities by providing access to television programming through high-quality video description and captioning. These projects support access to widely available television programs that are appropriate for use in the classroom setting and are not otherwise required to be captioned or described by the Federal Communications Commission (FCC). A table listing the FY 2015 video description and captioning projects follows:

FY 2015 awards under CFDA 84.327C	Grantee project name
H327C150001	Companion Enterprise, Inc., Tulsa, OK. *Project:* Narrative Television Network.
H327C150007	Bridge Multimedia, Inc., New York, NY. *Project:* Video Description for the Next Generation.
H327C150008	Bridge Multimedia, Inc., New York, NY. *Project:* Standards Aligned Video Description.
H327C150009	Closed Caption Latina, Corp., Winter Springs, FL. *Project:* Captions and Video Description: Educational Tools for Hispanic Children with Disabilities.
H327C170002 (Transferred from H327C150003)	Captionmax LLC, Minneapolis, MN. *Project:* Television Access for Preschool and Elementary School Children.

The Department also funds one project under CFDA 84.327N, Educational Technology, Media, and Materials for Individuals with Disabilities—Captioned and Described Educational Media, the Center for the Described and Captioned Media Program (DCMP). The purpose of the DCMP is to establish and operate an Accessible Learning Center that oversees the selection, acquisition, captioning, video description, and distribution of educational media through a free loan service for eligible users. The video description and captioning projects are required to use the DCMP's portal as a repository so that eligible users can easily access the video described and captioned media. The DCMP's project period started on October 1, 2016, and will end on September 30, 2021.

On April 2, 2020, the Department published a notice in the **Federal Register** (85 FR 18508) proposing an extension of the project period and a waiver of the requirements in 34 CFR 75.250, which prohibit project periods exceeding five years, as well as a waiver of the requirements in 34 CFR 75.261(a) and (c)(2), which allow the extension of a project period only if the extension does not involve the obligation of additional Federal funds. The proposed extension and waivers would enable the Secretary to provide additional funds to all five projects currently funded under CFDA number 84.327C for an additional period not beyond September 30, 2021.

Public Comment

No comments were submitted in response to our invitation in the notice of proposed waiver and extension of the project periods.

Final Waivers and Extensions

The Department is extending the end dates of the five video description and captioning projects to align with that of the DCMP, which ends on September 30, 2021, as it will receive its final year of funding in FY 2020. The Department does not believe that it is in the public interest to run a competition for CFDA 84.327C in FY 2020. Aligning the end dates of these project periods allows the Department to better coordinate the Description and Captioning program. Aligning the project periods of the video description and captioning projects and the DCMP also will improve coordination across projects, allow for more efficient use of the funding available to support these activities, and ensure easier access to a wider range and increasing numbers of captioned

and described educational media and programming.

For these reasons, the Secretary waives the requirements in 34 CFR 75.250, which prohibit project periods exceeding five years, as well as the requirements in 34 CFR 75.261(a) and (c)(2), which allow the extension of a project period only if the extension does not involve the obligation of additional Federal funds. This waiver allows the Department to issue a one-time FY 2020 continuation award to each of the five currently funded 84.327C projects.

Any activities carried out during the year of this continuation award will be consistent with, or a logical extension of, the scope, goals, and objectives of the grantees' applications as approved in the FY 2015 competition. The requirements for continuation awards are set forth in 34 CFR 75.253.

Waiver of Delayed Effective Date

The Administrative Procedure Act requires that a substantive rule must be published at least 30 days before its effective date, except as otherwise provided for good cause (5 U.S.C. 553(d)(3)). A delayed effective date would be contrary to public interest by creating a gap in production of described and captioned educational programming and delays in the availability of programming for children with disabilities. Therefore, the Secretary waives the delayed effective date provision for good cause.

Regulatory Flexibility Act Certification

The Secretary certifies that the waiver and extension of the project periods will not have a significant economic impact on a substantial number of small entities. The only entities that will be affected by the waiver and extension of the project periods are the current grantees. Additionally, the extension of an existing project period imposes minimal compliance costs, and the activities required to support the additional year of funding will not impose additional regulatory burdens or require unnecessary Federal supervision.

Paperwork Reduction Act of 1995

This waiver and extension of the project periods does not contain any information collection requirements.

Intergovernmental Review

These programs are subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance. This document provides early notification of our specific plans and actions for this program.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Mark Schultz,

Commissioner, Rehabilitation Services Administration. Delegated the authority to perform the functions and duties of the Assistant Secretary for the Office of Special Education and Rehabilitative Service.

[FR Doc. 2020–12954 Filed 7–1–20; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

41 CFR Parts 60–1, 60–300, and 60–741

RIN 1250–AA08

Affirmative Action and Nondiscrimination Obligations of Federal Contractors and Subcontractors: TRICARE Providers

AGENCY: Office of Federal Contract Compliance Programs, Labor.

ACTION: Final rule.

SUMMARY: The U.S. Department of Labor's (DOL's or Department's) Office of Federal Contract Compliance Programs (OFCCP) publishes this final rule to amend its regulations pertaining to its authority over TRICARE health care providers. The final rule is intended to increase access to care for uniformed service members and veterans and to provide certainty for health care providers who serve TRICARE beneficiaries. It is also anticipated that this final rule will result in cost savings for TRICARE providers. In a reconsideration of its legal position, the final rule provides that OFCCP lacks authority over Federal health care providers who participate in TRICARE. In the alternative, the final rule establishes a national interest exemption from Executive Order 11246, Section 503 of the Rehabilitation Act of 1973, and the Vietnam Era Veterans' Readjustment Assistance Act of 1974 for health care providers with agreements to furnish medical services and supplies to individuals participating in TRICARE. Thus, even if OFCCP had authority over Federal health care providers who participate in TRICARE (which this rule clarifies it does not), OFCCP has determined that special circumstances in the national interest justify granting the exemption as it would improve uniformed service members' and veterans' access to medical care, more efficiently allocate OFCCP's limited resources for enforcement activities, and provide greater uniformity, certainty, and notice for health care providers participating in TRICARE. Under the final rule, OFCCP will retain authority over health care providers participating in TRICARE if they hold a separate covered Federal contract or subcontract that is not for providing health care services under TRICARE. TRICARE providers that fall outside of OFCCP's authority under this final rule remain subject to all other Federal, state, and local laws prohibiting discrimination and providing for equal employment opportunity.

DATES: This regulation is effective August 31, 2020.

FOR FURTHER INFORMATION CONTACT: Tina Williams, Director, Division of Policy and Program Development, Office of Federal Contract Compliance Programs, 200 Constitution Avenue NW, Room C–3325, Washington, DC 20210. Telephone: (202) 693–0104 (voice) or (202) 693–1337 (TTY).

SUPPLEMENTARY INFORMATION:

I. Executive Summary

On November 6, 2019, OFCCP issued a notice of proposed rulemaking (NPRM) to clarify the scope of OFCCP's authority [1] under Executive Order

[1] OFCCP often refers to the scope of its authority to enforce equal employment opportunity

11246, as amended (E.O. 11246),[2] Section 503 of the Rehabilitation Act of 1973, as amended (Section 503),[3] and the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (VEVRAA);[4] and, to dispel any legal uncertainty, and further the national interest by explicitly exempting certain health care providers from OFCCP's enforcement activities. Specifically, in the E.O. 11246, VEVRAA, and Section 503 regulations, OFCCP would revise its definition of ''subcontractor''—meaning subcontractors regulated by OFCCP—to exclude health care providers with agreements to furnish medical services and supplies to individuals participating in TRICARE.

During the 30-day comment period, OFCCP received sixteen comments on the proposed rule.[5] Comments came from a wide variety of organizations, including health care providers, contractor associations, civil rights organizations, state attorneys general, and members of Congress. The comments addressed various aspects of the NPRM. These comments were considered thoroughly and are addressed in the discussion that follows. Where appropriate, this preamble reproduces some of the portions of the preamble to the proposed rule for ease of reference and to facilitate discussion of the public comments.

This final rule adopts in large part the reasoning and proposed regulatory text as set forth in the NPRM. It concludes that removing TRICARE health providers from OFCCP's authority is appropriate and consistent with previously enacted legislation on the issue and in the national interest.

This final rule is an E.O. 13771 deregulatory action because it is expected to reduce compliance costs and potentially the cost of litigation for regulated entities.

II. Legal Authority

Federal law requires government contractors to refrain from discriminating on the basis of race, sex, and other grounds.[6] Additionally, government contractors must take affirmative action to ensure equal employment opportunity.[7] OFCCP, situated in the Department of Labor, enforces these contracting requirements. OFCCP requires government contractors to furnish information about their affirmative action programs (AAPs) and related employment records and data so OFCCP can ascertain compliance with the laws it enforces.[8]

OFCCP enforces three equal employment opportunity laws that apply to covered Federal contractors: E.O. 11246, Section 503, and VEVRAA. In 1965, President Lyndon B. Johnson signed E.O. 11246, which (as amended) prohibits discrimination on the basis of race, color, religion, sex, sexual orientation, gender identity, and national origin, as well as discrimination against applicants or employees because they inquire about, discuss, or disclose their compensation or that of others, subject to certain limitations. Congress covered disability as a protected class through Section 503 of the Rehabilitation Act in 1973. Congress also covered veterans through the Vietnam Era Veterans' Readjustment Assistance Act of 1974, which prohibits discrimination on the basis of veteran status. All three laws also require Federal contractors to take affirmative steps to ensure equal employment opportunity in their employment practices.

OFCCP has rulemaking authority under all three laws.[9] Additionally, OFCCP has authority to exempt a contract from E.O. 11246, VEVRAA, and Section 503 if the Director of OFCCP determines that special circumstances in the national interest require doing so.[10] OFCCP's regulations allow the Director to grant national interest exemptions to groups or categories of contracts where he or she finds it impracticable to act upon each request for an exemption individually or where the exemption will substantially contribute to convenience in the administration of the laws.[11] These categorical exemptions follow the principle that an agency, whenever permitted, need not ''continually . . . relitigate issues that may be established fairly and efficiently in a single rulemaking proceeding'' that ''could invite favoritism, disunity, and inconsistency.''[12] These long-standing regulatory provisions allowing for categorical national interest exemptions are owed deference.[13] The provision permitting categorical exemption from E.O. 11246 was part of the original notice-and-comment regulation that implemented the Order, and has been in place for over fifty years.[14] The provisions permitting categorical exemptions from VEVRAA and Section 503 are patterned similarly and have been in place for decades as well.[15] Additionally, E.O. 11246's predecessor, E.O. 10925, contained a similarly-worded exemption provision which was implemented through a regulation providing a substantially similar categorical exemption.[16] OFCCP has granted categorical exemptions in the national interest in the past.[17] OFCCP also may exercise prosecutorial discretion in determining its enforcement priorities.[18]

requirements as its *jurisdiction.* For this final rule, OFCCP believes the word *authority* is more precise, since OFCCP does not have adjudicative power.

[2] E.O. 11246, 30 FR 12319 (Sept. 24, 1965).

[3] 29 U.S.C. 793.

[4] 38 U.S.C. 4212.

[5] One of these comments was found to be non-responsive to the NPRM.

[6] As used in this preamble, the term *contractor* includes, unless otherwise indicated, federal government contractors and subcontractors. When used in reference to E.O. 11246, it also includes federally assisted construction contractors and subcontractors.

[7] *See* E.O. 11246, section 202(1); 29 U.S.C. 793(a); 38 U.S.C. 4212(a)(1); 41 CFR 60–1.40, –2.1 through –2.17; *id.* –60–300.40 through –300.45; *id.* –60–741.40 through –741.47.

[8] E.O. 11246, section 202(6); 41 CFR 60–1.4(a)(6), –1.43; *id.* –60–300.40(d), –300.81; *id.* –60–741.40(d), –741.81; *see also Chrysler Corp.* v. *Brown,* 441 U.S. 281, 286 (1979).

[9] E.O. 11246 section 201; 38 U.S.C. 4212(a)(2); 29 U.S.C. 793(a); E.O. 11758, § 2; Sec'y Order 7–2009, 74 FR 58834 (Nov. 13, 2009).

[10] E.O. 11246 section 204; E.O. 11758 §§ 2–3, as amended; 29 U.S.C. 793(c)(1); 41 CFR 60–300.4(b)(1). E.O. 11246 refers to an ''exemption'' while VEVRAA and Section 503 use the term ''waiver.'' This final rule uses the term ''exemption'' to refer to both.

[11] 41 CFR 60–1.5(b)(1), –300.4(b)(1), –741.4(b)(1).

[12] *Heckler* v. *Campbell,* 461 U.S. 458, 467 (1983); *see also Lopez* v. *Davis,* 531 U.S. 230, 243–44 (2001); *Am. Hosp. Ass'n* v. *NLRB,* 499 U.S. 606, 612 (1991) (''[E]ven if a statutory scheme requires individualized determinations, the decision maker has the authority to rely on rulemaking to resolve certain issues of general applicability unless Congress clearly expresses an intent to withhold that authority.'' (discussing *Campbell,* 461 U.S. at 467; *FPC* v. *Texaco, Inc.,* 377 U.S. 33, 41–44 (1964); *United States* v. *Storer Broad. Co.,* 351 U.S. 192, 205 (1956)).

[13] *Cf., e.g., United States* v. *Cleveland Indians Baseball Co.,* 532 U.S. 200, 220 (2001) (''We do not resist according such deference in reviewing an agency's steady interpretation of its own 61-year-old regulation implementing a 62-year-old statute. Treasury regulations and interpretations long continued without substantial change, applying to unamended or substantially reenacted statutes, are deemed to have received congressional approval and have the effect of law.'') (quoting *Cottage Sav. Ass'n* v. *Commissioner,* 499 U.S. 554, 561 (1991)).

[14] *See* 33 FR 7804, 7807 (May 28, 1968); *see also* 33 FR 3000, 3003 (Feb. 15, 1968) (notice of proposed rulemaking).

[15] *See* 39 FR 20566, 20568 (June 11, 1974); 41 FR 26386, 26387 (June 25, 1976).

[16] *See* E.O. 10925 section 303; 41 CFR 60–1.3(b)(1) (1962).

[17] *See* OFCCP, COVID–19 National Interest Exemption, *https://www.dol.gov/agencies/ofccp/national-interest-exemption* (last accessed April 23, 2020); OFCCP, Hurricane Recovery National Interest Exemptions, *https://www.dol.gov/ofccp/hurricanerecovery.htm* (last accessed April 23, 2020).

[18] *See* 5 U.S.C. 701(a)(2); *Heckler* v. *Chaney,* 470 U.S. 821, 831 (1985); *Andrews* v. *Consol. Rail Corp.,* 831 F.2d 678, 687 (7th Cir. 1987); *Clementson* v. *Brock,* 806 F.2d 1402, 1404–05 (9th Cir. 1986); *Carroll* v. *Office of Fed. Contract Compliance Programs, U.S. Dep't of Labor,* 235 F. Supp. 3d 79, 84 (D.D.C. 2017).

III. Administrative and Regulatory Background

A. Overview of OFCCP's Areas of Authority

E.O. 11246, VEVRAA, and Section 503 apply to entities holding covered government contracts and subcontracts.[19] OFCCP has authority to enforce the requirements of these three laws and their implementing regulations. Contractors agree to those requirements in the equal opportunity clauses included in their contracts with the Federal Government, clauses which also require contractors to ''flow down'' these requirements to any subcontractors. The text of these clauses is set forth in E.O. 11246 section 202 and the implementing regulations for all three programs, and is also found in part 52 of title 48 of the Code of Federal Regulations, which contains the Federal Acquisition Regulation's standard contract clauses.[20] Federal law provides that these clauses ''shall be considered to be part of every contract and subcontract required by [law] to include such a clause.''[21] This is true ''whether or not the [equal opportunity clause] is physically incorporated in such contracts.''[22] Persons who have no contractual (or subcontractual) relationship with the Federal Government, however, have no obligation to adhere to OFCCP's substantive requirements.[23]

OFCCP's regulations define ''government contract'' as any agreement or modification thereof between a department or agency of the Federal Government and any person for the purchase, sale, or use of personal property or nonpersonal services.[24] Agreements pertaining to programs or activities receiving Federal financial assistance, however, are not considered covered contracts, nor are other noncontract government programs or activities.[25] Federally assisted construction contracts, however, do come within OFCCP's authority under E.O. 11246.[26]

As defined in regulation, a covered ''contract'' includes a ''contract or a subcontract.''[27] A prime contract is an agreement with the Federal Government agency itself. A ''subcontract'' is

> any agreement or arrangement between a contractor and any person (in which the parties do not stand in the relationship of an employer and an employee):
>
> (1) For the purchase, sale or use of personal property or nonpersonal services which, in whole or in part, is necessary to the performance of any one or more contracts; or
>
> (2) Under which any portion of the contractor's obligation under any one or more contracts is performed, undertaken or assumed.[28]

Although, in general, organizations holding a contract or subcontract as defined are covered under E.O. 11246, Section 503, and VEVRAA, some exemptions apply. Contractors that hold only contracts below OFCCP's basic monetary thresholds are exempt.[29] Certain affirmative action requirements only apply depending on the type and dollar value of the contract held as well as the contractor's number of employees.[30] The regulations also exempt some categories of contracts under certain circumstances or for limited purposes, including those involving work performed outside the United States; certain contracts with state or local governments; contracts with religious corporations, associations, educational institutions or societies; educational institutions owned in whole or in part by a particular religion or religious organization; and contracts involving work on or near an Indian reservation.[31]

Additionally, as discussed earlier in this final rule, OFCCP has authority to exempt entities and categories of entities from E.O. 11246, VEVRAA, and Section 503 if the Director of OFCCP determines that special circumstances in the national interest require doing so.[32]

B. Overview of Prior Treatment of Health Care Providers Participating in TRICARE

OFCCP has audited health care providers who are government contractors, and it will continue to do so under this final rule.[33] Provided below is a brief overview of TRICARE and developments regarding OFCCP's interpretations and practice regarding its authority over health care providers participating in TRICARE.

1. Background on TRICARE

TRICARE is the Federal health care program serving uniformed service members, retirees, and their families.[34] TRICARE is managed by the Defense Health Agency, which contracts with managed care support contractors to administer each TRICARE region. The managed care support contractors enter into agreements with individual and institutional health care providers in order to create provider networks for fee-for-service, preferred-provider, and health maintenance organization (HMO)-like programs. Fee-for-service plans reimburse beneficiaries or the health care provider for the cost of covered services. The TRICARE HMO-like program involves beneficiaries generally agreeing to use military treatment facilities and designated civilian providers and to follow certain managed care rules and procedures to obtain covered services.

2. OFCCP and Health Care Providers Participating in TRICARE

In 2007, OFCCP for the first time in litigation asserted enforcement authority over a health care provider based solely on the hospital's delivery of medical care to TRICARE beneficiaries. The provider in this case, a hospital in Florida, disagreed with OFCCP's view, and OFCCP initiated enforcement proceedings in 2008 under the caption *OFCCP* v. *Florida Hospital of Orlando.* In 2010, an administrative law judge (ALJ) found for the agency.[35]

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[19] *See* E.O. 11246 section 202; 29 U.S.C. 793(a); 38 U.S.C. 4212(a)(1).

[20] *See* 48 CFR 52.222–26, –35, –36.

[21] 41 CFR 60–14(e), –741.5(e), –250.5(e).

[22] *Id.*

[23] *See* 41 CFR 60–1.1 (''The regulations in this part apply to all contracting agencies of the Government and to contractors and subcontractors who perform under Government contracts, to the extent set forth in this part.''); *see also id.* –300.1(b), –741.1(b).

[24] *Id.* 60–1.3, –300.2(n), –741.2(k).

[25] *See id.* 60–1.1, –300.1(b), –741.4(a). Programs and activities receiving federal financial assistance must comply with various other nondiscrimination laws, including Title VI of the Civil Rights Act of 1964 (prohibiting discrimination on the basis of race, color, or national origin) and Section 504 of the Rehabilitation Act of 1973 (prohibiting discrimination on the basis of disability).

[26] 41 CFR 60–1.1.

[27] *Id.* 60–1.3, –300.2, –741.2.

[28] *Id.* 60–1.3, –300.2(x), –741.2(x).

[29] *Id.* 60–1.5(a)(1), –300.4(a)(1), –741.4(a)(1). E.O. 11246's basic obligations apply to businesses holding a government contract in excess of $10,000, or government contracts which have, or can reasonably be expected to have, an aggregate total value exceeding $10,000 in a 12-month period. E.O. 11246 also applies to government bills of lading, depositories of federal funds in any amount, and to financial institutions that are issuing and paying agents for U.S. Savings Bonds. Section 503 applies to federal contractors and subcontractors with contracts in excess of $15,000. VEVRAA applies to federal contractors and subcontractors with contracts of $150,000 or more. The coverage thresholds under Section 503 and VEVRAA increased from those listed in the statutes and OFCCP's regulations in accordance with the inflationary adjustment requirements in 41 U.S.C. 1908. *See* 80 FR 38293 (July 2, 2015); 75 FR 53129 (Aug. 30, 2010).

[30] 41 CFR 60–1.40, –300.40, –741.40.

[31] *See id.* 60–1.5, –300.4, –741.4.

[32] E.O. 11246, section 204; 29 U.S.C. 793(c)(1); 41 CFR 60–300.4(b)(1).

[33] As noted throughout this final rule, health care providers who are prime government contractors, or who hold subcontracts apart from their provider relationship to a government health care program included in this rule, would remain under OFCCP's authority.

[34] *See* 32 CFR 199.17(a).

[35] *OFCCP* v. *Fla. Hosp. of Orlando,* No. 2009–OFC–00002, 2010 WL 8453896 (ALJ Oct. 18, 2010).

In December 2010—soon after the ALJ's decision in *Florida Hospital*—OFCCP issued a new directive on health care providers that superseded previous directives.[36] Directive 293 asserted that OFCCP had authority over certain health care providers participating in TRICARE and other government health care programs.

Congress responded the next year. The National Defense Authorization Act for Fiscal Year 2012 (NDAA) included a provision addressing the maintenance of the adequacy of provider networks under the TRICARE program and TRICARE health care providers as purported Government subcontractors. Sec. 715 of the NDAA provided that, for the purpose of determining whether network providers under TRICARE provider network agreements are Government subcontractors, a TRICARE managed care support contract that includes the requirement to establish, manage, or maintain a network of providers may not be considered to be a contract for the performance of health care services or supplies on the basis of such requirement.[37]

In April 2012, 16 months after it had been issued, OFCCP formally rescinded Directive 293.[38] Meanwhile, the *Florida Hospital* litigation continued. Six months after OFCCP formally rescinded Directive 293, in October 2012, the Department's Administrative Review Board (ARB or Board) held that the NDAA's amendment to the TRICARE statute precluded OFCCP from asserting authority over the Florida hospital.[39] The Board dismissed OFCCP's administrative complaint against the hospital. Four of the five judges agreed that the hospital did not satisfy the second prong of OFCCP's regulatory definition of ''subcontract.'' Two judges, Judge Corchado and Judge Royce, would have found for the agency on the basis of the first prong of the regulatory definition of ''subcontract.''[40]

The Board subsequently granted OFCCP's request for reconsideration. This time, a three-judge majority ruled for the agency. In July 2013, the Board concluded that the Florida hospital at issue satisfied the first prong of the agency's regulatory definition of ''subcontract.''[41] The Department's ARB remanded to the ALJ, however, to determine whether TRICARE constituted Federal financial assistance outside OFCCP's jurisdiction. Judge Igasaki and Judge Edwards dissented on the basis of their original opinion in the Board's first decision. They concluded that ''the enactment of Section 715 of the NDAA removes OFCCP's jurisdiction under either Prong One or Prong Two based on the specific contract at issue in this case.''[42]

While the remand of *Florida Hospital* was pending, Congress introduced legislation to exempt all health care providers from OFCCP's enforcement activities and held a hearing regarding OFCCP's enforcement activities.[43] The Secretary of Labor at the time, in a letter to the leaders of the House Committee on Education and the Workforce and the Subcommittee on Workforce Protection, stated that the leaders ''ha[d] made clear that, in [their] judgment, Congress intended to eliminate entirely OFCCP's jurisdiction over TRICARE subcontractors.''[44] The Secretary's letter proposed that ''in lieu of legislative action,'' OFCCP would ''exercise prosecutorial discretion over the next five years to limit its enforcement activities with regard to TRICARE subcontractors.''[45]

In May 2014, OFCCP issued Directive 2014–01, establishing a five-year moratorium on enforcement of affirmative action obligations for health care providers deemed to be TRICARE subcontractors.[46] OFCCP also administratively closed its open compliance reviews of contractors covered by the moratorium, which resulted in the dismissal of the *Florida Hospital* case.[47] On May 18, 2018, OFCCP issued Directive 2018–02, a two-year extension of the previous moratorium.[48] Pursuant to this Directive, the moratorium will expire on May 7, 2021. OFCCP explained that it extended the moratorium out of concern that the approaching expiration of the moratorium and accompanying uncertainty over the applicability of the laws OFCCP enforces might contribute to the difficulties veterans and uniformed service members face when accessing health care. The Directive also explained that the extension would provide additional time to receive feedback from stakeholders. The Directive extended the scope of the moratorium to cover providers participating in the Department of Veterans Affairs' health benefits programs.[49]

IV. Discussion of Public Comments

A. Length of Comment Period

Some commenters criticized the 30-day comment period as impermissibly short. For example, a women's civil rights organization, on behalf of five other civil rights organizations, commented that a 30-day comment period was inconsistent with the APA and applicable executive orders and provided insufficient time given the ''breadth and substance of the information sought.'' The organization also stated that a 30-day comment period is inconsistent with a November 18, 2019 report by DOL's Office of Inspector General regarding rulemaking.

A group of state attorneys general commented that ''executive agencies have followed a presumption that a minimum of sixty days is necessary to provide the affected public with a meaningful opportunity to comment on proposed agency regulations[.]'' A member of Congress commented that ''[a]pproximately 86 percent of rules (12 out of 14) proposed by OFCCP since 2000 have afforded the public an initial comment period of approximately 60 days and has even been extended in several instances.''

These commenters also requested an extension to the comment period. After considering their requests, the Department determined that the original 30-day comment period provided adequate time for the public to comment on the proposed rule. Notably, the Administrative Procedure Act (APA) does not set forth a mandatory minimum time for public comments, but rather more generally requires an ''opportunity to participate in the rule making through submission of written

[36] *See* OFCCP, Directive 293, Coverage of Health Care Providers and Insurers (Dec. 16, 2010) (rescinded Apr. 25, 2012).

[37] Public Law 112–81 section 715, 125 Stat. 1298, 1477 (2011), codified at 10 U.S.C. 1097b(a)(3).

[38] *See* Notice of Rescission No. 301 (Apr. 25, 2012).

[39] *OFCCP* v. *FLA. Hosp. of Orlando,* No. 11–011, 2012 WL 5391420 (ARB Oct. 19, 2012).

[40] Judge Brown concluded that the question about the first prong was not properly before the Board.

[41] *OFCCP* v. *Fla. Hosp. of Orlando,* No. 11–011, 2013 WL 3981196 (ARB July 22, 2013).

[42] *Id.* at *25 (Igasaki & Edwards, JJ., dissenting).

[43] H.R. 3633, Protecting Health Care Providers from Increased Administrative Burdens Act, Hearing Before the Subcomm. On Workforce Protections of the H. Comm. on Educ. & the Workforce, 113th Cong. (Mar. 13, 2014) [hereinafter ''2014 Hearing'']

[44] *Id.* at 3–5 (Sec'y of Labor Thomas E. Perez, Letter to Congressional Leaders, Mar. 11, 2014).

[45] *Id.* at 4.

[46] OFCCP, Directive 2014–01, TRICARE Subcontractor Enforcement Activities (May 7, 2014).

[47] *OFCCP* v. *Fla. Hosp. of Orlando,* No. 2009–OFC–00002 (ALJ Apr. 1, 2014).

[48] OFCCP, Directive 2018–02, TRICARE Subcontractor Enforcement Activities (May 18, 2018).

[49] *Id.* at 1 n.1.

data, views, or arguments.'' [50] Thirty-day public comment periods are broadly viewed as permissible under the APA, particularly where, as here, the proposal is fairly straightforward and is not detailed or highly technical in nature.[51]

B. Reconsidering OFCCP's Authority Over TRICARE Providers

Since bringing the *Florida Hospital* case over a decade ago, and as reiterated in its 2014 and 2018 moratoria, OFCCP has held the position that it holds authority over TRICARE providers. In preparing this final rule, OFCCP has carefully examined the authorities it administers, its legal position as stated in litigation and repeated public statements and guidance, the decisions in *Florida Hospital,* Congress's recent actions, and comments received in response to the NPRM. OFCCP has concluded that its recent assertions of authority over TRICARE providers warrant reconsideration.

Some commenters agreed that Section 715 of the 2012 NDAA removed OFCCP's authority over TRICARE providers. For example, an employer association commented that ''the NDAA specifies that an agreement to provide health care services cannot be necessary to the establishment or maintenance of a health care network; under OFCCP's regulatory definitions, this means that such an agreement cannot be a subcontract.'' [52] Likewise, a consortium of federal contractors and subcontractors commented that ''the proper interpretation of the NDAA excludes TRICARE providers from the definition of [']subcontractor[′] pursuant to the OFCCP's regulations.''

Other commenters disagreed. An LGBT rights organization contended that the ARB correctly held in *Florida Hospital* that the NDAA did not remove OFCCP's authority. A women's civil rights organization, on behalf of seventeen other civil rights organizations, commented that ''[t]he legislative history of Section 715 supports'' the ARB's decision in *Florida Hospital.* Specifically, the organization commented that an earlier draft of the NDAA included language that more clearly removed OFCCP's authority under both prongs of the subcontractor definition; this language was not included in the final bill. One member of Congress expressed the opinion that the ''enacted language, and the express rejection of language stating network providers are not considered subcontractors in the Senate-passed provision, demonstrates that Congress intended to create a narrow exception in certain instances—not a wholesale exemption.''

Other commenters noted the salutary effect the rule change will have on the provision of health care services. A Catholic health care network wrote that it ''concurs that the proposed regulation amendment will accomplish the intended goal, and will ultimately increase or improve uniformed service members' and veterans' access to medical care.'' A consortium of federal contractors and subcontractors commented that ''[a]n express regulatory provision eliminating coverage for health care providers that provide supplies or services to TRICARE beneficiaries would remove this uncertainty and provide much needed clarity for this industry.'' Finally, a group of three members of Congress commented that the proposed rule ''will increase access to health care services for TRICARE beneficiaries.''

OFCCP considered these comments. For the reasons set forth below, OFCCP interprets the 2012 NDAA to remove OFCCP's authority over TRICARE providers, and it is a proper use of OFCCP's regulatory authority to reconsider its previous position and conform its regulations to that legislative effort.

When OFCCP issued Directive 293, asserting authority over these health care providers, Congress reacted quickly by enacting Section 715 of the 2012 NDAA. ''Where an agency's statutory construction has been fully brought to the attention of the public and the Congress, and the latter has not sought to alter that interpretation although it has amended the statute in other respects, then presumably the legislative intent has been correctly discerned.'' *N. Haven Bd. of Ed.* v. *Bell,* 456 U.S. 512, 535 (1982) (internal quotation marks omitted). OFCCP's history in this area shows the opposite with regard to TRICARE providers.

The text and surrounding context of section 715 itself make clear that Congress sought to reverse OFCCP's assertion of authority over TRICARE providers. The section states, ''For the purpose of determining whether network providers''—*e.g.,* hospitals and physicians—''are subcontractors . . . , a TRICARE managed care support contract that includes the requirement to establish, manage, or maintain a network of providers may not be considered to be a contract for the performance of health care services on the basis of such requirement.'' The ARB held in *Florida Hospital* that it could nonetheless deem a health care provider a subcontractor where the TRICARE regional administrator could not ''fulfill its contract to create an integrated health delivery system without the services from network providers like Florida Hospital.'' [53] But, upon reconsideration, OFCCP now believes the dissenting opinion in *Florida Hospital* gave the better reading of the statute. The dissent explained that because the ''managed care prime contract . . . includes the requirement to maintain a network of providers, OFCCP's jurisdiction is removed. Under Section 715, the subcontract is no longer a 'subcontract' under [OFCCP's regulatory definition] because the element of the contract that is 'necessary to the performance of any one or more contracts' involves the provisions of health care network provider services to TRICARE beneficiaries.'' [54] The dissent's reading would prevent the statute from becoming a nullity—since the purpose of creating a provider network is to provide health care.

Some commenters raised section 715's legislative history. The predominating fact in the legislative history of section 715 is that Congress enacted it in response to OFCCP's express claim of authority over TRICARE providers. A construction of the statute that would render it a nullity would not be consistent with congressional intent in light of this historical context. Further, little can be drawn from the legislative history noted by commenters, especially the vague Statement of Administration Policy.[55] At best, it shows that (i) an earlier draft of the bill could have exempted TRICARE providers from OFCCP authority even if they held other, unrelated federal contracts, and (ii) the language was revised to clarify that TRICARE providers would not be subject to OFCCP by virtue of their TRICARE agreements, but could still be subject to OFCCP if they held other agreements outside of TRICARE.

[50] 5 U.S.C. 553(c); *see also Phillips Petroleum Co.* v. *U.S. E.P.A.,* 803 F.2d 545, 559 (10th Cir. 1986) (''The opportunity to participate is all the APA requires. There is no requirement concerning how many days the [agency] must allow for comment or that the [agency] must re-open the comment period at the request of one of the participants.'').

[51] *See, e.g., Conn. Light & Power Co.* v. *Nuclear Regulatory Comm'n.,* 673 F.2d 525, 534 (D.C. Cir. 1982) (upholding a thirty-day comment period even though the ''technical complexity'' of the regulation was ''such that a somewhat longer comment period might have been helpful''); *see also Conference of State Bank Supervisors* v. *Office of Thrift Supervision,* 792 F. Supp. 837, 844 (D.D.C. 1992) (upholding the sufficiency of a thirty-day comment period).

[52] This organization also commented that the 2018 VA Mission Act, 38 U.S.C. 1703A(i)(1), provides additional statutory support to OFCCP's position.

[53] *Fla. Hosp.,* 2013 WL 3981196, at *19.

[54] *Id.* at *29.

[55] *See* Statement of Administration Policy, Executive Office of the Pres., Office of Mgmt. & Budget, S. 1867—National Defense Authorization Act for FY 2012 (Nov. 17, 2011), *obamawhitehouse.archives.gov/sites/default/files/omb/legislative/sap/112/saps1867s_20111117.pdf.*

For these reasons, after careful consideration, OFCCP has reconsidered its position and now concludes that it does not have authority over TRICARE providers.

C. Establishing a National Interest Exemption for Health Care Providers Participating in TRICARE

OFCCP believes that lasting certainty for TRICARE health care providers and patients is in the national interest. Therefore, through this final rule OFCCP is also establishing, as an alternative, an exemption from E.O. 11246, Section 503, and VEVRAA for health care providers with agreements to furnish medical services and supplies to individuals participating in TRICARE. Nothing in this action is intended to interfere with OFCCP's vital mission of enforcing equal employment opportunity in organizations that contract with the government. OFCCP will retain authority over a health care provider participating in such a network or arrangement if the health care provider holds a separate covered Federal contract or subcontract. But as explained below, OFCCP believes that there are several reasons why special circumstances in the national interest warrant an exemption for TRICARE health care providers who do not hold such separate contracts.

First, OFCCP is concerned that the prospect of exercising authority over TRICARE providers is affecting or will affect the government's ability to provide health care to uniformed service members, veterans, and their families. Congressional inquiries and testimony, as well as amicus filings in the *Florida Hospital* litigation, and comments received in response to the NPRM, have brought to OFCCP's attention the risk that health care providers may be declining to participate in Federal health care programs that serve members of the military and veterans because of the presumed costs of compliance with OFCCP's regulations.[56] The former president of a TRICARE managed care support contractor testified that he feared they would lose smaller providers in their network because of the administrative costs and burdens associated with OFCCP's requirements, and he predicted that it would make it ''much more difficult to build and retain provider networks.''[57] TRICARE managed care support contractors similarly stated in an amicus brief that subjecting TRICARE providers to OFCCP's requirements would ''make the already difficult task of finding health care professionals willing to act as network providers even more difficult.''[58] A partner of a law firm testified that he has seen health care provider clients choose not to participate in TRICARE and in other programs because of the costs of compliance.[59] The American Hospital Association also testified that some hospitals may decline to participate out of concern that they could be found to be Federal contractors.[60]

Providers' decisions not to participate may exacerbate the well-documented difficulties that uniformed service members, veterans, and their families have accessing health care.[61] The unique nature of the health care system heightens OFCCP's concern about the refusal of providers to participate in health care programs for uniformed service members and veterans. Creating adequate networks of providers is a critical component of ensuring access to health care. These networks need to offer comprehensive services and cover all geographical areas where beneficiaries reside. An inadequate network may mean that beneficiaries are unable to obtain urgent and life-saving treatment. The willingness of health care providers to participate in TRICARE is thus especially important.

OFCCP requested comments from stakeholders to help it more thoroughly evaluate the potential impact of OFCCP compliance on uniformed service members' and veterans' health care provider networks. In particular, OFCCP sought comments from health care providers regarding the impact of potential Federal subcontractor status on their decision to participate in health care programs for uniformed service members and veterans. These comments are discussed later in this section.

Second, OFCCP believes that an exemption is in the national interest because pursuing enforcement efforts against TRICARE providers is not the best use of its and providers' resources. Given the history in this area, such attempts—which would occur in the absence of this final rule—could again meet with protracted litigation and unclear ultimate results: The *Florida Hospital* case proceeded for seven years and would have continued for some time into the future had it not been voluntarily dismissed. OFCCP believes its limited resources are better spent elsewhere, and it would be unreasonable to impose substantial compliance costs on health care providers when the legal justification for doing so would be open to challenge in light of the language in the NDAA and the question left unresolved in *Florida Hospital* as to whether TRICARE constitutes Federal financial assistance.

Third, OFCCP believes an exemption would be in the national interest because it would provide uniformity and certainty in the health care community with regard to legal obligations concerning participation in TRICARE. OFCCP conducts a case-by-case inquiry as to whether a particular entity is a covered subcontractor. The proposed exemption would dispense with an agreement-by-agreement analysis and the attendant uncertainty, legal costs, and litigation risk. Providers could choose to furnish medical services to beneficiaries of different types of TRICARE programs without hiring costly lawyers and performing time-intensive contract analysis to determine, as best they can, whether they are a subcontractor or simply a provider.

This exception would also harmonize OFCCP's approach with that of the Department of Defense. OFCCP is the office charged with administering and enforcing its authorities, but comity between agencies is desirable whenever possible, reduces confusion for the

[56] 2014 Hearing, *supra* note 43; Examining Recent Actions by the Office of Federal Contract Compliance Programs, Hearing Before the Subcomm. on Workforce Protections of the H. Comm. on Education and the Workforce, 113th Cong. (2013) [hereinafter 2013 Hearing]; Reviewing the Impact of the Office of Federal Contract Compliance Programs' Regulatory and Enforcement Actions, Hearing Before the Subcomm. on Health, Emp't, Labor & Pensions of the H. Comm. on Educ. & the Workforce, 112th Cong. (2012).

[57] 2014 Hearing, *supra* note 43, at 24–26, 46–47, 149 (Prepared Statement and Testimony of Thomas Carrato, President, Health Net Federal Services).

[58] Amicus Brief of Humana Military Health Services, Inc., Health Net Federal Services, LLC, and TriWest Healthcare Alliance dated May 2, 2012, at 9, *Fla. Hosp.,* 2013 WL 3981196; *see also* Amicus Brief of Human Military Health Services, Inc., Health Net Federal Services, LLC, and TriWest Healthcare Alliance dated December 29, 2010, at 2, *Fla. Hosp.,* 2013 WL 3981196 (''Subjecting the network providers to Federal affirmative action requirements will make it more difficult for the [TRICARE managed care support] contractors to find and retain providers willing to sign network agreements due to the added compliance requirements.'').

[59] 2014 Hearing, *supra* note 43, at 34–35, 47 (Statement and Testimony of David Goldstein, Shareholder, Littler Mendelson P.C.).

[60] *Id.* at 17–18 (Prepared Statement of the American Hospital Association); 2013 Hearing, *supra* note 56, at 139 (Testimony of Curt Kirschner, Partner, Jones Day, on behalf of the American Hospital Association).

[61] *See, e.g.,* Government Accountability Office Report, GAO–18–361, TRICARE Surveys Indicate Nonenrolled Beneficiaries' Access to Care Has Generally Improved (Mar. 2018), *available at https://www.gao.gov/assets/700/690964.pdf.* The GAO found that, although there has been a slight improvement in TRICARE beneficiaries' access to care, 29 percent of nonenrolled beneficiaries still reported that they experienced problems finding a civilian provider. Nonenrolled beneficiaries are those that have not enrolled in TRICARE Prime, which is a managed care option that that mostly relies on military hospitals and clinics to provide care.

public, and helps ensure evenhanded and efficient administration of the law. The Department of Defense stated in the *Florida Hospital* litigation that ''it would be impossible to achieve the TRICARE mission of providing affordable health care for our nation's active duty and retired military members and their families'' if all TRICARE providers were subject to OFCCP's requirements.[62] The Department of Defense also classifies TRICARE as Federal financial assistance in DoD Directive 1020.1.[63] A unified approach should reduce confusion for the public and assist coordination in regulating government contracts in the health care field.[64]

As noted earlier, of course, the uniformed service members and veterans' health care providers discussed here would still be subject to OFCCP's authority if they are prime contractors or have a covered subcontract with a government contractor. For example, a teaching hospital that participates as a TRICARE provider but that also has a research contract with the Federal Government would still be considered a covered contractor subject to OFCCP authority.

Several commenters supported a national interest exemption. For example, a veteran's health care organization wrote that it ''urges the adoption of the National Interest Exemption as described'' in the NPRM. An employer association commented that it ''agrees with the points OFCCP offers in support of its National Interest Exemption rationale'' because the high cost of compliance ''take[s] time away from patient care'' and causes providers to ''simply not participate in TRICARE.'' A consortium of federal contractors and subcontractors commented that complying with OFCCP's requirements ''can exponentially increase an organization's operating expenses. . . . [T]he prospect of complying with these additional regulatory burdens will discourage many valuable and important health care providers from becoming TRICARE providers.'' A Catholic health care network commented that the proposed rule ''would ultimately provide the desired outcome'' of increasing access to health care for veterans.

Other commenters opposed a national interest exemption. For example, a women's civil rights organization, on behalf of seventeen other civil rights organizations, disagreed that the NPRM's rationales support the exemption. The organization viewed as anecdotal OFCCP's concerns that compliance requirements are unduly burdensome for TRICARE providers. A member of Congress commented that past exemptions have been issued only in response to ''earthquakes, wildfires, flooding, and hurricanes'' and that there were no such special circumstances here because there is no underlying natural disaster. Finally, an LGBT rights organization commented that the ''federal government must be in the business of eradicating discrimination'' and that the proposed rule falls short of this mandate.

OFCCP agrees with the comments supporting a national interest exemption as an alternative basis for relieving TRICARE providers from complying with OFCCP's legal obligations. For the reasons discussed in this section, the Director of OFCCP has determined that the exemption proposed in the NPRM is justified by special circumstances in the national interest because it will increase access to care for uniformed service members and veterans, allow OFCCP to better allocate its resources, and provide uniformity and certainty for the government and for TRICARE health care providers. OFCCP's conclusions are not supported by insufficient evidence, as one commenter alleged, but rather are supported by evidence which includes Congressional testimony, evidence generated in the *Florida Hospital* litigation, and comments received in response to the NPRM. Finally, OFCCP's authority to issue national interest exemptions is not limited only to circumstances involving natural disasters. E.O. 11246, VEVRAA, Section 503, and the implementing regulations of all three laws grant OFCCP broad authority to issue exemptions.[65]

The Director of OFCCP has also determined that the requirements have been met for granting an exemption to a group or category of contracts. Since there are tens of thousands of providers that may be eligible for the exemption, it would be impracticable for OFCCP to act upon each provider's request individually and issuing a group exemption will substantially contribute to convenience in the administration of the laws.[66]

A women's civil rights organization, on behalf of seventeen other civil rights organizations, commented that OFCCP lacks the legal authority to ''authorize a categorical exemption of the sort'' described in this final rule. The organization argued that E.O. 11246 only allows for categorical exemptions in specifically enumerated circumstances, none of which apply in the instant case. However, as discussed above, the applicable regulations authorize the Director of OFCCP to exempt groups or categories of contracts when it would be impracticable for OFCCP to act on individual requests and where a group exemption would substantially contribute to the convenience in the administration of the laws. *See* 41 CFR 60–1.5(b)(1), –300.4(b)(1), –741.4(b)(1); *see also supra* discussion at sections II (Legal Authority), III.A (Overview of OFCCP's Areas of Authority).

D. OFCCP's Authority Over FEHBP

In the NPRM, OFCCP requested comments on whether health care providers participating in the Federal Employees Health Benefits Program (FEHBP) should not be covered by OFCCP's authority.[67] OFCCP was interested in comments from stakeholders and health care providers that serve federal employees, such as FEHBP, about the impact of OFCCP's requirements and if there is difficulty attracting and retaining participating providers. In the past, some stakeholders have indicated that other government health care programs may face difficulties similar to TRICARE.

Some commenters supported exempting FEHBP. An association of health care organizations commented that many hospitals participate in both TRICARE and FEHBP and that health care providers ''could drop out of FEHBP networks to preserve their TRICARE exemption, and access to care

[62] *OFCCP* v. *Fla. Hosp. of Orlando,* No. 2009–OFC–002, 2010 WL 8453896, at *2 (ALJ Oct. 18, 2010).

[63] *See* Dep't of Defense, Directive 1020.1, Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of Defense, ¶ E1.1.2.21 (Mar. 31, 1982).

[64] Note that this regulation would not affect health care entities' obligations under Title VII of the Civil Rights Act or other civil rights laws enforced by other agencies.

[65] *See* notes 10 to 18.

[66] 41 CFR 60–1.5(b)(1), –300.4(b)(1), –741.4(b)(1).

[67] FEHBP serves civilian federal employees, annuitants, and their dependents. 5 U.S.C. 8901 *et seq.* The program is administered by the U.S. Office of Personnel Management. FEHBP offers two general types of plans: Fee-for-service plans and HMO plans. The Department's Administrative Review Board held OFCCP did not have authority over a health care provider based on a reimbursement agreement with a health insurance carrier offering a fee-for-service FEHBP plan, but did have authority over a health care provider's agreement to provide services pursuant to a FEHBP HMO plan. *See OFCCP* v. *UPMC Braddock,* No. 08–048, 2009 WL 1542298 (ARB May 29, 2009), *aff'd, UPMC Braddock* v. *Harris,* 934 F. Supp. 2d 238 (D.D.C. 2013), *vacated as moot, UPMC Braddock* v. *Perez,* 584 F. App'x 1 (D.C. Cir. 2014); *In re Bridgeport Hosp.,* No. 00–023, 2003 WL 244810 (ARB Jan. 31, 2003).

for the federal employee population could be affected.'' An association of independent health care plans commented that ''a uniform OFCCP exemption for FEHB, similar to what is being proposed for TRICARE, would remove a potential barrier to provider contracting . . . .'' A consortium of federal contractors and subcontractors commented that ''[a] uniform rule that applies to health care providers involved in federal government health care programs is necessary to avoid legal uncertainty for the medical field.'' A group of three members of Congress commented that the House Committee on Education and Labor held hearings in 2014 on legislation that would have removed OFCCP's jurisdiction over FEHBP.[68] The testimony given during this hearing called on OFCCP to clarify which FEHBP plans require participating providers to be classified as subcontractors; asserted that Department of Defense and Office of Personnel Management regulations do not classify FEHBP participants as federal contractors; and noted the willingness of the then-Secretary of Labor to continue discussing enforcement of FEHBP participants. Congress did not ultimately pass legislation affecting OFCCP's authority over FEHBP.

Other commenters opposed exempting FEHBP providers. A women's civil rights organization, on behalf of several other civil rights organizations, commented that the NPRM failed to provide the terms or substance of an FEHBP exemption and that ''[a]ny regulation addressing other providers must be the subject of its own notice and comment rulemaking.''

None of the comments received in response to the NPRM identified a legal basis to retain or disclaim jurisdiction over FEHBP providers. Accordingly, OFCCP does not adopt any regulatory change related to FEHBP providers. OFCCP has, however, carefully considered comments regarding the benefits of a uniform approach to all government health care plans and will consider additional sub-regulatory guidance as necessary.

E. OFCCP's Authority Over Veterans Administration Health Benefits Programs

OFCCP received several comments requesting that it also remove from its authority health care service agreements between the U.S. Department of Veterans Affairs (VA) and various health care entities, including Veteran's Care Agreements (VCAs). Several commenters cited broad policy-based concerns. For example, a Lutheran health care provider that has several legacy contracts with the Veteran's Administration commented that it faces increased financial burdens preparing OFCCP compliance reports: ''the added cost and regulatory oversight explains why compliance as a federal contractor is a constraint that requires us to carefully consider each contract we enter into with the Veteran's Administration.'' An association of long-term and post-acute care providers commented that ''[t]he result [of government regulations] has been limited long-term care options for veterans in their local communities, with some veterans having to choose between obtaining needed long-term care services in a distant VA facility and remaining near loved ones in their community.'' A long-term health care provider that has entered into VCAs commented that ''the ability to maintain the data requirements of an Affirmative Action plan would be burdensome and tedious for our facilities to maintain.''

Some of these commenters also cited specific types of agreements they believed should be excluded from OFCCP's authority, and provided some legal rationale for this belief. Specifically, three commenters sought to have OFCCP exclude Veterans Care Agreements from its authority.[69] Two of these commenters also wanted additional types of VA agreements excluded from OFCCP's authority, specifically citing Community Care Networks and legacy VA contracts.'' A final commenter supported excluding Veterans Affairs health benefits program providers generally from OFCCP's authority. As discussed below, OFCCP disagrees that there is a statutory basis for excluding these arrangements from OFCCP's authority entirely, but many of these arrangements do fall under the moratorium on enforcement that was announced in an OFCCP directive issued in May 2018.

The Veterans Care Agreements (VCAs) referenced by the commenters are arrangements created pursuant to the 2018 VA MISSION Act.[70] The 2018 VA MISSION Act was intended generally to provide veterans with better access to care in a number of ways, and VCAs were one of the new arrangements created under the law for that purpose.[71] The inclusion of VCAs in the 2018 VA MISSION Act gave VA the authority to enter into these arrangements to address gaps in care that may arise in hospital care, medical services, and/or extended care services. VCAs are executed when specific care is needed but cannot be obtained within the current VA provider networks. These agreements are intended to be used in limited circumstances when the care necessary for treatment is either insufficient or non-existent.

Some of the commenters raising this issue asserted that statutory language in the 2018 VA MISSION Act divests OFCCP of jurisdiction over VCAs because the Act states that such agreements are not ''contracts.''[72] However, there is an exception to this provision within the same subsection of the statute which provides that entities that enter into VCAs remain subject to ''all laws that protect against employment discrimination or that otherwise ensure equal employment opportunities.''[73] Accordingly, the statutory language of the 2018 VA MISSION Act, standing alone, does not serve to remove these agreements from OFCCP's authority.

Two commenters likewise requested that OFCCP remove from its authority VA Community Care Networks (CCNs). Though the term CCN is not consistently defined, the term as used by the commenters generally refers to a third-party network manager that is a prime contractor with VA. However, the CCN is a contract to create a network of providers and coordinate the provision of care, but is not a contract for the provision of care itself. Thus, it is distinguishable from the TRICARE providers that this final rule removes from OFCCP's authority. Rather, CCNs are typical, competitively bid Federal contracts, and unlike with the 2018 VA MISSION Act and VCAs, there is no statutory language defining the arrangements as non-contractual.

In addition to advocating for an exemption to extend to VCAs and CCNs, one commenter urged the exemption of ''legacy VA contracts'' as well. Though this term is somewhat vague, our understanding based on discussions

[68] 2014 Hearing, *supra* note 43.

[69] We note that a fourth commenter supported the TRICARE exemption without asking to expand it; however, they defined TRICARE as a VCA. This is inaccurate, as TRICARE and VCAs are entirely separate programs administered by different agencies. VCAs are agreements entered into by the VA, while TRICARE is a separate and distinct health care program under the Department of Defense (DoD).

[70] 38 U.S.C. 1703A.

[71] *See https://missionact.va.gov/* (last accessed April 23, 2020).

[72] *See* 38 U.S.C. 1703A(i)(1) (''A Veterans Care Agreement may be authorized by the Secretary or any Department official authorized by the Secretary, and such action shall not be treated as . . . a Federal contract for the acquisition of goods or services for purposes of any provision of Federal law governing Federal contracts for the acquisition of goods or services . . .'').

[73] *Id.* at 1703A(i)(2)(B)(ii).

with VA is that the commenter might be referring to any of various procurement instruments used by VA in recent years, prior to when VA began utilizing VCAs and its current generation of third-party administrator contracts, the aforementioned CCNs. Some of those procurement instruments are conventional procurement contracts. VA's previous generation of third-party administrator contracts, which are sometimes called Patient-Centered Community Care, or ''PC3,'' contracts, is one example. Generally, these agreements, like CCNs, are competitively bid Federal contracts without statutory exemptions, and thus there is no statutory basis for OFCCP to disclaim authority. However, to the extent that the comment intended ''legacy VA contracts'' to refer to Choice Provider Agreements, authorized by the Veterans Access, Choice, and Accountability Act of 2014, section 101(d) of that law provided that such agreements were specifically exempted from OFCCP jurisdiction.[74]

In sum, with the exception of any remaining Choice Provider Agreements, the existing statutory framework does not provide support for removing VA health benefits contracts from OFCCP's authority. However, OFCCP has previously taken action with regard to such VA health benefit provider (VAHBP) agreements when it issued Directive 2018–02 in May 2018. That directive, which extended the moratorium on the review of TRICARE health care providers originally issued in 2014, expanded the moratorium on scheduling to include these VAHBP agreements.[75] Consistent with the handling of FEHBP, OFCCP will consider additional subregulatory guidance as necessary to provide certainty and clarity to the status of VAHBPs.

Accordingly, after a full review of the comments, OFCCP adopts this final rule incorporating the provisions proposed in the NPRM.

[74] Public Law 113–146, 101(d) (2014) (''During the period in which such entity furnishes care or services pursuant to this section, such entity may not be treated as a Federal contractor or subcontractor by the Office of Federal Contract Compliance Programs of the Department of Labor by virtue of furnishing such care or services.''). We note that the VA no longer has authority to enter into these Choice Provider Agreements given subsequent revisions to the Veterans Choice Act.

[75] OFCCP Directive 2018–02, TRICARE Subcontractor Enforcement Activities (May 18, 2018), available at *https://www.dol.gov/ofccp/regs/compliance/directives/dir2018_02.html* (last accessed April 20, 2020).

IX. Section-by-Section Analysis

Section 60–1.3 Definitions

OFCCP proposed adding a sub-paragraph to the definition of subcontract in the E.O. 11246 regulations noting that a subcontract does not include an agreement between a health care provider and health organization pursuant to which the health care provider agrees to furnish health care services or supplies to beneficiaries of TRICARE. OFCCP also proposed adding definitions of ''agreement,'' ''health care provider,'' and ''health organization.'' For the reasons set forth above, the final rule adopts these changes as proposed in the NPRM.

Section 60–300.2 Definitions

OFCCP proposed adding a sub-paragraph to the definition of subcontract in the VEVRAA regulations noting that a subcontract does not include an agreement between a health care provider and health organization pursuant to which the health care provider agrees to furnish health care services or supplies to beneficiaries of TRICARE. OFCCP also proposed adding definitions of ''agreement,'' ''health care provider,'' and ''health organization.'' For the reasons set forth above, the final rule adopts these changes as proposed in the NPRM.

Section 60–741.2 Definitions

OFCCP proposed adding a sub-paragraph to the definition of subcontract in the Section 503 regulations noting that a subcontract does not include an agreement between a health care provider and health organization pursuant to which the health care provider agrees to furnish health care services or supplies to beneficiaries of TRICARE. OFCCP also proposed adding definitions of ''agreement,'' ''health care provider,'' and ''health organization.'' For the reasons set forth above, the final rule adopts these changes as proposed in the NPRM.

Regulatory Analysis

E.O. 12866 (Regulatory Planning and Review) and E.O. 13563 (Improving Regulation and Regulatory Review)

Under E.O. 12866, the U.S. Office of Management and Budget's (OMB's) Office of Information and Regulatory Affairs (OIRA) determines whether a regulatory action is significant and, therefore, subject to the requirements of E.O. 12866 and OMB review. Section 3(f) of E.O. 12866 defines a ''significant regulatory action'' as an action that is likely to result in a rule that: (1) Has an annual effect on the economy of $100 million or more, or adversely affects in a material way 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) creates serious inconsistency or otherwise interferes with an action taken or planned by another agency; (3) materially alters the budgetary impacts of entitlement grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) raises novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in E.O. 12866. The Office of Management and Budget has determined that this final rule is a significant action under E.O. 12866 and has reviewed the final rule. Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), OIRA designated that this rule is not a ''major rule,'' as defined by 5 U.S.C. 804(2).

E.O. 13563 directs agencies to propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs; tailor the regulation to impose the least burden on society, consistent with obtaining the regulatory objectives; and in choosing among alternative regulatory approaches, select those approaches that maximize net benefits. E.O. 13563 recognizes that some benefits are difficult to quantify and provides that, where appropriate and permitted by law, agencies may consider and discuss qualitatively values that are difficult or impossible to quantify, including equity, human dignity, fairness, and distributive impacts.

The Need for the Regulation

The regulatory changes in this final rule are needed to provide clarity regarding OFCCP's authority over health care providers that provide services and supplies under TRICARE, improve uniformed service members' and veterans' access to medical care, more efficiently allocate OFCCP's limited resources for enforcement activities, and provide greater uniformity, certainty, and notice for health care providers participating in TRICARE. The final rule is intended to address concerns regarding the risk that health care providers may be declining to participate in TRICARE, which reduces the availability of medical services for uniformed service members, veterans, and their families. OFCCP is exempting health care providers with agreements to furnish medical services and supplies to individuals participating in TRICARE

from E.O. 11246, Section 503, and VEVRAA.

Discussion of Impacts

In this section, OFCCP presents a summary of the costs and savings associated with the changes in this final rule. In line with recent assessments of other rulemakings, the agency has determined that either a Human Resources Manager (SOC 11–3121) or a Lawyer (SOC 23–1011) would review the rule. OFCCP estimates that 50 percent of the reviewers would be human resources managers and 50 percent would be in-house counsel. Thus, the mean hourly wage rate reflects a 50/50 split between human resources managers and lawyers. The mean hourly wage of a human resources manager is $62.29 and the mean hourly wage of a lawyer is $69.86.[76] Therefore, the average hourly wage rate is $66.08 (($62.29 + $69.86)/2). OFCCP adjusted this wage rate to reflect fringe benefits such as health insurance and retirement benefits, as well as overhead costs such as rent, utilities, and office equipment. The agency used a fringe benefits rate of 46 percent[77] and an overhead rate of 17 percent,[78] resulting in a fully loaded hourly compensation rate of $107.71 ($66.08 + ($66.08 × 46 percent) + ($66.08 × 17 percent). The estimated labor cost to contractors is reflected in Table 1, below.

TABLE 1—LABOR COST

Major occupational groups	Average hourly wage rate	Fringe benefit rate	Overhead rate	Fully loaded hourly compensation
Human Resources Managers and Lawyers	$66.08	46%	17%	$107.71

Public Comments

In this section, OFCCP addresses the public comments specifically received on the Regulatory Impact Analysis. The agency received three comments on the Regulatory Impact Analysis.

One commenter, a Lutheran health care provider, addressed their reluctance to enter into contracts with the Veteran's Administration and stated, ''In some cases, we have reluctantly entered into these agreements because of the regulatory burden but have done so because we want to honor veterans who live close to one of our facilities.''

Some commenters criticized OFCCP for not sufficiently analyzing the effect that removing OFCCP's authority over TRICARE providers will have on the provision of health care services. For example, a women's civil rights organization, on behalf of seventeen other civil rights organizations, commented that ''OFCCP makes no accounting for the costs to workers of loss of protections against discrimination and the increase in vulnerability to discrimination in the absence of OFCCP's systemic enforcement activities. It does not seek to quantify or otherwise address the ways in which discriminatory harassment and exploitation of health care workers can compromise patient care.'' A member of Congress echoed this concern, noting that a 2005 employment survey found that ''more than 60 percent of surveyed physicians, primarily women and minorities, reported experiencing workplace discrimination.'' However, the commenters provided no data that would allow for quantitative cost estimations of this final rule.

Cost of Regulatory Familiarization

OFCCP acknowledges that 5 CFR 1320.3(b)(1)(i) requires agencies to include in the burden analysis the estimated time it takes for contractors to review and understand the instructions for compliance. To minimize the burden, OFCCP will publish compliance assistance materials including, fact sheets and responses to ''Frequently Asked Questions.'' OFCCP may also host webinars for the contractor community that will describe the new requirements and conduct listening sessions to identify any specific challenges contractors believe they face, or may face, when complying with the requirements.

OFCCP believes that a human resources manager or lawyer at each health care contractor establishment or firm within its authority will be responsible for understanding or becoming familiar with the new requirements. The agency estimates that it will take a minimum of 30 minutes (½ hour) for the human resources manager or lawyer to read the final rule, read the compliance assistance materials provided by OFCCP, or participate in an OFCCP webinar to learn more about the new requirements. Consequently, the estimated burden for rule familiarization is 43,654 hours (87,308 establishments × ½ hour).[79] OFCCP calculates the total estimated cost of rule familiarization as $4,701,972 (43,654 hours × $107.71/hour) in the first year, which amounts to a 10-year annualized cost of $535,160 at a discount rate of 3 percent ($6.13 per health care contractor firm) or $625,659 at a discount rate of 7 percent ($7.17 per health care contractor firm). Table 2, below, reflects the estimated regulatory familiarization costs for the final rule.

TABLE 2—REGULATORY FAMILIARIZATION COST

Total number of health care contractor establishments	87,308.
Time to review rule	30 minutes.
Human Resources Managers and Lawyers, fully loaded hourly compensation	$107.71.
Regulatory familiarization cost in the first year	$4,701,972.
Annualized cost with 3 percent discounting	$535,160.
Annualized cost per health care contractor with 3 percent discounting	$6.13.
Annualized cost with 7 percent discounting	$625,659.

[76] BLS, Occupational Employment Statistics, Occupational Employment and Wages, May 2019, *https://www.bls.gov/oes/current/oes_nat.htm* (last accessed April 3, 2020).

[77] BLS, Employer Costs for Employee Compensation, *https://www.bls.gov/ncs/data.htm* (last accessed March 17, 2020). Wages and salaries averaged $24.86 per hour worked in 2018, while benefit costs averaged $11.52, which is a benefits rate of 46 percent.

[78] Cody Rice, U.S. Environmental Protection Agency, ''Wage Rates for Economic Analyses of the Toxics Release Inventory Program,'' (June 10, 2002), *https://www.regulations.gov/document?D=EPA-HQ-OPPT-2014-0650-0005* (last accessed March 17, 2020).

[79] The determination of the estimated number of health care contractor establishments is discussed under Cost Savings, below.

TABLE 2—REGULATORY FAMILIARIZATION COST—Continued

Annualized cost per health care contractor with 7 percent discounting	$7.17.

The rule does not impose any additional costs because it adds no new requirements.

Cost Savings

While the final rule does not impose any additional costs, the Department does anticipate cost savings as it reconsiders OFCCP's authority over health care providers with agreements to furnish medical services and supplies to individuals participating in TRICARE, and in the alternative, proposes a national interest exemption from E.O. 11246, VEVRAA, and Section 503 for these health care providers, thus eliminating any requirements associated with developing, updating, and maintaining AAPs. As explained further below, the agency cannot quantify the cost savings due to lack of data on how many contractors may be obligated to maintain an AAP under contracts that are not exempted by this final rule. However, the information that follows sets forth relevant evidence and other helpful data that can be used to help assess cost savings as a result of changes in the final rule.

To estimate the number of Federal contractors potentially impacted by the final rule, OFCCP identified the number of health care providers participating in TRICARE.[80] The agency further refined this universe to those entities with 50 or more employees, since the greatest burdens associated with the E.O. 11246, VEVRAA, and Section 503 requirements are associated with developing, updating, and maintaining AAPs.[81] OFCCP then determined the rate of compliance using OFCCP's compliance evaluation data from Fiscal Years 2012 through 2019. The data show that approximately 95 percent of health care providers scheduled for an OFCCP compliance evaluation during that period submitted their AAPs when requested and the remaining 5 percent submitted their AAPs after receiving a show cause notice. The scheduled health care providers included a range of contractors having from 50 to more than 501 employees.

OFCCP identified the number of health care providers in the U.S. Census Bureau's Statistics of U.S. Businesses, using North American Industry Classification System (NAICS) 621, 622, and 623. There are 722,291 health care providers of which 29.2 percent or 210,909 have 50 or more employees.[82]

The Department of Defense's annual report to Congress stated that there were 155,500 TRICARE Primary Care Network Providers and 143,500 TRICARE Specialist Network Providers in FY2019.[83] OFCCP estimates that 29.2 percent of these providers have 50 or more employees. The agency believes that 87,308 providers ((155,500 + 143,500) × 29.2%)) are potentially impacted by the final rule.

Calculating cost savings is made more difficult because the savings may depend on whether the health care provider is still obligated to maintain an AAP under other contracts. Such obligations may come from many additional sources. For example, the health care provider would still be required to maintain an AAP if the provider qualified as a Federal contractor due to activities outside what is covered by this final rule or if the provider contracts with states that mandate AAPs for certain employers.[84] Therefore, the estimate of affected TRICARE providers may overstate the number of entities that would actually realize cost savings as a result of this final rule.

The rule amends § 60–1.3 to note that a subcontract does not include an agreement between a health care provider and a health organization pursuant to which the health care provider agrees to furnish services to beneficiaries of TRICARE. The clarification and amendment results in a cost savings, as some affected contractors would no longer be required to comply with E.O. 11246 requirements and to engage in such activities as creating, updating, or maintaining AAPs or providing notifications to employees, subcontractors, or unions. OFCCP's currently approved Information Collection Request (ICR) for its supply and service program (OMB Control No. 1250–0003) estimates an average of 91.44 hours per contractor to comply with the E.O. 11246 requirements.

The rule amends § 60–300.2 to note that a subcontract does not include an agreement between a health care provider and a health organization pursuant to which the health care provider agrees to furnish services to beneficiaries of TRICARE. The clarification and amendment results in a cost savings, as some affected contractors would no longer be required to comply with VEVRAA requirements and to engage in such activities as creating, updating, or maintaining AAPs, listing job opportunity notices with the local or state employment service delivery systems, or providing notifications to employees, subcontractors, or unions. OFCCP's currently approved ICR for its VEVRAA requirements (OMB Control No. 1250–0004) estimates an average of 16.86 hours per contractor to comply with the VEVRAA requirements.

The rule amends § 60–741.2 to note that a subcontract does not include an agreement between a health care provider and a health organization pursuant to which the health care provider agrees to furnish services to beneficiaries of TRICARE. The clarification and amendment results in a cost savings, as some affected contractors would no longer be required to comply with Section 503 requirements and to engage in such activities as creating, updating, or maintaining AAPs, or providing notifications to employees, subcontractors, or unions. OFCCP's currently approved ICR for its Section 503 requirements (OMB Control No. 1250–0005) estimates an average of 7.92 hours per contractor to comply with the Section 503 requirements.

Summary of Transfer and Benefits

E.O. 13563 recognizes that some rules have benefits that are difficult to

[80] OFCCP considered using its most recent EEO–1 numbers to conduct this analysis, but the reporting requirements are limited to prime contractors and first tier subcontractors. However, OFCCP's universe includes all tiers of subcontractors that meet the jurisdictional thresholds. Using EEO–1 data would underestimate the impact of the final rule. Thus, OFCCP relied upon the analysis described herein.

[81] The requirement to develop AAPs is based on having 50 or more employees and having a contract that meets specific thresholds. OFCCP does not have information regarding the value of the contracts or financial agreements. Thus, the estimated number of establishments may be overstated as it may include establishments that have contracts of less than $50,000 (E.O. 11246 and Section 503) or have contracts of less than $150,000 (VEVRAA).

[82] Number of Firms, Number of Establishments, Employment, and Annual Payroll by Enterprise Employment Size for the United States, All Industries: 2017, *https://www2.census.gov/programs-surveys/susb/tables/2017/us_6digitnaics_2017.xlsx?#* (last accessed April 3, 2020).

[83] Evaluation of TRICARE Programs, Fiscal Year 2019, Report to Congress, *https://www.health.mil/Military-Health-Topics/Access-Cost-Quality-and-Safety/Health-Care-Program-Evaluation/Annual-Evaluation-of-the-TRICARE-Program* (last accessed April 3, 2020).

[84] *https://ballotpedia.org/Federal_and_state_affirmative_action_and_anti-discrimination_laws* (last accessed March 17, 2020).

quantify or monetize but are nevertheless important, and states that agencies may consider such benefits. This rule has equity and fairness benefits, which are explicitly recognized in E.O. 13563.

The final rule is designed to achieve these benefits by providing clear guidance to contractors, and increasing contractor understanding of OFCCP's authority as it relates to heath care providers. If the final rule decreases the confusion of Federal contractors, this impact most likely represents a transfer of value to taxpayers (if contractor fees decrease because they do not need to engage third party representatives to interpret OFCCP's requirements).

Alternative Discussion

A women's civil rights organization, on behalf of seventeen other civil rights organizations, commented that an extension of the current moratorium would be a more preferable policy than a ''categorical regulatory exclusion of TRICARE providers.'' OFCCP disagrees with this comment. In proposing this rule, the Department considered a non-regulatory alternative: issuing moratoria or other sub-regulatory guidance in which OFCCP would exercise enforcement discretion and not schedule compliance evaluations of certain health care providers. The Department rejects this alternative, as it would result in much greater uncertainty among the regulated entities. Also, as discussed earlier in the preamble, the 2014 and 2018 moratoria were premised on OFCCP's conclusion that it had authority over TRICARE providers. An extension of the current moratorium is not feasible because OFCCP has concluded it does not have the legal authority to regulate TRICARE providers.

Regulatory Flexibility Act and E.O. 13272 (Consideration of Small Entities)

The agency did not receive any public comments on the Regulatory Flexibility Analysis.

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601 *et seq.,* establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and applicable statutes, to fit regulatory and informational requirements to the scale of the business organizations and governmental jurisdictions subject to regulation.'' Public Law 96–354. The Act requires the consideration for the impact of a regulation on a wide range of small entities including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a final rule would have a significant economic impact on a substantial number of small entities.[85] If the determination is that it would, then the agency must prepare a regulatory flexibility analysis as described in the RFA.[86]

However, if an agency determines that a final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. *See* 5 U.S.C. 605. The certification must include a statement providing the factual basis for this determination and the reasoning should be clear. OFCCP does not expect this final rule to have a significant economic impact on a substantial number of small entities. The annualized cost at a discount rate of seven percent for rule familiarization is $7.17 per entity ($50.33 in the first year) which is far less than one percent of the annual revenue of the smallest of the small entities affected by this final rule. Therefore, OFCCP certifies that this final rule will not have a significant impact on a substantial number of small affected entities.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the Department consider the impact of paperwork and other information collection burdens imposed on the public. According to the 1995 amendments to the Paperwork Reduction Act (5 CFR 1320.5(b)(2)(vi)), an agency may not collect or sponsor the collection of information or impose an information collection requirement unless the information collection instrument displays a currently valid OMB control number. OFCCP has determined that there is no new requirement for information collection associated with this final rule. The information collection requirements contained in the existing E.O. 11246, VEVRAA, and Section 503 regulations are currently approved under OMB Control No. 1250–0003 (OFCCP Recordkeeping and Reporting Requirements—Supply and Service), OMB Control No. 1250–0004 (OFCCP Recordkeeping and Reporting Requirements—38 U.S.C. 4212, Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended), and OMB Control No. 1250–0005 (OFCCP Recordkeeping and Reporting Requirements—Section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 703). Consequently, this final rule does not require review by the Office of Management and Budget under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

E.O. 13132 (Federalism)

OFCCP has reviewed this final rule in accordance with E.O. 13132 regarding federalism, and has determined that it does not have ''federalism implications.'' This rule will not ''have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

E.O. 13175 (Consultation and Coordination With Indian Tribal Governments)

This final rule does not have tribal implications under E.O. 13175 that require a tribal summary impact statement. The final rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

List of Subjects

41 CFR Part 60–1

Administrative practice and procedure, Equal employment opportunity, Government contracts, Reporting and recordkeeping requirements.

41 CFR Part 60–300

Administrative practice and procedure, Civil rights, Employment, Equal employment opportunity, Government contracts, Government procurement, Individuals with disabilities, Investigations, Reporting and recordkeeping requirements, Veterans.

41 CFR Part 60–741

Administrative practice and procedure, Civil rights, Employment, Equal employment opportunity, Government contracts, Government procurement, Individuals with disabilities, Investigations, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, OFCCP amends 41 CFR parts 60–1, 60–300, and 60–741 as follows:

[85] *See* 5 U.S.C. 603.

[86] *Id.*

PART 60–1—OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS

■ 1. The authority citation for part 60–1 continues to read as follows:

Authority: Sec. 201, E.O. 11246, 30 FR 12319, 3 CFR, 1964–1965 Comp., p. 339, as amended by E.O. 11375, 32 FR 14303, 3 CFR, 1966–1970 Comp., p. 684, E.O. 12086, 43 FR 46501, 3 CFR, 1978 Comp., p. 230, E.O. 13279, 67 FR 77141, 3 CFR, 2002 Comp., p. 258 and E.O. 13672, 79 FR 42971.

Subpart A—Preliminary Matters; Equal Opportunity Clause; Compliance Reports

■ 2. In § 60–1.3, revise the definition of ''Subcontract'' to read as follows:

§ 60–1.3 Definitions.

* * * * *

Subcontract. (1) Subcontract means any agreement or arrangement between a contractor and any person (in which the parties do not stand in the relationship of an employer and an employee):

(i) For the purchase, sale or use of personal property or nonpersonal services which, in whole or in part, is necessary to the performance of any one or more contracts; or

(ii) Under which any portion of the contractor's obligation under any one or more contracts is performed, undertaken, or assumed; and

(2) Does not include an agreement between a health care provider and a health organization under which the health care provider agrees to provide health care services or supplies to natural persons who are beneficiaries under TRICARE.

(i) An agreement means a relationship between a health care provider and a health organization under which the health care provider agrees to provide health care services or supplies to natural persons who are beneficiaries under TRICARE.

(ii) A health care provider is a physician, hospital, or other individual or entity that furnishes health care services or supplies.

(iii) A health organization is a voluntary association, corporation, partnership, managed care support contractor, or other nongovernmental organization that is lawfully engaged in providing, paying for, insuring, or reimbursing the cost of health care services or supplies under group insurance policies or contracts, medical or hospital service agreements, membership or subscription contracts, network agreements, health benefits plans duly sponsored or underwritten by an employee organization or association of organizations and health maintenance organizations, or other similar arrangements, in consideration of premiums or other periodic charges or payments payable to the health organization.

* * * * *

PART 60–300—AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF FEDERAL CONTRACTORS AND SUBCONTRACTORS REGARDING DISABLED VETERANS, RECENTLY SEPARATED VETERANS, ACTIVE DUTY WARTIME OR CAMPAIGN BADGE VETERANS, AND ARMED FORCES SERVICE MEDAL VETERANS

■ 3. The authority citation for part 60–300 continues to read as follows:

Authority: 29 U.S.C. 793; 38 U.S.C. 4211 and 4212; E.O. 11758 (3 CFR, 1971–1975 Comp., p. 841).

Subpart A—Preliminary Matters, Equal Opportunity Clause

■ 4. In § 60–300.2, revise paragraph (x) to read as follows:

§ 60–300.2 Definitions.

* * * * *

(x) *Subcontract.* (1) Subcontract means any agreement or arrangement between a contractor and any person (in which the parties do not stand in the relationship of an employer and an employee):

(i) For the purchase, sale or use of personal property or nonpersonal services which, in whole or in part, is necessary to the performance of any one or more contracts; or

(ii) Under which any portion of the contractor's obligation under any one or more contracts is performed, undertaken, or assumed; and

(2) Does not include an agreement between a health care provider and a health organization under which the health care provider agrees to provide health care services or supplies to natural persons who are beneficiaries under TRICARE.

(i) An agreement means a relationship between a health care provider and a health organization under which the health care provider agrees to provide health care services or supplies to natural persons who are beneficiaries under TRICARE.

(ii) A health care provider is a physician, hospital, or other individual or entity that furnishes health care services or supplies.

(iii) A health organization is a voluntary association, corporation, partnership, managed care support contractor, or other nongovernmental organization that is lawfully engaged in providing, paying for, insuring, or reimbursing the cost of health care services or supplies under group insurance policies or contracts, medical or hospital service agreements, membership or subscription contracts, network agreements, health benefits plans duly sponsored or underwritten by an employee organization or association of organizations and health maintenance organizations, or other similar arrangements, in consideration of premiums or other periodic charges or payments payable to the health organization.

* * * * *

PART 60–741—AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF FEDERAL CONTRACTORS AND SUBCONTRACTORS REGARDING INDIVIDUALS WITH DISABILITIES

■ 5. The authority citation for part 60–741 continues to read as follows:

Authority: 29 U.S.C. 705 and 793; E.O. 11758 (3 CFR, 1971–1975 Comp., p. 841).

Subpart A—Preliminary Matters, Equal Opportunity Clause

■ 6. In § 60–741.2, revise paragraph (x) to read as follows:

§ 60–741.2 Definitions.

* * * * *

(x) *Subcontract.* (1) Subcontract means any agreement or arrangement between a contractor and any person (in which the parties do not stand in the relationship of an employer and an employee):

(i) For the purchase, sale or use of personal property or nonpersonal services which, in whole or in part, is necessary to the performance of any one or more contracts; or

(ii) Under which any portion of the contractor's obligation under any one or more contracts is performed, undertaken, or assumed; and

(2) Does not include an agreement between a health care provider and a health organization under which the health care provider agrees to provide health care services or supplies to natural persons who are beneficiaries under TRICARE.

(i) An agreement means a relationship between a health care provider and a health organization under which the health care provider agrees to provide health care services or supplies to natural persons who are beneficiaries under TRICARE.

(ii) A health care provider is a physician, hospital, or other individual

or entity that furnishes health care services or supplies.

(iii) A health organization is a voluntary association, corporation, partnership, managed care support contractor, or other nongovernmental organization that is lawfully engaged in providing, paying for, insuring, or reimbursing the cost of health care services or supplies under group insurance policies or contracts, medical or hospital service agreements, membership or subscription contracts, network agreements, health benefits plans duly sponsored or underwritten by an employee organization or association of organizations and health maintenance organizations, or other similar arrangements, in consideration of premiums or other periodic charges or payments payable to the health organization.

* * * * *

Signed at Washington, DC on May 27, 2020.

Craig E. Leen,

Director, Office of Federal Contract Compliance Programs.

[FR Doc. 2020–11934 Filed 7–1–20; 8:45 am]

BILLING CODE 4510–45–P

GENERAL SERVICES ADMINISTRATION

41 CFR parts 300–3, 300–70, 300–80, 300–90, 301–10, 301–11, 301–13, 301–52, 301–70, 301–72, 301–73, 301–74, 301–75, Appendix A to Chapter 301, Appendix B to Chapter 301, Appendix E to Chapter 301, parts 302–1, 302–4, 302–5, 302–7, 302–8, 304–2, and 304–6

[FTR Case 2020–TA–01; Docket No. GSA–FTR–2020–0008, Sequence No. 1]

Federal Travel Regulation; Technical Amendments

AGENCY: Office of Government-wide Policy (OGP), General Services Administration (GSA).

ACTION: Final rule.

SUMMARY: GSA is amending the Federal Travel Regulation (FTR) to make necessary editorial changes.

DATES: This rule is effective August 3, 2020.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Ms. Jill Denning, Program Analyst, Office of Government-wide Policy, at 202–208–7642. Contact the Regulatory Secretariat Division (MVCB), 1800 F Street NW, 2nd Floor, Washington, DC 20405, 202–501–4755, for information pertaining to status or publication schedules. Please cite FTR Case 2020–TA–01, Technical Amendments.

SUPPLEMENTARY INFORMATION:

A. Background

The General Services Administration is issuing a final rule to make technical amendments to various provisions of the Federal Travel Regulation. These technical amendments correct hyperlinks in accordance with Office of Management and Budget Memorandum M–15–13 ''Policy to Require Secure Connections across Federal websites and Web Services'' (June 5, 2015), format discrepancies, update legal citations, and make miscellaneous/editorial revisions.

B. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives, and if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This final rule is not a significant regulatory action, and therefore, is not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. GSA has further determined that this final rule is not a major rule under 5 U.S.C. 804.

C. Executive Order 13771

This final rule is not subject to the requirements of E.O. 13771 (82 FR 9339, February 3, 2017) because it is related to agency organization, management, or personnel and is not a significant regulatory action under E.O. 12866.

D. Regulatory Flexibility Act

This final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* This final rule is also exempt from the Administrative Procedures Act pursuant to 5 U.S.C. 553(a)(2) because this final rule involves matters relating to agency management or personnel.

E. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FTR do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501, *et seq.*

F. Small Business Regulatory Enforcement Fairness Act

This final rule is also exempt from Congressional review prescribed under 5 U.S.C. 801. This final rule is not a major rule under 5 U.S.C. 804.

List of Subjects

41 CFR Parts 300–3, 300–80, 301–11, 301–52, 301–74, 301–75, Appendices A, B, and E to Chapter 301; and Parts 302–1, 302–4, 302–5, 302–7, 302–8, 304–2, and 304–6

Government employees, Travel and transportation expenses.

41 CFR Parts 300–70, 300–90

Government employees, Reporting and recordkeeping requirements, Travel and transportation expenses.

41 CFR Part 301–10

Common carriers, Government employees, Government property, Travel and transportation expenses.

41 CFR Part 301–13

Government employees, Individuals with disabilities, Travel and transportation expenses.

41 CFR Part 301–70

Administrative practice and procedure, Government employees, Individuals with disabilities, Travel and transportation expenses.

41 CFR Part 301–72

Common carriers, Government employees, Travel and transportation expenses.

41 CFR Parts 301–73

Government contracts, Travel and transportation expenses.

Emily W. Murphy,

Administrator.

For reasons set forth in the preamble, GSA amends 41 CFR parts 300–3, 300–70, 300–80, 300–90, 301–10, 301–11, 301–13, 301–52, 301–70, 301–72, 301–73, 301–74, 301–75, appendix A to Chapter 301, appendix B to Chapter 301, appendix E to Chapter 301, parts 302–1, 302–4, 302–5, 302–7, 302–8, 304–2, and 304–6 as set forth below:

PART 300–3—GLOSSARY OF TERMS

■ 1. The authority citation for 41 CFR part 300–3 continues to read as follows:

Authority: 5 U.S.C. 5707; 40 U.S.C. 121(c); 49 U.S.C. 40118; 5 U.S.C. 5738; 5 U.S.C. 5741–5742; 20 U.S.C. 905(a); 31 U.S.C. 1353;

E.O 11609, as amended, 3 CFR, 1971–1975 Comp., p. 586, Office of Management and Budget Circular No. A–126, revised May 22, 1992.

■ 2. Amend § 300–3.1 by revising paragraph (4) in the definition of ''Professional Books, Papers and Equipment (PBP&E)'' to read as follows:

§ 300–3.1 What do the following terms mean?

* * * * *

*Professional Books, Papers and Equipment (PBP&E)** * *

(4) Communications equipment used by the employee in association with DoDI 4650.02, Military Auxiliary Radio System (MARS).

* * * * *

PART 300–70—AGENCY REPORTING REQUIREMENTS

■ 3. The authority citation for part 300–70 continues to read as follows:

Authority: 5 U.S.C. 5707; 5 U.S.C. 5738; 5 U.S.C. 5741–5742; 20 U.S.C. 905(a); 31 U.S.C. 1353; 40 U.S.C. 121(c); 49 U.S.C. 40118; E.O. 11609, as amended, 3 CFR, 1971–1975 Comp., p. 586.

§ 300–70.2 [Amended]

■ 4. Amend § 300–70.2 by removing ''*www.gsa.gov/trip*'' and adding ''*https://www.gsa.gov/trip*'' in its place.

§ 300–70.101 [Amended]

■ 5. Amend § 300–70.101 by removing ''*www.gsa.gov/bulletin*'' and adding ''*https://www.gsa.gov/ftrbulletins*'' in its place.

PART 300–80—RELOCATION EXPENSES TEST PROGRAMS

■ 6. The authority citation for part 300–80 continues to read as follows:

Authority: 5 U.S.C. 5707, 5738, and 5739.

§ 300–80.3 [Amended]

■ 7. Amend § 300–80.3 by removing ''(Attention: MTT)'' and adding '', Office of Government-wide Policy'' in its place.

§ 300–80.8 [Amended]

■ 8. Amend § 300–80.8 by removing ''(Attention: MTT)'' and adding '', Office of Government-wide Policy'' in its place.

§ 300–80.9 [Amended]

■ 9. Amend § 300–80.9 by removing from paragraphs (b)(1) and (b)(2) ''Governmentwide Policy, Office of Travel, Transportation and Asset Management (Attention MTT)'' and adding ''Government-wide Policy, 1800 F Street, NW'' in its place.

PART 300–90—TELEWORK EXPENSES TEST PROGRAMS

■ 10. The authority citation for part 300–90 continues to read as follows:

Authority: 5 U.S.C. 5707 and 5711.

§ 300–90.3 [Amended]

■ 11. In § 300–90.3 amend the introductory text by removing ''(Attention: MA)'' and adding '', Office of Government-wide Policy'' in its place.

§ 300–90.8 [Amended]

■ 12. In § 300–90.8 amend the introductory text by removing ''(Attention: MA)'' and adding '', Office of Government-wide Policy'' in its place.

§ 300–90.9 [Amended]

■ 13. Amend § 300–90.9 by removing from paragraphs (b)(1) and (b)(2) ''Office of Asset and Transportation Management (Attention: MA)'' and adding ''1800 F Street NW'' in its place.

PART 301–10—TRANSPORTATION EXPENSES

■ 14. The authority citation for part 301–10 continues to read as follows:

Authority: 5 U.S.C. 5707, 40 U.S.C. 121(c); 49 U.S.C. 40118; Office of Management and Budget Circular No. A–126, ''Improving the Management and Use of Government Aircraft.'' Revised May 22, 1992.

§ 301–10.106 [Amended]

■ 15. Amend § 301–10.106 by removing ''*http://www.gsa.gov/citypairs*'' and adding ''*https://www.gsa.gov/citypairs*'' in its place.

§ 301–10.135 [Amended]

■ 16. Amend § 301–10.135 by:

■ a. In paragraph (b)(1) removing ''*http://www.gsa.gov/openskies*'' and adding ''*https://www.gsa.gov/openskies*'' in its place;

■ b. In paragraph (b)(2)removing ''*www.gsa.gov/bulletin*'' and adding ''*https://www.gsa.gov/ftrbulletins*'' in its place; and

■ c. In paragraph (c) removing '', United States Information Agency, United States International Development Cooperation Agency, or the Arms Control Disarmament Agency'' and adding ''or the United States Agency for International Development'' in its place.

§ 301–10.180 [Amended]

■ 17. Amend § 301–10.180 by removing ''App. Sec. 1241'' and adding ''§ 55302'' in its place.

§ 301–10.261 [Amended]

■ 18. Amend § 301–10.261 by removing from paragraph (a)(2) ''from the General Services Administration, Office of Governmentwide Policy, MTA, 1800 F Street, NW, Washington, DC 20405'' and adding ''by emailing *aviationpolicy@gsa.gov*'' in its place.

§ 301–10.303 [Amended]

■ 19. Amend § 301–10.303 by removing ''*http://www.gsa.gov/mileage*'' and adding ''*https://www.gsa.gov/mileage*'' in its place.

§ 301–10.310 [Amended]

■ 20. Amend § 301–10.310 by removing ''*http://www.gsa.gov/ftrbulletins*'' and adding ''*https://www.gsa.gov/ftrbulletins*'' in its place.

PART 301–11—PER DIEM EXPENSES

■ 21. The authority citation for part 301–11 continues to read as follows:

Authority: 5 U.S.C. 5707.

§ 301–11.6 [Amended]

■ 22. Amend § 301–11.6 by:

■ a. In paragraph (a), in the second row of the third column of the table, removing ''Office of Governmentwide Policy, Office of Transportation and Personal Property, Travel Management Policy, and available on the internet at *http://www.gsa.gov/perdiem*'' and adding ''Office of Government-wide Policy, and available at *https://www.gsa.gov/perdiem*'' in its place;

■ b. Remove from paragraph (b), in the third row of the third column of the table, removing ''*http://www.defensetravel.dod.mil/site/perdiemCalc.cfm*'' and adding ''*https://www.defensetravel.dod.mil/site/perdiemCalc.cfm*'' in its place; and

■ c. In paragraph (c), in the fourth row of the third column of the table, removing ''*www.state.gov*'' and adding ''*https://aoprals.state.gov/web920/per_diem.asp*'' in its place.

§ 301–11.11 [Amended]

■ 23. Amend § 301–11.11 by removing from paragraph (c) ''*http://www.fedrooms.com*'' and adding ''*https://www.fedrooms.com*'' in its place.

§ 301–11.18 [Amended]

■ 24. Amend § 301–11.18 by removing from paragraph (a) ''*www.gsa.gov/mie*'' and adding ''*https://www.gsa.gov/mie*'' in its place.

§ 301–11.26 [Amended]

■ 25. Amend § 301–11.26 by:

■ a. In the first column of the table, removing ''Office of Governmentwide

Policy, Attn: Travel Policy (MTT)'' and adding ''Office of Government-wide Policy'' in its place; and

■ b. In second row of the second column of the table, removing ''4601 N Fairfax Dr., Suite 800, Arlington, VA 22203'' and adding ''4800 Mark Center Drive, Suite 04J325–01, Alexandria, VA 22350–9000'' in its place.

§ 301–11.29 [Amended]

■ 26. Amend § 301–11.29 by removing ''*https://smartpay.gsa.gov/about-gsa-smartpay/tax-information/state-response-letter*'' and adding ''*https://smartpay.gsa.gov/content/state-tax-information*'' in its place.

PART 301–13—TRAVEL OF AN EMPLOYEE WITH SPECIAL NEEDS

■ 27. The authority citation for part 301–13 continues to read as follows:

Authority: 5 U.S.C. 5707.

§ 301–13.3 [Amended]

■ 28. Amend § 301–13.3 by removing from the note to paragraph (g) ''*http://www.opm.gov/disability/mngr_6-01-B.asp*'' and adding ''*https://www.opm.gov/FAQs*'' in its place.

PART 301–52—CLAIMING REIMBURSEMENT

■ 29. The authority citation for part 301–52 continues to read as follows:

Authority: 5 U.S.C. 5707; 40 U.S.C. 121(c); Sec. 2, Pub. L. 105–264, 112 Stat. 2350 (5 U.S.C. 5701 note).

■ 30. Amend § 301–52.4 by revising paragraph (b)(3) to read as follows:

§ 301–52.4 What must I provide with my travel claim?

* * * * *

(b) * * *

(3) Receipts must be retained for 6 years as prescribed by the National Archives and Records Administration (NARA) under General Records Schedule 1.1, item 010 (*https://www.archives.gov/files/records-mgmt/grs/grs01-1.pdf*).

§ 301–52.11 [Amended]

■ 31. In § 301–52.11 amend paragraph (g) by removing ''GSA Board of Contract Appeals'' and adding ''Civilian Board of Contract Appeals'' in its place.

PART 301–70—INTERNAL POLICY AND PROCEDURE REQUIREMENTS

■ 32. The authority citation for part 301–70 continues to read as follows:

Authority: 5 U.S.C. 5707; 40 U.S.C. 121(c); Sec. 2, Pub. L. 105–264, 112 Stat. 2350 (5 U.S.C. 5701, note); OMB Circular No. A–126, revised May 22, 1992; OMB Circular No. A–123, Appendix B, revised January 15, 2009.

§ 301–70.400 [Amended]

■ 33. Amend § 301–70.400 by removing ''29 U.S.C. 701–796l'' and adding ''29 U.S.C. 701, *et seq.*'' in its place.

§ 301–70.702 [Amended]

■ 34. Amend § 301–70.702 by removing ''(Attention: MAE)'' and adding '', Office of Government-wide Policy'' in its place.

■ 35. Amend § 301–70.709 by revising paragraphs (a) and (j) to read as follows:

§ 301–70.709 What can we do to reduce travel charge card delinquencies?

* * * * *

(a) Agency travel program coordinators must be trained and aware of their responsibilities and the delinquency management tools available under your agreement with the travel charge card contractor.

* * * * *

(j) Information on travel cardholder training is available at *https://smartpay.gsa.gov/content/training.*

* * * * *

■ 36. Amend § 301–70.802 by revising the second sentence of paragraph (a)(3) and adding a third sentence to read as follows:

§ 301–70.802 Must we ensure that travel on Government aircraft is the most cost-effective alternative?

(a) * * *

(3) * * * Additional information on costs included in the cost comparison may be found in the ''U.S. Government Aircraft Cost Accounting Guide,'' published by the General Services Administration, Office of Government-wide Policy. To obtain a copy of the guide, please contact *aviationpolicy@gsa.gov.*

* * * * *

§ 301–70.902 [Amended]

■ 37. Amend § 301–70.902 by removing ''10 U.S.C. 4744'' and adding ''10 U.S.C. 2648'' in its place.

■ 38. Amend § 301–70.903 by revising the fourth sentence and adding a fifth sentence to read as follows:

§ 301–70.903 What are our responsibilities for ensuring that Government aircraft are the most cost-effective alternative for travel?

* * * For guidance on how and when to calculate the cost of a trip on a Government aircraft, see the ''U.S. Government Aircraft Cost Accounting Guide,'' published by the General Services Administration, Office of Government-wide Policy. To obtain a copy of the guide, please contact *aviationpolicy@gsa.gov.*

■ 39. Revise § 301–70.906 to read as follows:

§ 301–70.906 Must we report use of our Government aircraft to carry senior Federal officials and non-Federal travelers?

Yes, except when the trips are classified, you must report to the General Services Administration, Office of Government-wide Policy, all uses of your aircraft for travel by any senior Federal official or non-Federal traveler, by using an electronic reporting tool found at ''*https://www.gsa.gov/sftr*'', unless travel is authorized under 10 U.S.C. 2648 and regulations implementing that statute.

■ 40. Amend Note to § 301–70.907 by revising the fourth sentence and adding a fifth sentence to read as follows:

§ 301–70.907 What information must we report on the use of Government aircraft to carry senior Federal officials and non–Federal travelers and when must it be reported?

* * * * *

Note to § 301–70.907: * * * For more information on calculating costs, see the ''U.S. Government Aircraft Cost Accounting Guide,'' published by the General Services Administration, Office of Government-wide Policy. To obtain a copy of the guide, please contact *aviationpolicy@gsa.gov.*

PART 301–72—AGENCY RESPONSIBILITIES RELATED TO COMMON CARRIER TRANSPORTATION

■ 41. The authority citation for part 301–72 continues to read as follows:

Authority: 5 U.S.C. 5707; 31 U.S.C. 3726; 40 U.S.C. 121(c).

§ 301–72.301 [Amended]

■ 42. Amend § 301–72.301 by removing from paragraphs (a) and (c) ''*http://fss.gsa.gov/transtrav/usgpth.pdf*'' and adding ''*https://www.gsa.gov/transaudits*'' in its place.

PART 301–73—TRAVEL PROGRAMS

■ 43. The authority citation for part 301–73 continues to read as follows:

Authority: 5 U.S.C. 5707, 40 U.S.C. 121(c).

§ 301–73.1 [Amended]

■ 44. In § 301–73.1 amend paragraph (d) by removing ''Fedrooms'' and adding ''Fedrooms ®'' in its place.

§ 301–73.106 [Amended]

■ 45. In § 301–73.106, amend paragraph (a)(2) by removing ''Fedrooms'' and adding ''Fedrooms ®'' in its place.

PART 301–74—CONFERENCE PLANNING

■ 46. The authority citation for part 301–74 continues to read as follows:

Authority: 5 U.S.C. 5707.

§ 301–74.12 [Amended]

■ 47. Amend § 301–74.12 by:

■ a. In paragraph (a) removing ''see 40 U.S.C. 34'' and adding ''see 40 U.S.C. 8141'' in its place; and

■ b. In paragraph (b) removing ''*http://www.gsa.gov/attachments/GSA_PUBLICATIONS/pub/Customer Guidebookmarkedversion.pdf*'' and adding ''*https://www.gsa.gov/cdnstatic/Guide_to_Real_Property_508.pdf*'' in its place.

PART 301–75—PRE-EMPLOYMENT INTERVIEW TRAVEL

■ 48. The authority citation for part 301–75 continues to read as follows:

Authority: 5 U.S.C. 5707.

§ 301–75.202 [Amended]

■ 49. Amend § 301–75.202 by removing from the third row of the second column of the table, ''*http://fss.gsa.gov/transtrav/usgpth.pdf*'' and adding ''*https://www.gsa.gov/transaudits*'' in its place.

Appendix A to Chapter 301 [Amended]

■ 50. Amend Appendix A to Chapter 301 by removing ''*http://www.gsa.gov/perdiem*'' and adding ''*https://www.gsa.gov/perdiem*'' in its place.

Appendix B to Chapter 301 [Amended]

■ 51. Amend Appendix B to Chapter 301 by removing ''*http://www.gsa.gov/mie*'' and adding ''*https://www.gsa.gov/mie*'' in its place.

Appendix E to Chapter 301 [Amended]

■ 52. Amend Appendix E to Chapter 301, Food and Drink, Meals section, fourth bullet point, by removing ''5 U.S.C. 4104(4)'' and adding ''5 U.S.C. 4109'' in its place.

PART 302–1—GENERAL RULES

■ 53. The authority citation for Part 302–1 continues to read as follows:

Authority: 5 U.S.C. 5738; 20 U.S.C. 905(a).

§ 302–1.2 [Amended]

■ 54. In § 302–1.2 amend paragraph (d) by removing ''38 U.S.C. 235'' and adding ''38 U.S.C. 707'' in its place.

PART 302–4—ALLOWANCES FOR SUBSISTENCE AND TRANSPORTATION

■ 55. The authority citation for Part 302–4 continues to read as follows:

Authority: 5 U.S.C. 5738; 20 U.S.C. 905(a); E.O. 11609, 36 FR 13747, 3 CFR, 1971–1975 Comp., p. 586.

§ 302–4.200 [Amended]

■ 56. Amend § 302–4.200 by removing ''*http://www.gsa.gov/perdiem*'' and adding ''*https://www.gsa.gov/perdiem*'' in its place.

§ 302–4.300 [Amended]

■ 57. Amend § 302–4.300 by removing ''*www.irs.gov*'' and adding ''*https://www.irs.gov*'' in its place.

PART 302–5—ALLOWANCE FOR HOUSEHUNTING TRIP EXPENSES

■ 58. The authority citation for Part 302–5 continues to read as follows:

Authority: 5 U.S.C. 5738; 20 U.S.C. 905(a); E.O. 11609, as amended, 3 CFR, 1971–1975 Comp., p. 586.

§ 302–5.13 [Amended]

■ 59. Amend § 302–5.13 by removing from paragraphs (a), (b)(1), and (b)(2), in the third row of the second column of the table, ''*http://www.gsa.gov/perdiem*'' and adding ''*https://www.gsa.gov/perdiem*'' in its place.

PART 302–7—TRANSPORTATION AND TEMPORARY STORAGE OF HOUSEHOLD GOODS, PROFESSIONAL BOOKS, PAPERS, AND EQUIPMENT, (PBP&E) AND BAGGAGE ALLOWANCE

■ 60. The authority citation for Part 302–7 continues to read as follows:

Authority: 5 U.S.C. 5738; 20 U.S.C. 905(a); E.O. 11609, as amended, 3 CFR, 1971–1975 Comp., p. 586.

§ 302–7.101 [Amended]

■ 61. Amend § 302–7.101 by removing ''*www.gsa.gov/relocationpolicy*'' and adding ''*https://www.gsa.gov/relocation policy*'' in its place.

§ 302–7.110 [Amended]

■ 62. Amend § 302–7.110 by removing ''*www.gsa.gov/relocationpolicy*'' and adding ''*https://www.gsa.gov/relocation policy*'' in its place.

PART 302–8—ALLOWANCE FOR EXTENDED STORAGE OF HOUSEHOLD GOODS (HHG)

■ 63. The authority citation for Part 302–8 continues to read as follows:

Authority: 5 U.S.C. 5738; 20 U.S.C. 905(a); E.O. 11609, 36 FR 13747, 3 CFR, 1971–1975 Comp., p. 586.

■ 64. Amend § 302–8.300 by revising paragraph (b) to read as follows:

§ 302–8.300 Under what authority am I provided storage during school recess?

* * * * *

(b) *Regulations.* See the DoD Joint Travel Regulations (JTR), published by the Per Diem, Travel and Transportation Allowance Committee and available at *https://www.defensetravel.dod.mil/site/travelreg.cfm.*

PART 304–2—DEFINITIONS

■ 65. The authority citation for Part 304–2 continues to read as follows:

Authority: 5 U.S.C. 5707; 31 U.S.C. 1353.

■ 66. Amend § 304–2.1 by revising the last two sentences of the definition of ''Travel, subsistence, and related expenses (travel expenses)'' to read as follows:

§ 304–2.1 What definitions apply to this chapter?

* * * * *

Travel, subsistence, and related expenses (travel expenses) * * * The Foreign Affairs Manual is available at *https://fam.state.gov.* The Joint Travel Regulations are available at *https://www.defensetravel.dod.mil/site/travelreg.cfm.*

PART 304–6—PAYMENT GUIDELINES

■ 67. The authority citation for part 304–6 continues to read as follows:

Authority: 5 U.S.C. 5707; 31 U.S.C. 1353.

§ 302–6.2 [Amended]

■ 68. Amend § 304–6.2 by removing from the last sentence ''Parts L and Q,''.

§ 302–6.6 [Amended]

■ 69. Amend § 304–6.6 by:

■ a. In paragraph (c), removing ''*www.gsa.gov/mie*'' and adding ''*https://www.gsa.gov/mie*'' in its place; and

■ b. In paragraph (e) removing ''*http://www.gsa.gov/perdiem*'' and adding ''*https://www.gsa.gov/perdiem*'' in its place.

[FR Doc. 2020–12788 Filed 7–1–20; 8:45 am]

BILLING CODE 6820–14–P

Proposed Rules

Federal Register
Vol. 85, No. 128
Thursday, July 2, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 841

RIN 3206–AO02

Federal Employees' Retirement System; Normal Cost Percentage for Certain Members of the Capitol Police

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing a proposed rule to revise the categories of employees for computation of normal cost percentages for certain members of the Capitol Police who are covered by the Federal Employees' Retirement System (FERS) Act of 1986.

DATES: Send comments on or before August 31, 2020.

ADDRESSES: You may submit comments identified by docket number and/or Regulatory Information Number (RIN) and title, by the following method:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

All submissions received must include the agency name and docket number or RIN for this document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Karla Yeakle, (202) 606–0299.

SUPPLEMENTARY INFORMATION: On April 6, 2020, OPM published notice 85 FR 19174 in the **Federal Register** to revise the normal cost percentages under the Federal Employees' Retirement System (FERS) Act of 1986, Public Law 99–335, 100 Stat. 514, as amended, based on economic assumptions and demographic factors adopted by the Board of Actuaries of the Civil Service Retirement System. As a result of new legislation enacted on December 20, 2019, under sec. 211 of title II, division E of Public Law 116–94, the Further Consolidated Appropriations Act, 2020, OPM was required to provide separate normal cost percentages for certain members of the Capitol Police as distinct from other Congressional Employees. Prior to the enactment of the Further Consolidated Appropriations Act, 2020, members of the Capitol Police were combined with Congressional Employees for the purpose of determining the normal cost percentages for those employee populations. This rule is necessary to ensure that the rules for computation of normal cost percentages are consistent with the categories of employees as provided under 5 U.S.C. 8423(a)(1)(B)(i), as amended by sec. 211 of title II, division E of Public Law 116–94, the Further Consolidated Appropriations Act, 2020.

The Middle Class Tax Relief and Jobs Creation Act of 2012, sec. 5001 of Public Law 112–96, 126 Stat. 157, and subsequently, sect. 401 of Public Law 113–67, 113 Stat. 1165, the Bipartisan Budget Act of 2013, increased the retirement contributions for certain FERS employees (Revised Annuity Employees (FERS–RAE) and Further Revised Annuity Employees (FERS–FRAE)) and established separate FERS deduction rates for Congressional employees and members of the Capitol Police. These Acts reduced the retirement annuity accrual rates of new legislative (Congressional) branch employees (other than Capitol Police) equal to that of most regular federal employees, while the retirement accrual rates for new Capitol Police remained at an enhanced level. Despite the difference in annuity benefits, these Acts did not establish separate employee categories for the computation of normal cost percentages for Capitol Police versus other legislative branch employees. With the passage of the Further Consolidated Appropriations Act, 2020, members of the Capitol Police covered under 5 U.S.C. 8412(d) and 5 U.S.C. 8425(c), who receive enhanced retirement accrual rates similar to that of law enforcement officers under 5 U.S.C. 8415(e), have been removed from the Congressional employee normal cost category and now have their own normal cost category.

Section 841.403 of title 5, Code of Federal Regulations, regulates the categories of employees for computation of normal cost percentages that the government is required to pay for employees under 5 U.S.C. 8423. OPM's proposed rule would amend its regulation under 5 CFR 841.403 to eliminate the category of ''Congressional employees, including members of the Capitol Police,'' and to establish separate normal cost percentages for certain members of the Capitol Police and for Congressional employees in compliance with sec. 211 of title II, division E of Public Law 116–94, the Further Consolidated Appropriations Act, 2020. In accordance with the Further Consolidated Appropriations Act, 2020, 5 CFR 841.403 must list members of the Capitol Police covered under 5 U.S.C. 8412(d) and 5 U.S.C. 8425(c) as separate categories. All other Capitol Police, who are not members covered under 5 U.S.C. 8412(d) and 5 U.S.C. 8425(c), will fall under the new category of ''other Congressional employees.''

Regulatory Impact Analysis

OPM has examined the impact of this rule as required by Executive Order 12866 and Executive Order 13563, which directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). A regulatory impact analysis must be prepared for major rules with economically significant effects of $100 million or more in any one year. This rule was not designated as a ''significant regulatory action,'' under Executive Order 12866.

Reducing Regulation and Controlling Regulatory Costs

This rule is not an E.O. 13771 regulatory action because this rule is related to agency organization, management, or personnel.

Regulatory Flexibility Act

The Office of Personnel Management certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Federalism

We have examined this rule in accordance with Executive Order 13132, Federalism, and have determined that this rule will not have any negative impact on the rights, roles and responsibilities of State, local, or tribal governments.

Civil Justice Reform

This regulation meets the applicable standard set forth in Executive Order 12988.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any 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 action pertains to agency management, personnel, and organization and does not substantially affect the rights or obligations of nonagency parties and, accordingly, is not a ''rule'' as that term is used by the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

Paperwork Reduction Act

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number.

This rule involves an OMB approved collection of information subject to the PRA Application for Death Benefits (FERS)/Documentation and Elections in Support of Application for Death Benefits when Deceased was an Employee at the Time of Death (FERS), 3206–0172. The public reporting burden for this collection is estimated to average 60 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The total burden hour estimate for this form is 16,751 hours. The systems of record notice for this collection is: OPM SORN CENTRAL–1–Civil Service Retirement and Insurance Records.

List of Subjects in 5 CFR Part 841

Administrative practice and procedure, Air traffic controllers, Claims, Disability benefits, Firefighters, Government employees, Income taxes, Intergovernmental relations, Law enforcement officers, Pensions, Retirement.

Office of Personnel Management.

Alexys Stanley,

Regulatory Affairs Analyst.

For the reasons stated in the preamble, the Office of Personnel Management proposes to amend 5 CFR part 841 as follows:

PART 841—FEDERAL EMPLOYEES RETIREMENT SYSTEM—GENERAL ADMINISTRATION

■ 1. The authority citation for part 841 continues to read as follows:

Authority: 5 U.S.C. 8461; Sec. 841.108 also issued under 5 U.S.C. 552a; Secs. 841.110 and 841.111 also issued under 5 U.S.C. 8470(a); subpart D also issued under 5 U.S.C. 8423; Sec. 841.504 also issued under 5 U.S.C. 8422; Sec. 841.507 also issued under section 505 of Pub. L. 99–335; subpart J also issued under 5 U.S.C. 8469; Sec. 841.506 also issued under 5 U.S.C. 7701(b)(2); Sec. 841.508 also issued under section 505 of Pub. L. 99–335; Sec. 841.604 also issued under Title II, Pub. L. 106–265, 114 Stat. 780.

Subpart D—Government Costs

■ 2. Amend § 841.403 by redesignating paragraphs (c) through (h) as paragraphs (d) through (i) respectively, revise paragraph (b), and add new paragraph (c) to read as follows:

§ 841.403 Categories of employees for computation of normal cost percentages.

* * * * *

(b) Capitol Police covered under 5 U.S.C. 8412(d) and 5 U.S.C. 8425(c);

(c) Other Congressional employees;

* * * * *

[FR Doc. 2020–13610 Filed 7–1–20; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 843

RIN 3206–ANO03

Federal Employees' Retirement System; Present Value Conversion Factors for Spouses of Deceased Separated Employees

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing a proposed rule to revise the table of reduction factors for early commencing dates of survivor annuities for spouses of separated employees who die before the date on which they would be eligible for unreduced deferred annuities, and to revise the annuity factor for spouses of deceased employees who die in service when those spouses elect to receive the basic employee death benefit in 36 installments under the Federal Employees' Retirement System (FERS) Act of 1986. These rules are necessary to ensure that the tables conform to the economic and demographic assumptions adopted by the Board of Actuaries and published in the **Federal Register** on April 6, 2020.

DATES: Send comments on or before August 31, 2020.

ADDRESSES: You may submit comments identified by docket number and/or Regulatory Information Number (RIN) and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

All submissions received must include the agency name and docket number or RIN for this document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Karla Yeakle, (202) 606–0299.

SUPPLEMENTARY INFORMATION: On April 6, 2020, OPM published notice 85 FR 19174 in the **Federal Register** to revise the normal cost percentages under the Federal Employees' Retirement System (FERS) Act of 1986, Public Law 99–335, 100 Stat. 514, as amended, based on economic assumptions and demographic factors adopted by the Board of Actuaries of the Civil Service

Retirement System. By statute under 5 U.S.C. 8461(i), the revisions to the actuarial assumptions require corresponding changes in factors used to produce actuarially equivalent benefits when required by the FERS Act.

Section 843.309 of title 5, Code of Federal Regulations, regulates the payment of the basic employee death benefit. Under 5 U.S.C. 8442(b), the basic employee death benefit may be paid to a surviving spouse as a lump sum or as an equivalent benefit in 36 installments. These rules amend 5 CFR 843.309(b)(2) to conform the factor used to convert the lump sum to 36-installment payments with the revised economic assumptions.

Section 843.311 of title 5, Code of Federal Regulations, regulates the benefits for the survivors of separated employees under 5 U.S.C. 8442(c). This section provides a choice of benefits for eligible current and former spouses. If the current or former spouse is the person entitled to the unexpended balance under the order of precedence under 5 U.S.C. 8424, he or she may elect to receive the unexpended balance instead of an annuity. If the separated employee died before having attained the minimum retirement age, the annuity commences on the day the deceased separated employee would have been eligible for an unreduced annuity as specified under this section. If the current or former spouse instead elects to receive an adjusted annuity beginning on the day after the death of the separated employee, the annuity is reduced using the factors in appendix A to subpart C of part 843 to make the annuity actuarially equivalent to the present value of the annuity that the spouse or former spouse otherwise would have received. These rules amend appendix A to subpart C of part 843 to conform the factors to the revised actuarial assumptions.

Regulatory Impact Analysis

OPM has examined the impact of this rule as required by Executive Order 12866 and Executive Order 13563, which directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). A regulatory impact analysis must be prepared for major rules with economically significant effects of $100 million or more in any one year. This rule was not designated as a ''significant regulatory action,'' under Executive Order 12866.

Reducing Regulation and Controlling Regulatory Costs

This rule is not an E.O. 13771 regulatory action because this rule is related to agency organization, management, or personnel.

Regulatory Flexibility Act

The Office of Personnel Management certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Federalism

We have examined this rule in accordance with Executive Order 13132, Federalism, and have determined that this rule will not have any negative impact on the rights, roles and responsibilities of State, local, or tribal governments.

Civil Justice Reform

This regulation meets the applicable standard set forth in Executive Order 12988.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any 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 action pertains to agency management, personnel, and organization and does not substantially affect the rights or obligations of nonagency parties and, accordingly, is not a ''rule'' as that term is used by the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

Paperwork Reduction Act

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number.

This rule involves an OMB approved collection of information subject to the PRA Application for Death Benefits (FERS)/Documentation and Elections in Support of Application for Death Benefits when Deceased was an Employee at the Time of Death (FERS), 3206–0172. The public reporting burden for this collection is estimated to average 60 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The total burden hour estimate for this form is 16,751 hours. The systems of record notice for this collection is: OPM SORN CENTRAL-1-Civil Service Retirement and Insurance Records.

List of Subjects in 5 CFR Part 843

Air traffic controllers, Disability benefits, Firefighters, Government employees, Law enforcement officers, Pensions, Retirement.

Office of Personnel Management.

Alexys Stanley,

Regulatory Affairs Analyst.

For the reasons stated in the preamble, the Office of Personnel Management proposes to amend 5 CFR part 843 as follows:

PART 843—FEDERAL EMPLOYEES RETIREMENT SYSTEM—DEATH BENEFITS AND EMPLOYEE REFUNDS

■ 1. The authority citation for part 843 is revised to read as follows:

Authority: 5 U.S.C. 8461; 843.205, 843.208, and 843.209 also issued under 5 U.S.C. 8424; 843.309 also issued under 5 U.S.C. 8442; 843.406 also issued under 5 U.S.C. 8441.

Subpart C—Current and Former Spouse Benefits

■ 2. In § 843.309, revise paragraph (b)(2) to read as follows:

§ 843.309 Basic employee death benefit.

* * * * *

(b) * * *

(2) For deaths occurring on or after October 1, 2020, 36 equal monthly installments of 2.95307 percent of the amount of the basic employee death benefit.

* * * * *

■ 3. Revise appendix A to subpart C of part 843 to read as follows:

Appendix A to Subpart C of Part 843—Present Value Conversion Factors for Earlier Commencing Date of Annuities of Current and Former Spouses of Deceased Separated Employees

With at least 10 but less than 20 years of creditable service—

Age of separated employee at birthday before death	Multiplier
26	.1014
27	.1077
28	.1144
29	.1215
30	.1290
31	.1370
32	.1454
33	.1544
34	.1641
35	.1742
36	.1852
37	.1963
38	.2090
39	.2216
40	.2348
41	.2498
42	.2657
43	.2822
44	.3007
45	.3197
46	.3409
47	.3625
48	.3860
49	.4114
50	.4386
51	.4681
52	.4997
53	.5336
54	.5703
55	.6095
56	.6527
57	.6994
58	.7499
59	.8047
60	.8642
61	.9291

With at least 20, but less than 30 years of creditable service—

Age of separated employee at birthday before death	Multiplier
36	.2142
37	.2272
38	.2418
39	.2566
40	.2720
41	.2894
42	.3078
43	.3270
44	.3484
45	.3705
46	.3949
47	.4201
48	.4473
49	.4767
50	.5082
51	.5423
52	.5788
53	.6180
54	.6605
55	.7060
56	.7558
57	.8096
58	.8680
59	.9312

With at least 30 years of creditable service—

Age of separated employee at birthday before death	Multiplier by separated employee's year of birth	
	After 1966	From 1950 through 1966
46	.4881	.5228
47	.5194	.5563
48	.5531	.5924
49	.5894	.6314
50	.6283	.6730
51	.6704	.7180
52	.7154	.7662
53	.7638	.8181
54	.8162	.8741
55	.8725	.9345
56	.9338	1.0000

[FR Doc. 2020–13609 Filed 7–1–20; 8:45 am]

BILLING CODE 6325–38–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 342

[Docket No. RM20–14–000]

Five-Year Review of the Oil Pipeline Index

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Notice of inquiry.

SUMMARY: The Federal Energy Regulatory Commission (Commission) invites comments on its proposed index level used to determine annual changes to oil pipeline rate ceilings. The Commission proposes to use the Producer Price Index for Finished Goods (PPI–FG) plus 0.09% as the index level for the five-year period commencing July 1, 2021. The Commission invites interested persons to submit comments regarding this proposal and any alternative methodologies for calculating the index level.

DATES: Initial Comments are due on or before August 17, 2020, and Reply Comments are due on or before September 11, 2020.

ADDRESSES: You may submit comments, identified by docket number, by any of the following methods:

- *Agency Website: http://www.ferc.gov.* Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. All supporting workpapers must be submitted with formulas and in a spreadsheet format acceptable under the Commission's eFiling rules.
- *Mail/Hand Delivery:* Commenters unable to file comments electronically must mail or hand deliver an original to: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street NE, Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT:

Monil Patel (Technical Information), Office of Energy Market Regulation, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–8296, *Monil.Patel@ferc.gov.*

Evan Steiner (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–8792, *Evan.Steiner@ferc.gov.*

SUPPLEMENTARY INFORMATION:

1. The Commission annually applies an index to existing oil pipeline transportation rate ceilings to establish new rate ceiling levels.[1] The Commission reexamines the index level every five years.[2] In this notice of inquiry (NOI), the Commission invites comments on its proposal to use the Producer Price Index for Finished Goods (PPI–FG)[3] plus 0.09% as the index level for the next five years beginning July 1, 2021.[4] This proposal is based on the Kahn Methodology established in Order No. 561 and applied in subsequent five-year index review proceedings.[5]

2. As discussed below, commenters are invited to submit comments

[1] Indexing allows oil pipelines to change their tariff rates so long as those rates remain at or below certain ceiling levels. 18 CFR 342.3(a).

[2] The five-year index review process was established in Order No. 561. *See Revisions to Oil Pipeline Regulations Pursuant to the Energy Policy Act of 1992,* Order No. 561, FERC Stats. & Regs. ¶ 30,985 (1993), *order on reh'g,* Order No. 561–A, FERC Stats. & Regs. ¶ 31,000 (1994), *aff'd, Ass'n of Oil Pipe Lines* v. *FERC,* 83 F.3d 1424 (D.C. Cir. 1996).

[3] The PPI–FG is determined and issued by the Bureau of Labor Statistics, U.S. Department of Labor.

[4] As provided by 18 CFR 342.3(d)(2), ''The index will be calculated by dividing the PPI–FG for the calendar year immediately preceding the index year, by the previous calendar year's PPI–FG.'' Multiplying the rate ceiling effective on June 30 of the index year by the resulting number establishes the new rate ceiling for the year beginning the next day, July 1.

[5] *Five-Year Review of the Oil Pipeline Index,* 153 FERC ¶ 61,312, at PP 5, 12–18 (2015) (2015 Index Review), *aff'd, Ass'n of Oil Pipe Lines* v. *FERC,* 876 F.3d 336 (D.C. Cir. 2017); *Five-Year Review of Oil Pipeline Pricing Index,* 133 FERC ¶ 61,228, at PP 5–9, 60–63 (2010) (2010 Index Review), *order on reh'g,* 135 FERC ¶ 61,172 (2011); *see also Five-Year Review of Oil Pipeline Pricing Index,* 114 FERC ¶ 61,293 (2006) (2005 Index Review); *Five-Year Review of Oil Pipeline Pricing Index,* 102 FERC ¶ 61,195 (2003), *aff'd, Flying J Inc.* v. *FERC,* 363 F.3d 495 (D.C. Cir. 2004).

regarding the Commission's proposal and any alternative methodologies for calculating the index level. Among other issues, these comments may address different data trimming methodologies and whether and how the index should reflect changes to the Commission's policies regarding income tax costs and return on equity (ROE). The Commission will select a final index level at the conclusion of this proceeding.

I. Background

A. Five-Year Review Process

3. In Order No. 561, the Commission established an indexing methodology that allows oil pipelines to change rates based upon an annual index as opposed to making cost-of-service filings.[6] The Commission committed to review the index level every five years to ensure that the index level chosen by the Commission adequately reflects changes to industry costs.[7]

4. In Order No. 561 and each successive five-year index review, the Commission has calculated the index level based upon a methodology developed by Dr. Alfred E. Kahn.[8] The Kahn Methodology uses pipeline data from Form No. 6, page 700[9] from the prior five-year period to determine an adjustment to be applied to PPI–FG. The calculation is as follows. Each pipeline's cost change on a per barrel-mile basis over the prior five-year period (*e.g.,* the years 2014–2019 in this proceeding) is calculated. In order to remove statistical outliers and spurious data, the resulting data set is trimmed to those oil pipelines in the middle 50% of cost changes. The Kahn Methodology then calculates three measures of the middle 50% central tendency: The median, the mean, and a weighted mean.[10] The Kahn Methodology calculates a composite by averaging these three measures of central tendency and measures the difference between the composite and the PPI–FG over the prior five-year period. The index level is then set at PPI–FG plus (or minus) this differential.

B. Developments Since the Most Recent Five-Year Review

5. Since the Commission's most recent review of the index in 2015, the Commission has adopted two major changes to the cost-of-service methodology used to populate page 700 data. First, in 2018, the Commission revised its policy concerning the treatment of income taxes and Accumulated Deferred Income Taxes (ADIT) in the rates of master limited partnership (MLP) pipelines (income tax policy change). Following the remand in *United Airlines, Inc.* v. *FERC,*[11] the Commission determined that an impermissible double recovery results from granting MLP pipelines an income tax allowance when using the discounted cash flow (DCF) methodology.[12] Thus, the Commission instructed MLP oil pipelines to eliminate the income tax allowance from page 700 costs filed on April 18, 2018[13] and clarified that pipelines eliminating an income tax allowance may also eliminate previously-accumulated ADIT from their costs of service.[14] The Commission further stated that it would incorporate the effects of the income tax policy change on industry-wide oil pipeline costs in the 2020 five-year review of the oil pipeline index level.[15]

6. Second, on May 21, 2020, the Commission issued a policy statement revising its methodology for determining ROE for interstate natural gas and oil pipelines (ROE policy change).[16] The Commission departed from its longstanding policy of determining pipeline ROEs by relying solely on the discounted cash flow model (DCF) and expanded its methodology to afford equal weighting to the results of DCF and Capital Asset Pricing Model (CAPM) analyses.[17] Moreover, the Commission encouraged oil pipelines to file updated Form No. 6, page 700 data for 2019 reflecting the revised ROE methodology, explaining that such data may help the Commission better estimate industry-wide cost changes for purposes of the five-year index review.[18] The Commission explained that following Office of Management and Budget (OMB) approval of this voluntary information collection pursuant to the Paperwork Reduction Act,[19] the Commission will issue a notice affording pipelines two weeks to file updated Form No. 6, page 700 data reflecting the revised ROE methodology.[20]

II. Commission Proposal

7. We propose PPI–FG plus 0.09% as the index level for the five-year period commencing July 1, 2021. This proposal is based on the Kahn Methodology as applied to Form No. 6, page 700 data from the 2014 through 2019 period. The Commission's calculations are included in workpapers available in this docket on the Commission's eLibrary system.[21]. This proposal is subject to change based upon the updated Form No. 6, page 700 data for 2019 and other potential adjustments as supported by the record in this proceeding.

8. We invite interested persons to submit comments regarding the Commission's proposal and any alternative methodologies for calculating the index level for the five-year period commencing July 1, 2021. Commenters may address issues that include, but are not limited to, different data trimming methodologies and whether, and if so how, the Commission should reflect the effects of cost-of-service policy changes in the calculation of the index level.

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[6] Order No. 561, FERC Stats. & Regs. ¶ 30,985 at 30,947.

[7] *Id.*

[8] The Commission's use of the Kahn Methodology has been affirmed by the United States Court of Appeals for the District of Columbia Circuit. *Ass'n of Oil Pipelines* v. *FERC,* 83 F.3d 1424 (D.C. Cir. 1996); *Flying J Inc.* v. *FERC,* 363 F.3d 495 (D.C. Cir. 2004).

[9] 2015 Index Review, 153 FERC ¶ 61,312 at P 12 (updating the Commission's calculation of the five-year oil pipeline index to use page 700 data to measure changing barrel-mile costs). Page 700 provides summarized interstate barrel-mile and cost-of-service data consistent with the Commission's cost-of-service methodology. *Id.* PP 12–13, 16.

[10] The weighted mean assigns a different weight to each pipeline's cost change based on the pipeline's total barrel-miles.

[11] 827 F.3d 122 (D.C. Cir. 2016).

[12] *Inquiry Regarding the Commission's Policy for Recovery of Income Tax Costs,* 162 FERC ¶ 61,227, at P 8 (2018) (Income Tax Policy Statement), *reh'g denied,* 164 FERC ¶ 61,030 (2018) (Income Tax Policy Statement Rehearing Order).

[13] *Id.* P 46.

[14] Income Tax Policy Statement Rehearing Order, 164 FERC ¶ 61,030 at P 13.

[15] Income Tax Policy Statement, 162 FERC ¶ 61,227 at P 46.

[16] *Inquiry Regarding the Commission's Policy for Determining Return on Equity,* 171 FERC ¶ 61,155 (2020) (ROE Policy Statement).

[17] *Id.* PP 18, 28, 50.

[18] *Id.* P 92. The Commission further explained that pipelines that previously filed Form No. 6 for 2019 and choose to submit updated page 700 data should, in a footnote on the updated page 700, either (a) confirm that their previously filed Form No. 6 was based solely upon the DCF model or (b) provide the real ROE and resulting cost of service based solely upon the DCF model as it was applied to oil pipelines prior to the ROE Policy Statement. *Id.*

[19] 44 U.S.C. 3501–21.

[20] ROE Policy Statement, 171 FERC ¶ 61,155 at P 93. The Commission clarified that pipelines that have not filed Form No. 6 for 2019 (*e.g.,* pipelines that have received an extension of the Form No. 6 filing deadline) should file page 700 data consistent with their previously granted extensions and such filings should be based upon the DCF model, which was the Commission's oil pipeline ROE methodology as of April 20, 2020. *Id.* Moreover, upon OMB approval of the information collection in the ROE Policy Statement, those pipelines will have the opportunity to file updated page 700 data reflecting the Commission's revised oil pipeline ROE methodology. *Id.* n.192.

[21] *See infra* P 17 (discussing the Commission's eLibrary system).

A. Trimming of the Data Set

9. The Commission calculated the proposed index level by trimming the data set to the middle 50 percent of all oil pipelines, consistent with the Commission's practice in the 2010 and 2015 index reviews.[22] We encourage commenters to address whether the Commission should continue to trim the data set to the middle 50 or adopt an alternative approach to data trimming, such as returning to the Commission's prior practice of considering the middle 80[23] or any other approach. Commenters should explain why any such alternative approach is superior to the middle 50 and how it would appropriately address outliers and spurious data that could bias the results in either direction.

B. Cost-of-Service Policy Changes

10. As discussed above, the Commission uses the Kahn Methodology to measure changes in pipeline costs using page 700 data from the prior five-year period. Accordingly, the Commission's proposal incorporates the effects of the income tax policy change on industry-wide oil pipeline costs because this policy change is reflected in pipelines' page 700 data. The Commission's proposal does not include the effects of the ROE policy change because page 700 data reflecting that policy change has yet to be filed. However, as explained in the ROE Policy Statement, the Commission will afford pipelines an opportunity to file this data for consideration in this five-year index review.[24] As discussed above, interested persons may address whether, and if so how, the Commission should reflect the effects of cost-of-service policy changes (including the income tax policy change[25] and the ROE policy change[26]) in the calculation of the index level.

11. However, this proceeding is not the appropriate forum to litigate the merits of the policy changes themselves. Litigating the merits of cost-of-service policy changes in the five-year index review is inappropriate for several reasons. First, the index adjusts for and the effects of subsequent changes to the Commission's cost-of-service policies which could be incorporated into the index level in the next five-year index review. Second, litigating policy changes in the five-year index review would be impractical because, whereas the Commission's policies are continually evolving, the five-year index review is based upon a snapshot of pipeline cost changes during the applicable review period. Third, litigating policy changes would improperly complicate and prolong the five-year index review by introducing complex cost-of-service issues that can require years to resolve.[27] The Commission must complete this five-year index review in order to establish the index level in sufficient time for it to be used by pipelines in the index filings to be effective July 1, 2021. Finally, cost-of-service rate proceedings, where participants and the Commission have a full opportunity to develop an evidentiary record, are a more appropriate forum for litigating policy changes than the generic, industry-wide proceeding on the five-year index review.

III. Comment Procedures

12. Initial Comments are due on or before August 17, 2020 and Reply Comments are due on or before September 11, 2020. Comments must refer to Docket No. RM20–14–000, and must include the name of the commenter, the organization they represent, if applicable, and their address.

13. We encourage comments to be filed electronically via the eFiling link on the Commission's website at *http://www.ferc.gov.* The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. All supporting workpapers must be submitted with formulas and in a spreadsheet format acceptable under the Commission's eFiling rules. Commenters filing electronically do not need to make a paper filing.

14. Commenters that are not able to file comments electronically must send an original of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

15. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters are not required to serve copies of their comments on other commenters.

IV. Document Availability

16. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*). At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020.

17. From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

18. User assistance is available for eLibrary and the Commission's website during normal business hours. For assistance, please contact the Commission's Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

By direction of the Commission.

Issued: June 18, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–13623 Filed 7–1–20; 8:45 am]

BILLING CODE 6717–01–P

[22] 2015 Index Review, 153 FERC ¶ 61,312 at PP 42–44; 2010 Index Review, 133 FERC ¶ 61,228 at PP 60–63.

[23] *See, e.g.,* 2005 Index Review, 114 FERC ¶ 61,293.

[24] ROE Policy Statement, 171 FERC ¶ 61,155 at P 93.

[25] Income Tax Policy Statement, 162 FERC ¶ 61,227 at P 8.

[26] ROE Policy Statement, 171 FERC ¶ 61,155 at P 2.

[27] *See, e.g., SFPP, L.P.,* Opinion No. 511–C, 162 FERC ¶ 61,228, at PP 4–7 (2018) (noting that the litigation culminating in the 2018 income tax policy change began in 2008).

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 286

[Docket ID: DOD–2019–OS–0069]

RIN 0790–AK54

DoD Freedom of Information Act (FOIA) Program; Amendment

AGENCY: Department of Defense.

ACTION: Proposed rule; amendment.

SUMMARY: The Department of Defense (DoD) is proposing to amend its Freedom of Information Act (FOIA) regulation, which last published in the **Federal Register** as a final rule on

February 6, 2018, to update certain administrative aspects of the Department's implementation of the FOIA, including adding an additional FOIA Requester Service Center. DoD is also proposing to clarify, by adopting the standards set forth in the Department of Justice's (DOJ) Template for Agency FOIA Regulations, that the decision to participate in FOIA alternative dispute resolution services is voluntary on the part of the requestor and DoD.

DATES: Comments must be received by August 31, 2020.

ADDRESSES: You may submit comments, identified by docket number and/or Regulatory Information Number (RIN) number and title, by any of the following methods:

Federal Rulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: DoD cannot receive written comments at this time due to the COVID–19 pandemic. Comments should be sent electronically to the docket listed above.

Instructions: All submissions received must include the agency name and docket number or RIN for this document. The general policy is for submissions to be made available for public viewing at *http://www.regulations.gov* without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Melissa Walker at 571–372–0462.

SUPPLEMENTARY INFORMATION:

Executive Summary

Under the FOIA, 5 U.S.C. 552, agencies are afforded a certain amount of discretion in administratively implementing the Act. For example, agencies can designate which of their Components are authorized to receive FOIA requests. In this proposed amendment, DoD is adding the United States Cyber Command (USCYBERCOM) as an authorized FOIA Requester Service Center. Since the service center has already been implemented, DoD is seeking to align the rule with the action. DoD also seeks to update the list of those Components serviced by the Office of the Secretary of Defense and Joint Staff FOIA Requester Service Center.

Further, this proposed amendment seeks to clarify language concerning DoD's participation in FOIA ''Dispute Resolution,'' found in § 286.4. This proposed amendment, which adopts the standard set forth in DOJ's Template for Agency FOIA Regulations, clarifies that DoD possesses the discretion to determine whether to participate in FOIA alternative dispute resolution when it is requested by a requester.

The amendments become effective once this rule is published as a final rule. The Department does not anticipate any cost associated with this proposed amendment.

Summary of the Revisions Implemented by This Rule

DoD is proposing to make amendments to update the listed designated FOIA Requester Service Centers and to correct language concerning FOIA alternative dispute resolution.

Authority

According to the FOIA, 5 U.S.C. 552, an agency may, in its published administrative rules and regulations, designate those components that can receive FOIA requests. Additionally, the FOIA requires agencies to establish FOIA Public Liaisons, which are responsible for assisting in reducing delays, increasing transparency and understanding of the status of requests, and assisting in the resolution of disputes.

Regulatory History

On February 6, 2018 (83 FR 5196–5197), the Department of Defense published a final rule that revised Department of Defense (DoD) Freedom of Information Act (FOIA) regulation to implement the FOIA and incorporate the provisions of the Openness Promotes Effectiveness in our National Government Act of 2007 and the FOIA Improvement Act of 2016.

Regulatory Impact Analysis

We developed this rule after considering numerous statutes and Executive Orders (E.O.s) related to rulemaking. Below we summarize our analyses based on these statutes or E.O.s.

Costs

The Department does not anticipate any costs associated with this rule change. Prior to establishing its own FOIA Requester Service Center, USCYBERCOM's FOIA requests were serviced by the United States Strategic Command FOIA Requester Service Center. Since FOIA requests concerning USCYBERCOM previously existed, the cost associated with processing the request is unchanged and would be realigned from USSTRATCOM to the new FOIA Requester Service Center.

Benefits

The benefit of USCYBERCOM establishing its own FOIA Requester Service Center is that FOIA action officers would have a direct and deeper knowledge of USCYBERCOM records, allowing for requests to be more readily completed within statutory timelines.

This amendment also clarifies that DoD possesses the discretion to determine whether to participate in FOIA alternative dispute resolution when it is requested by a requester. This clarification is necessary to ensure that requesters understand FOIA alternative dispute resolution is voluntary on the part of both parties and the Agency, as one of the parties to the mediation, may choose not to mediate a given FOIA dispute on a case-by-case basis. Furthermore, adding this language clarifies that the alternative dispute resolution process is governed by the National Archives and Records Administration, the Office of Government Information Service (OGIS) as mandated by the Freedom of Information Act.

Executive Orders

Executive Order 12866, ''Regulatory Planning and Review'' and Executive Order 13563, ''Improving Regulation and Regulatory Review''

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distribute 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. It has been determined that this rule is not a significant regulatory action.

Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs''

This rule has been deemed not significant under Executive Order (E.O.) 12866, ''Regulatory Planning and Review,'' therefore, the requirements of E.O. 13771, ''Reducing Regulation and Controlling Regulatory Costs'' do not apply.

Congressional Review Act

This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Public Law 104–4, ''Unfunded Mandates Reform Act'' (2 U.S.C. Ch. 25)

This proposed rule is not subject to the Unfunded Mandates Reform Act because it does not contain a federal mandate that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 M or more in any one year.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. Ch. 6)

It has been certified that this proposed rule is not subject to the Regulatory Flexibility Act because it does not have a significant economic impact on a substantial number of small entities. The rule will implement the procedures for processing FOIA requests within the Department of Defense, which do not create such an impact.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Ch. 35)

This proposed rule does not impose reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

Executive Order 13132, ''Federalism''

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a rule that imposes substantial direct requirement costs on state and local governments, preempts state law, or otherwise has federalism implications. This proposed rule will not have a substantial effect on state and local governments, or otherwise have federalism implications.

List of Subjects in 32 CFR Part 286

Freedom of information.

Accordingly, 32 CFR part 286 is proposed to be amended to read as follows:

PART 286—DOD FREEDOM OF INFORMATION ACT (FOIA) PROGRAM

■ 1. The authority citation for part 286 continues to read as follows:

Authority: 5 U.S.C. 552.

§ 286.3 [Amended]

■ 2. Amend § 286.3 by:
■ a. In paragraph (a):
■ i. Adding the words ''United States Cyber Command,'' after the words ''United States Central Command.''
■ ii. Removing the words ''Defense Security Service'' and adding in its place the words ''Defense Counterintelligence and Security Agency.''
■ b. In paragraph (b):
■ i. Adding the words ''Defense Digital Service,'' after the words ''Defense Advanced Research Projects Agency.''
■ ii. Adding the words ''Defense Innovation Unit,'' after the words ''Defense Equal Opportunity Management Institute.''
■ iii. Adding the words ''Space Development Agency,'' after the words ''Pentagon Force Protection Agency.''
■ iv. Removing the words ''Joint Improvised-Threat Defeat Agency.''
■ 3. Amend § 286.4 by revising paragraph (b) to read as follows:

§ 286.4 FOIA Public Liaisons and the Office of Government Information Services.

* * * * *

(b) Engaging in dispute resolution services provided by OGIS. These dispute resolution processes are voluntary processes. If a DoD Component agrees to participate in the dispute resolution services provided by the Office of Government Information services (OGIS), it will actively engage as a partner to the process in an attempt to resolve the dispute.

§ 286.11 [Amended]

■ 4. Amend § 286.11 by:
■ a. In paragraph (b)(1), removing the words ''Defense Security Service'' and adding in its place the words ''Defense Counterintelligence and Security Agency.''
■ b. In paragraph (b)(2), adding the words ''United States Cyber Command,'' after the words ''United States Central Command.''

Dated: June 19, 2020.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2020–13608 Filed 7–1–20; 8:45 am]

BILLING CODE 5001–06–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 86 and 600

[EPA–HQ–OAR–2016–0604; FRL–10010–95–OAR]

RIN 2060–AT21

Public Hearing for Vehicle Test Procedure Adjustments for Tier 3 Certification Test Fuel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of public hearing.

SUMMARY: The Environmental Protection Agency (EPA) is announcing a virtual public hearing to be held July 13, 2020, on its proposed Vehicle Test Procedure Adjustments for Tier 3 Certification Test Fuel rule, which was published on May 13, 2020. EPA is proposing adjustment factors to apply to vehicle GHG and fuel economy test results for the GHG and CAFE programs and the Fuel Economy and Environment Label as EPA separately implements changes in light-duty vehicle gasoline test fuel properties.

DATES: EPA will hold a virtual public hearing on July 13, 2020. Please refer to the **SUPPLEMENTARY INFORMATION** section for additional information on the public hearing.

ADDRESSES: The virtual public hearing will be held on July 13, 2020. The hearing will begin at 1 p.m. Eastern Time (ET) and end when all parties who wish to speak have had an opportunity to do so. All hearing attendees (including even those who do not intend to provide testimony) should notify the contact person listed under **FOR FURTHER INFORMATION CONTACT** by July 8, 2020. Additional information regarding the hearing appears below under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Tad Wysor, Office of Transportation and Air Quality, Assessment and Standards Division, Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone number: 734–214–4332; email address: *ASD-Registration@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA is proposing adjustment factors to apply to vehicle GHG and fuel economy test results for the GHG and CAFE programs and the Fuel Economy and Environment Label as EPA separately implements changes in light-duty vehicle gasoline test fuel properties under the Tier 3 Motor Vehicle Emission and Fuel Standards (Tier 3 final rule at 79 FR 23414, April 28, 2014).

Participation in virtual public hearing. Please note that EPA is deviating from its typical approach because the President has declared a national emergency. Because of current CDC recommendations, as well as state and local orders for social distancing to limit the spread of COVID–19, EPA cannot hold in-person public meetings at this time.

The virtual public hearing will provide interested parties the opportunity to present data, views, or arguments concerning the proposal (which is available at *https://www.epa.gov/regulations-emissions-vehicles-and-engines/vehicle-test-procedure-adjustments-tier-3-certification*). EPA may ask clarifying questions during the oral presentations but will not respond to the

presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as any oral comments and supporting information presented at the public hearing. EPA recommends submitting the text of your oral comments as written comments to the rulemaking docket. Due to the date of the hearing, EPA is extending the comment period from August 11, 2020 until August 14, 2020. EPA must receive comments on or before that date.

EPA is also asking all hearing attendees to pre-register for the hearing by sending an email to the address listed in the **FOR FURTHER INFORMATION CONTACT** section above, even those who do not intend to provide testimony. This will help EPA ensure that sufficient phone lines will be available.

Please note that any updates made to any aspect of the hearing logistics, including potential additional sessions, will be posted online at *https://www.epa.gov/regulations-emissions-vehicles-and-engines/vehicle-test-procedure-adjustments-tier-3-certification.* While EPA expects the hearing to go forward as set forth above, please monitor our website or contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to determine if there are any updates.

If you require the services of a translator or special accommodations such as audio description, please pre-register for the hearing and describe your needs by July 1, 2020. EPA may not be able to arrange accommodations without advanced notice.

How can I get copies of the proposed action and other related information? EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2016–0604. EPA has also developed a website for the rule at *https://www.epa.gov/regulations-emissions-vehicles-and-engines/vehicle-test-procedure-adjustments-tier-3-certification.* Please refer to the notice of proposed rulemaking for detailed information on accessing information related to the proposal.

Dated: June 26, 2020.

Sarah Dunham,

Director, Office of Transportation and Air Quality.

[FR Doc. 2020–14268 Filed 7–1–20; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[WT Docket No. 19–250 and RM–11849; FCC 20–75; FRS 16875]

Accelerating Wireless and Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Communications Commission (''Commission'' or ''FCC'') proposes rule changes that would allow applicants to excavate or deploy wireless facilities outside the boundaries of an existing tower site. The Commission proposes to revise the definition of ''site'' in the Commission's rules to make clear that ''site'' refers to the boundary of the leased or owned property surrounding the tower and any access or utility easements currently related to the site as of the date that the facility was last reviewed and approved by a locality. The Commission also proposes to amend its rules so that a modification of an existing facility that entails ground excavation or deployment of up to 30 feet in any direction outside the facility's site will be eligible for streamlined processing under the Spectrum Act. The *Notice of Proposed Rulemaking* (*NPRM*) also seeks comment on whether the Commission should adopt a different definition of ''site'' than the one proposed.

DATES: Interested parties may file comments on or before July 22, 2020, and reply comments on or before August 3, 2020.

ADDRESSES: 445 12th Street SW, Washington, DC 20554. For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For further information on this proceeding, contact Paul D'Ari, *Paul.DAri@fcc.gov,* of the Wireless Telecommunications Bureau, Competition & Infrastructure Policy Division, (202) 418–1150.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rulemaking* (*NPRM*) in WT Docket No. 19–250 and RM–11849, adopted on June 9, 2020, and released on June 10, 2020. The document is available for download at *https://www.fcc.gov/edocs.* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *FCC504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Comments and Reply Comments: Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).*

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *http://apps.fcc.gov/ecfs/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.
- Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW, Washington, DC 20554.
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID–19. See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy, Public Notice, DA 20–304 (March 19, 2020). *https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy.*
- During the time the Commission's building is closed to the general public and until further notice, if more than one docket or rulemaking number appears in the caption of a proceeding, paper filers need not submit two additional copies for each additional docket or rulemaking number; an original and one copy are sufficient.

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

Ex Parte Procedures: The proceeding this *NPRM* initiates shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. *See* 47 CFR 1.1200 *et seq.* Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

Synopsis

1. In the *NPRM,* the Commission seeks comment on whether changes to its rules regarding excavation outside the boundaries of an existing tower site, including the definition of the boundaries of a tower ''site,'' would advance the objectives of Section 6409(a).

I. Notice of Proposed Rulemaking

2. Section 1.6100(b)(7)(iv) provides that ''[a] modification substantially changes the physical dimensions of an eligible support structure if . . . [i]t entails any excavation or deployment outside the current site[.]'' In other words, a proposed modification that entails any excavation or deployment outside the current site of a tower or base station is not eligible for Section 6409(a)'s streamlined procedures. Section 1.6100(b)(6) defines ''site'' for towers outside of the public rights-of-way as ''the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.''

3. In its Petition for Declaratory Ruling, WIA requests that the Commission clarify that ''current site,'' for purposes of Section 1.6100(b)(7)(iv), is the *currently* leased or owned compound area. Industry commenters argue that current ''site'' means the property leased or owned by the applicant at the time it submits an application to make a qualifying modification under Section 6409(a). Industry commenters state that their proposed clarification merely affirms the plain meaning of the rule. They assert that such clarification is needed because many local governments interpret Section 1.6100(b)(6) as referring to the original site and wrongly claim that a modification is not entitled to Section 6409(a) if it entails any deployment outside of those original boundaries.

4. WIA's Petition for Rulemaking also requests that the Commission amend its rules to establish that a modification would not cause a ''substantial change'' if it entails excavation or facility deployments at locations of up to 30 feet in any direction outside the boundaries of a macro tower compound. Industry commenters contend that it is often difficult to collocate transmission equipment on existing macro towers without expanding the compounds surrounding those towers in order to deploy additional equipment sheds or cabinets on the ground. They argue that such deployments are becoming increasingly necessary to house multiple carriers' facilities on towers built in the past to support the needs of a single carrier and to facilitate the extensive network densification needed for rapid 5G deployment. WIA states that this proposal is consistent with the Wireless Facilities Nationwide Programmatic Agreement, which excludes from Section 106 historic preservation review ''the construction of a replacement for any existing communications tower'' that, *inter alia,* ''does not expand the boundaries of the leased or owned property surrounding the tower by more than 30 feet in any direction or involve excavation outside these expanded boundaries or outside any existing access or utility easement related to the site.''

5. Local governments argue that the definition of ''site'' should not be interpreted to mean the applicant's leased or owned property on the date it submits its eligible facilities request. They assert that this interpretation would permit providers to expand the boundaries of a site without review and approval by a local government by entering into leases that increase the area of a site after the locality's initial review. NLC argues that it would lead to ''extensive bypassing of local review for property uses not previously reviewed and approved to support wireless equipment.'' Localities also generally oppose the compound expansion proposal because they argue that excavation of up to 30 feet beyond a tower's current site cannot be considered insubstantial. Moreover, several cities argue that the Commission considered and rejected this proposal in the *2014 Infrastructure Order* and that circumstances have not changed that would warrant a policy reversal.

6. In light of the different approaches recommended by the industry and localities, the Commission seeks comment on whether it should revise its rules to resolve these issues and, if so, in what manner. In particular, the Commission proposes to revise the definition of ''site'' in Section 1.6100(b)(6) to make clear that ''site'' refers to the boundary of the leased or owned property surrounding the tower and any access or utility easements currently related to the site as of the date that the facility was last reviewed and approved by a locality. The Commission further proposes to amend Section 1.6100(b)(7)(iv) so that modification of an existing facility that entails ground excavation or deployment of up to 30 feet in any direction outside the facility's site will be eligible for streamlined processing under Section 6409(a).

7. Alternatively, the Commission seeks comment on whether it should revise the definition of site in Section 1.6100(b)(6), as proposed above, without making the proposed change to Section

1.6100(b)(7)(iv) for excavation or deployment of up to 30 feet outside the site. As another option, the Commission seeks comment on whether to define site in Section 1.6100(b)(6) as the boundary of the leased or owned property surrounding the tower and any access or utility easements related to the site *as of the date an applicant submits a modification request.* Commenters should describe the costs and benefits of these approaches, as well as any other alternatives that they discuss in comments, and provide quantitative estimates as appropriate.

II. Procedural Matters

A. Initial Regulatory Flexibility Analysis

8. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities of the policies and rules proposed in this *Notice of Proposed Rulemaking* (*NPRM*). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments provided on the first page of the *NPRM.* The Commission will send a copy of the *NPRM,* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *NPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

a. Need for, and Objectives of, the Proposed Rules

9. The *NPRM* proposes to revise the definition of ''site'' in Section 1.6100(b)(6) to make clear that ''site'' refers to the boundary of the leased or owned property surrounding the tower and any access or utility easements related to the site as of the date the facility was last reviewed and approved by a locality. It also proposes to amend Section 1.6100(b)(7)(iv) to allow for streamlined procedures under the Section 6409 of the Commission's rules to cover modifications to an existing facility that entail ground excavation or deployment of up to 30 feet in any direction outside the boundary of the site.

10. The *NPRM* seeks comment on whether the Commission should revise the definition of ''site'' in Section 1.6100(b)(6) without making the proposed change for excavation or deployment of up to 30 feet outside the boundary of the site. The *NPRM* also seeks comment on an alternative definition—whether to define ''site'' in Section 1.6100(b)(6) as the boundary of the leased or owned property surrounding the tower and any access or utility easements related to the site *as of the date an applicant submits a modification request.* Finally, the *NPRM* asks commenters to describe the costs and benefits of each approach, as well as any other alternatives, and quantitative estimates as appropriate.

11. Section 1.6100(b)(7)(iv) of the Commission's rules provides that ''a modification substantially changes the physical dimensions of an eligible support structure if . . . [i]t entails any excavation or deployment outside the current site[.]'' Accordingly, a proposed modification that entails any excavation outside the current site of a tower or base station is not eligible for streamlined approval by State or local governments under Section 6409(a). Section 1.6100(b)(6) defines ''site'' for towers outside of the public rights-of-way as ''the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.''

12. Industry commenters argue that current ''site'' means the property leased or owned by the applicant at the time it submits an application to make a qualifying modification under Section 6409(a). Industry commenters state that their proposed clarification merely affirms the plain meaning of the rule. They state that such clarification is needed, because many local governments interpret Section 1.6100(b)(6) as referring to the original site and wrongly claim that a modification is not entitled to Section 6409(a) if it entails any deployment outside of those original boundaries. Local governments oppose WIA's interpretation, saying it would permit providers to expand the boundaries of a site without review and approval by a local government by entering into leases that increase the area of a site after the locality's initial review.

13. Section 1.6100(b)(7)(iv) provides that ''a modification substantially changes the physical dimensions of an eligible support structure if . . . [i]t entails any excavation or deployment outside the current site[.]'' However ''site'' is defined, a proposed modification is not eligible for streamlined processing under Section 6409(a) if it is on a tower outside a right-of-way and involves excavation outside the site. WIA and other industry commenters urge the Commission to amend this rule so that ''excavation or facility deployments at locations up to 30 feet in any direction outside the current boundaries of a macro tower compound'' would not constitute a substantial change in the physical dimensions.

14. Industry commenters contend that it is often difficult to collocate transmission equipment on existing macro towers without expanding the compounds surrounding those towers in order to deploy additional equipment sheds or cabinets on the ground. They argue that such deployments are becoming increasingly necessary to house multiple carriers' facilities on towers built in the past to support the needs of a single carrier and to facilitate the extensive network densification needed for rapid 5G deployment. In contrast, local governments generally oppose the compound expansion proposal arguing that excavation of up to a 30-feet beyond a tower's current site cannot be considered insubstantial. Moreover, several cities argue that the Commission considered and rejected this proposal in the *2014 Infrastructure Order* and that circumstances have not changed that would warrant a policy reversal.

b. Legal Basis

15. The proposed action is authorized pursuant to Sections 1, 4(i)–(j), 7, 201, 253, 301, 303, 309, 319, and 332 of the Communications Act of 1934, as amended, and Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, as amended, 47 U.S.C. 151, 154(i)–(j), 157, 201, 253, 301, 303, 309, 319, 332, 1455.

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

16. 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. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

17. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* The Commission's actions,

over time, may affect small entities that are not easily categorized at present. The Commission therefore describes here, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the Small Business Administration's (SBA) Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 30.7 million businesses.

18. 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.'' The Internal Revenue Service (IRS) uses a revenue benchmark of $50,000 or less to delineate its annual electronic filing requirements for small exempt organizations. Nationwide, for tax year 2018, there were approximately 571,709 small exempt organizations in the U.S. reporting revenues of $50,000 or less according to the registration and tax data for exempt organizations available from the IRS.

19. Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' U.S. Census Bureau data from the 2017 Census of Governments indicate that there were 90,075 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number there were 36,931 general purpose governments (county, municipal and town or township) with populations of less than 50,000 and 12,040 special purpose governments—independent school districts with enrollment populations of less than 50,000. Accordingly, based on the 2017 U.S. Census of Governments data, the Commission estimates that at least 48,971 entities fall into the category of ''small governmental jurisdictions.''

20. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services. The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census Bureau data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms employed fewer than 1,000 employees and 12 firms employed of 1,000 employees or more. Thus under this category and the associated size standard, the Commission estimates that the majority of Wireless Telecommunications Carriers (except Satellite) are small entities.

21. The Commission's own data—available in its Universal Licensing System—indicate that, as of August 31, 2018 there are 265 Cellular licensees that will be affected by the Commission's actions. The Commission does not know how many of these licensees are small, as the Commission does not collect that information for these types of entities. Similarly, according to internally developed Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) Telephony services. Of this total, an estimated 261 have 1,500 or fewer employees, and 152 have more than 1,500 employees. Thus, using available data, the Commission estimates that the majority of wireless firms can be considered small.

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

23. *Fixed Microwave Services.* Microwave services include common carrier, private-operational fixed, and broadcast auxiliary radio services. They also include the Upper Microwave Flexible Use Service, Millimeter Wave Service, Local Multipoint Distribution Service (LMDS), the Digital Electronic Message Service (DEMS), and the 24 GHz Service, where licensees can choose between common carrier and non-common carrier status. There are approximately 66,680 common carrier fixed licensees, 69,360 private and public safety operational-fixed licensees, 20,150 broadcast auxiliary radio licensees, 411 LMDS licenses, 33 24 GHz DEMS licenses, 777 39 GHz licenses, and five 24 GHz licenses, and 467 Millimeter Wave licenses in the microwave services. The Commission has not yet defined a small business with respect to microwave services. The closest applicable SBA category is Wireless Telecommunications Carriers (except Satellite) and the appropriate size standard for this category under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census Bureau data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had employment of 999 or fewer employees and 12 had employment of 1000 employees or more. Thus under this SBA category and the associated size standard, the Commission estimates that a majority of fixed microwave service licensees can be considered small.

24. The Commission does not have data specifying the number of these licensees that have more than 1,500 employees, and thus is unable at this time to estimate with greater precision the number of fixed microwave service licensees that would qualify as small business concerns under the SBA's small business size standard. Consequently, the Commission estimates that there are up to 36,708 common carrier fixed licensees and up to 59,291 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services that may be small and may be affected by the rules and policies discussed herein. The Commission notes, however, that the microwave fixed licensee category includes some large entities.

25. *FM Translator Stations and Low Power FM Stations.* FM translators and Low Power FM Stations are classified in the category of Radio Stations and are

assigned the same NAICs Code as licensees of radio stations. This U.S. industry, Radio Stations, comprises establishments primarily engaged in broadcasting aural programs by radio to the public. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA has established a small business size standard which consists of all radio stations whose annual receipts are $41.5 million dollars or less. U.S. Census Bureau data for 2012 indicate that 2,849 radio station firms operated during that year. Of that number, 2,806 operated with annual receipts of less than $25 million per year, 17 with annual receipts between $25 million and $49,999,999 million and 26 with annual receipts of $50 million or more. Therefore, based on the SBA's size standard the Commission concludes that the majority of FM Translator Stations and Low Power FM Stations are small.

26. *Location and Monitoring Service (LMS).* LMS systems use non-voice radio techniques to determine the location and status of mobile radio units. For purposes of auctioning LMS licenses, the Commission has defined a ''small business'' as an entity that, together with controlling interests and affiliates, has average annual gross revenues for the preceding three years not to exceed $15 million. A ''very small business'' is defined as an entity that, together with controlling interests and affiliates, has average annual gross revenues for the preceding three years not to exceed $3 million. These definitions have been approved by the SBA. An auction for LMS licenses commenced on February 23, 1999 and closed on March 5, 1999. Of the 528 licenses auctioned, 289 licenses were sold to four small businesses.

27. *Multichannel Video Distribution and Data Service (MVDDS).* MVDDS is a terrestrial fixed microwave service operating in the 12.2–12.7 GHz band. The Commission adopted criteria for defining three groups of small businesses for purposes of determining their eligibility for special provisions such as bidding credits. It defined a very small business as an entity with average annual gross revenues not exceeding $3 million for the preceding three years; a small business as an entity with average annual gross revenues not exceeding $15 million for the preceding three years; and an entrepreneur as an entity with average annual gross revenues not exceeding $40 million for the preceding three years. These definitions were approved by the SBA. On January 27, 2004, the Commission completed an auction of 214 MVDDS licenses (Auction No. 53). In this auction, ten winning bidders won a total of 192 MVDDS licenses. Eight of the ten winning bidders claimed small business status and won 144 of the licenses. The Commission also held an auction of MVDDS licenses on December 7, 2005 (Auction 63). Of the three winning bidders who won 22 licenses, two winning bidders, winning 21 of the licenses, claimed small business status.

28. *Multiple Address Systems.* Entities using Multiple Address Systems (MAS) spectrum, in general, fall into two categories: (1) Those using the spectrum for profit-based uses, and (2) those using the spectrum for private internal uses. With respect to the first category, Profit-based Spectrum use, the size standards established by the Commission define ''small entity'' for MAS licensees as an entity that has average annual gross revenues of less than $15 million over the three previous calendar years. A ''Very small business'' is defined as an entity that, together with its affiliates, has average annual gross revenues of not more than $3 million over the preceding three calendar years. The SBA has approved these definitions. The majority of MAS operators are licensed in bands where the Commission has implemented a geographic area licensing approach that requires the use of competitive bidding procedures to resolve mutually exclusive applications.

29. The Commission's licensing database indicates that, as of April 16, 2010, there were a total of 11,653 site-based MAS station authorizations. Of these, 58 authorizations were associated with common carrier service. In addition, the Commission's licensing database indicates that, as of April 16, 2010, there were a total of 3,330 Economic Area market area MAS authorizations. The Commission's licensing database also indicates that, as of April 16, 2010, of the 11,653 total MAS station authorizations, 10,773 authorizations were for private radio service. In 2001, an auction for 5,104 MAS licenses in 176 EAs was conducted. Seven winning bidders claimed status as small or very small businesses and won 611 licenses. In 2005, the Commission completed an auction (Auction 59) of 4,226 MAS licenses in the Fixed Microwave Services from the 928/959 and 932/941 MHz bands. Twenty-six winning bidders won a total of 2,323 licenses. Of the 26 winning bidders in this auction, five claimed small business status and won 1,891 licenses.

30. With respect to the second category, Internal Private Spectrum use consists of entities that use, or seek to use, MAS spectrum to accommodate their own internal communications needs, MAS serves an essential role in a range of industrial, safety, business, and land transportation activities. MAS radios are used by companies of all sizes, operating in virtually all U.S. business categories, and by all types of public safety entities. For the majority of private internal users, the definition developed by the SBA would be more appropriate than the Commission's definition. The closest applicable definition of a small entity is the ''Wireless Telecommunications Carriers (except Satellite)'' definition under the SBA size standards. The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this category, U.S. Census Bureau data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had employment of 999 or fewer employees and 12 had employment of 1000 employees or more. Thus, under this category and the associated small business size standard, the Commission estimates that the majority of firms that may be affected by the Commission's action can be considered small.

31. *Non-Licensee Owners of Towers and Other Infrastructure.* Although at one time most communications towers were owned by the licensee using the tower to provide communications service, many towers are now owned by third-party businesses that do not provide communications services themselves but lease space on their towers to other companies that provide communications services. The Commission's rules require that any entity, including a non-licensee, proposing to construct a tower over 200 feet in height or within the glide slope of an airport must register the tower with the Commission's Antenna Structure Registration (''ASR'') system and comply with applicable rules regarding review for impact on the environment and historic properties.

32. As of March 1, 2017, the ASR database includes approximately 122,157 registration records reflecting a ''Constructed'' status and 13,987 registration records reflecting a ''Granted, Not Constructed'' status. These figures include both towers registered to licensees and towers registered to non-licensee tower owners. The Commission does not keep information from which the Commission can easily determine how many of these towers are registered to non-licensees or how many non-licensees have registered towers. Regarding towers that do not require ASR registration, the Commission does not collect information as to the number

of such towers in use and therefore cannot estimate the number of tower owners that would be subject to the rules on which the Commission seeks comment. Moreover, the SBA has not developed a size standard for small businesses in the category ''Tower Owners.'' Therefore, the Commission is unable to determine the number of non-licensee tower owners that are small entities. The Commission believes, however, that when all entities owning 10 or fewer towers and leasing space for collocation are included, non-licensee tower owners number in the thousands. In addition, there may be other non-licensee owners of other wireless infrastructure, including Distributed Antenna Systems (DAS) and small cells that might be affected by the measures on which the Commission seeks comment. The Commission does not have any basis for estimating the number of such non-licensee owners that are small entities.

33. The closest applicable SBA category is All Other Telecommunications, and the appropriate size standard consists of all such firms with gross annual receipts of $38 million or less. For this category, U.S. Census Bureau data for 2012 show that there were 1,442 firms that operated for the entire year. Of these firms, a total of 1,400 had gross annual receipts of less than $25 million and 15 firms had annual receipts of $25 million to $49,999,999. Thus, under this SBA size standard a majority of the firms potentially affected by the Commission's action can be considered small.

34. *Personal Radio Services.* Personal radio services provide short-range, low-power radio for personal communications, radio signaling, and business communications not provided for in other services. Personal radio services include services operating in spectrum licensed under Part 95 of the Commission's rules. These services include Citizen Band Radio Service, General Mobile Radio Service, Radio Control Radio Service, Family Radio Service, Wireless Medical Telemetry Service, Medical Implant Communications Service, Low Power Radio Service, and Multi-Use Radio Service. There are a variety of methods used to license the spectrum in these rule parts, from licensing by rule, to conditioning operation on successful completion of a required test, to site-based licensing, to geographic area licensing. All such entities in this category are wireless, therefore the Commission applies the definition of Wireless Telecommunications Carriers (except Satellite), pursuant to which the SBA's small entity size standard is defined as those entities employing 1,500 or fewer persons. For this industry, U.S. Census Bureau data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had employment of 999 or fewer employees and 12 had employment of 1,000 employees or more. Thus under this category and the associated size standard, the Commission estimates that the majority of firms can be considered small. The Commission notes however, that many of the licensees in this category are individuals and not small entities. In addition, due to the mostly unlicensed and shared nature of the spectrum utilized in many of these services, the Commission lacks direct information upon which to base an estimation of the number of small entities that may be affected by the Commission's actions in this proceeding.

35. *Private Land Mobile Radio Licensees.* Private land mobile radio (PLMR) systems serve an essential role in a vast range of industrial, business, land transportation, and public safety activities. Companies of all sizes operating in all U.S. business categories use these radios. Because of the vast array of PLMR users, the Commission has not developed a small business size standard specifically applicable to PLMR users. The closest applicable SBA category is Wireless Telecommunications Carriers (except Satellite) which encompasses business entities engaged in radiotelephone communications. The appropriate size standard for this category under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census Bureau data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had employment of 999 or fewer employees and 12 had employment of 1,000 employees or more. Thus, under this category and the associated size standard, the Commission estimates that the majority of PLMR Licensees are small entities.

36. According to the Commission's records, a total of approximately 400,622 licenses comprise PLMR users. Of this number there are a total of approximately 3,174 PLMR licenses in the 4.9 GHz band; 29,187 PLMR licenses in the 800 MHz band; and 3,374 licenses in the frequencies range 173.225 MHz to 173.375 MHz. The Commission does not require PLMR licensees to disclose information about number of employees, and does not have information that could be used to determine how many PLMR licensees constitute small entities under this definition. The Commission however believes that a substantial number of PLMR licensees may be small entities despite the lack of specific information.

37. *Public Safety Radio Licensees.* As a general matter, Public Safety Radio Pool licensees include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services. Because of the vast array of public safety licensees, the Commission has not developed a small business size standard specifically applicable to public safety licensees. The closest applicable SBA category is Wireless Telecommunications Carriers (except Satellite) which encompasses business entities engaged in radiotelephone communications. The appropriate size standard for this category under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had employment of 999 or fewer employees and 12 had employment of 1,000 employees or more. Thus, under this category and the associated size standard, the Commission estimates that the majority of firms can be considered small. With respect to local governments, in particular, since many governmental entities comprise the licensees for these services, the Commission includes under public safety services the number of government entities affected. According to Commission records, there are a total of approximately 133,870 licenses within these services. There are 3.121 licenses in the 4.9 GHz band, based on an FCC Universal Licensing System search of March 29, 2017. The Commission estimates that fewer than 2,442 public safety radio licensees hold these licenses because certain entities may have multiple licenses.

38. *Radio Stations.* This Economic Census category ''comprises establishments primarily engaged in broadcasting aural programs by radio to the public. Programming may originate in their own studio, from an affiliated network, or from external sources.'' The SBA has established a small business size standard for this category as firms having $41.5 million or less in annual receipts. U.S. Census Bureau data for 2012 show that 2,849 radio station firms operated during that year. Of that number, 2,806 firms operated with annual receipts of less than $25 million per year and 17 with annual receipts between $25 million and $49,999,999 million. Therefore, based on the SBA's size standard the majority of such entities are small entities.

39. According to Commission staff review of the BIA/Kelsey, LLC's Media Access Pro Radio Database as of January 2018, about 11,261 (or about 99.9 percent) of 11,383 commercial radio stations had revenues of $38.5 million or less and thus qualify as small entities under the SBA definition. The Commission has estimated the number of licensed commercial AM radio stations to be 4,580 stations and the number of commercial FM radio stations to be 6,726, for a total number of 11,306. The Commission notes it has also estimated the number of licensed noncommercial (NCE) FM radio stations to be 4,172. Nevertheless, the Commission does not compile and otherwise does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities.

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

41. *Satellite Telecommunications.* This category comprises firms ''primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.'' Satellite telecommunications service providers include satellite and earth station operators. The category has a small business size standard of $35 million or less in average annual receipts, under SBA rules. For this category, U.S. Census Bureau data for 2012 show that there were a total of 333 firms that operated for the entire year. Of this total, 299 firms had annual receipts of less than $25 million. Consequently, the Commission estimates that the majority of satellite telecommunications providers are small entities.

42. *Television Broadcasting.* This Economic Census category ''comprises establishments primarily engaged in broadcasting images together with sound.'' These establishments operate television broadcast studios and facilities for the programming and transmission of programs to the public. These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA has created the following small business size standard for such businesses: Those having $41.5 million or less in annual receipts. The 2012 Economic Census reports that 751 firms in this category operated in that year. Of that number, 656 had annual receipts of $25,000,000 or less, and 25 had annual receipts between $25,000,000 and $49,999,999. Based on this data the Commission therefore estimates that the majority of commercial television broadcasters are small entities under the applicable SBA size standard.

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

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

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

46. *BRS*—In connection with the 1996 BRS auction, the Commission established a small business size standard as an entity that had annual average gross revenues of no more than $40 million in the previous three calendar years. The BRS auctions resulted in 67 successful bidders obtaining licensing opportunities for 493 Basic Trading Areas (BTAs). Of the 67 auction winners, 61 met the definition of a small business. BRS also includes licensees of stations authorized prior to the auction. At this time, the Commission estimates that of the 61 small business BRS auction winners, 48 remain small business licensees. In addition to the 48 small businesses that hold BTA authorizations, there are

approximately 86 incumbent BRS licensees that are considered small entities (18 incumbent BRS licensees do not meet the small business size standard). After adding the number of small business auction licensees to the number of incumbent licensees not already counted, there are currently approximately 133 BRS licensees that are defined as small businesses under either the SBA or the Commission's rules.

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

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

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

49. The excavation or deployment boundaries of an eligible facilities request poses significant policy implications associated with the Commission's Section 6409(a) rules. The Commission anticipates that any rule changes that result from the *NPRM* will provide certainty for providers, state and local governments, and other entities interpreting the Section 6409(a) rules. In the *NPRM,* the Commission seeks comment on changes to its rules regarding the definition of a ''site'' surrounding a tower, as well as streamlined treatment pursuant to the Section 6409 rules for an excavation or deployments outside the boundaries of an existing tower site. The Commission does not believe that its resolution of these matters will create any new reporting, recordkeeping, or other compliance requirements for small entities or others that will be impacted by this decision.

50. Specifically, the Commission proposes to amend the definition of the term ''site'' in Section 1.6100(b)(6) to make clear that ''site'' refers to the current boundary of the leased or owned property surrounding the tower and any access or utility easements currently related to the site on the date the facility was last reviewed and approved by a locality. In addition, the Commission proposes to change its rules to allow streamlined treatment under the Section 6409 rules for ''compound expansions'' (*i.e.,* excavation or facility deployments outside the current boundaries of a macro tower compound) of up to 30 feet in any direction outside the boundary of a site. This change to the existing rule, which was requested by industry commenters, is opposed by state and local government jurisdictions, and was previously considered but not adopted by the Commission in the *2014 Infrastructure Order.* The *NPRM* also seeks comment on whether to revise the definition of ''site'' without making the proposed change to allow for excavation or deployment of up to 30 feet outside the site. It seeks further comment on whether to define site in Section 1.6100(b)(6) as the boundary of the leased or owned property surrounding the tower and any access or utility easements related to the site *as of the date an applicant submits a modification request.*

51. The Commission does not anticipate rule changes resulting from the *NPRM* to cause any new recordkeeping, reporting, or compliance requirements for entities preparing eligible facilities requests under Section 6409(a) because entities are required to submit construction proposals outlining the work to be done regardless of whether the project qualifies as an eligible facilities request under Section 6409(a). Additionally, while the Commission does not anticipate that any action it takes on the matters raised in the *NPRM* will require small entities to hire attorneys, engineers, consultants, or other professionals to comply, the Commission cannot quantify the cost of compliance with the potential changes discussed in the *NPRM.* As part of the invitation for comment however, the Commission requests that parties discuss any tangible benefits and any adverse effects as well as alternative approaches and any other steps the Commission should consider taking on these matters. The Commission expects the information it receives in comments to help the Commission identify and evaluate relevant matters for small entities, including compliance costs and other burdens that may result from the matters raised in the *NPRM.*

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

52. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in developing its approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for such 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 such small entities.

53. The Commission believes that clarifying the parameters of excavation or deployment within or around a ''site'' under Section 1.6100 will provide more certainty to relevant parties and enable small entities and others to navigate more effectively state and local application processes. As a result, the Commission anticipates that any clarifying rule changes on which the *NPRM* seeks comment may help reduce

the economic impact on small entities that may need to deploy wireless infrastructure by reducing the cost and delay associated with the deployment of such infrastructure.

54. To assist the Commission in its evaluation of the economic impact on small entities, and of such a rule change generally, and to better explore options and alternatives, the *NPRM* asks commenters to discuss any benefits or drawbacks to small entities associated with making such a rule change. Specifically, the Commission inquires whether there are any specific, tangible benefits or harms from changing the definition of ''site'' or applying Section 6409(a)'s streamlined process to compound expansions, which may include an unequal burden on small entities.

55. The Commission is mindful that there are potential impacts from its decisions for small entity industry participants as well as for small local government jurisdictions. The Commission is hopeful that the comments received will illuminate the effect and impact of the proposed regulations in the *NPRM* on small entities and small local government jurisdictions, the extent to which the regulations would relieve any burdens on small entities, including small local government jurisdictions, and whether there are any alternatives the Commission could implement that would achieve the Commission's goals while at the same time minimizing or further reducing the economic impact on small entities, including small local government jurisdictions.

56. The Commission expects to consider more fully the economic impact on small entities following its review of comments filed in response to the *NPRM.* The Commission's evaluation of the comments filed in this proceeding will shape the final alternatives it considers, the final conclusions it reaches, and any final actions it ultimately takes in this proceeding to minimize any significant economic impact that may occur on small entities, including small local government jurisdictions.

f. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

57. None.

B. Comment Filing Procedures.

58. Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *http://apps.fcc.gov/ecfs/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW, Washington DC 20554.
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID–19. See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy, Public Notice, DA 20–304 (March 19, 2020). *https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy.*
- During the time the Commission's building is closed to the general public and until further notice, if more than one docket or rulemaking number appears in the caption of a proceeding, paper filers need not submit two additional copies for each additional docket or rulemaking number; an original and one copy are sufficient.

C. People With Disabilities.

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

D. Ex Parte Rules—Permit-But-Disclose.

60. This proceeding shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with Rule 1.1206(b). In proceedings governed by Rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

E. Paperwork Reduction Act.

61. This *Notice of Proposed Rulemaking* does not contain proposed information collection(s) 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).

III. Ordering Clauses

62. Accordingly, *it is ordered*, pursuant to Sections 1, 4(i) through (j), 7, 201, 253, 301, 303, 309, 319, and 332 of the Communications Act of 1934, as amended, and Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, as amended, 47 U.S.C. 151, 154(i) through (j), 157, 201, 253, 301, 303, 309, 319, 332, 1455 that this *Notice of Proposed Rulemaking* in

WT Docket No. 19–250 and RM–11849 IS hereby ADOPTED.

63. *It is further ordered* that the Commission's Consumer & Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this *Notice of Proposed Rulemaking,* including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission

Marlene Dortch.

Secretary.

[FR Doc. 2020–13950 Filed 7–1–20; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 85, No. 128
Thursday, July 2, 2020

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

National Forests in Alabama Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The National Forests in Alabama Resource Advisory Committee (RAC) will meet virtually. 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/specialprojects/racweb.*

DATES: The meeting will be held on Friday, July 31, 2020, from 9:00 a.m.–2:00 p.m.

All RAC meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held with virtual attendance only. For virtual meeting information, please contact the person listed under **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 the National Forests in Alabama Supervisor's Office. Please call ahead to set an appointment and facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Sheila Holifield, RAC Coordinator, by phone at 334–235–5494 or via email at *sheila.holifield@usda.gov;* or Tammy Freeman Brown, Designated Federal Officer, by phone at 334–315–4926 or via email at *tammy.freemanbrown@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 review, discuss, recommend, and approve new Title II 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 Tuesday, July 21, 2020, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the RAC may file written statements with the RAC staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Sheila Holifield, RAC Coordinator by email to *sheila.holifield@usda.gov.*

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening

devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case-by-case basis.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2020–14239 Filed 7–1–20; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

[Docket: RBS–20–CO–OP–0024]

Notice of Request for Revision of a Currently Approved Information Collection

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Proposed collection; comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Rural Business-Cooperative Service's (RBCS) intention to revise a currently approved information collection in support of the program for the Annual Survey of Farmer Cooperatives, as authorized in the Cooperative Marketing Act of 1926.

DATES: Comments on this notice must be received by August 31, 2020 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Pamela Bennett, Rural Development Innovation Center, Regulations Management Division, U.S. Department of Agriculture, 1400 Independence Avenue SW, STOP 0793, Room 4015 South Building, Washington, DC 20250–0793. Telephone: (202) 720–9639. Email: *pamela.bennett@usda.gov.*

SUPPLEMENTARY INFORMATION: *Title:* Annual Survey of Farmer Cooperatives.

OMB Number: 0570–0007.

Type of Request: Revision of a currently approved information collection.

Abstract: One of the objectives of RBCS is to promote the understanding, use and development of the cooperative form of business as a viable option for enhancing the income of agricultural producers and other rural residents. RBCS direct role is providing knowledge to improve the effectiveness and performance of farmer cooperative businesses through technical assistance, research, information, and education. The annual survey of farmer cooperatives collects basic statistics on cooperative business volume, net income, members, financial status, employees, and other selected information to support RBCS' objective and role. Cooperative statistics are published in an annual report and other formats for use by the U.S. Department

of Agriculture, cooperative management and members, educators and researchers, other Federal agencies, cooperative trade associations, general agribusiness, cooperative development practitioners, students, teachers, consultants, and many others.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 76 minutes or less per response.

Respondents: Farmer, rancher, and fishery cooperatives.

Estimated Number of Respondents: 1,037.

Estimated Number of Responses per Respondent: 1.

Estimated Number of Responses: 1,037.

Estimated Total Annual Burden on Respondents: 792 Hours.

Comments

The Office of Management and Budget's (OMB) regulation (5 CFR part 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an information collection that RBCS is submitting to OMB for approval. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) The accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) Ways to enhance the quality, utility and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent by the Federal eRulemaking Portal: Go to *http://www.regulations.gov* and, in the lower ''Search Regulations and Federal Actions'' box, select ''Rural Business-Cooperative Service'' from the agency drop-down menu, then click on ''Submit.'' In the Docket ID column, select RBS–20–CO–OP–0024 to submit or view public comments and to view supporting and related materials available electronically. Information on using *Regulations.gov*, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.

Copies of this information collection can be obtained from Pamela Bennett, Rural Development Innovation Center, Regulations Management Division, at (202) 720–9639. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Mark Brodziski,

Acting Administrator,Rural Business-Cooperative Service.

[FR Doc. 2020–14283 Filed 7–1–20; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

[Docket #: RBS–CO–OP–0026]

Inviting Applications for Rural Cooperative Development Grants

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice of Funding Availability.

SUMMARY: This Notice announces that the Rural Business-Cooperative Service (Agency) is accepting fiscal year (FY) 2020 applications for the Rural Cooperative Development Grant (RCDG) program. The program funding level for FY 2020 is a total of $5.8 million.

The purpose of this program is to provide financial assistance to improve the economic condition of rural areas through cooperative development. Eligible applicants are a non-profit corporation or an institution of higher education.

DATES: Completed applications must be submitted electronically by no later than midnight Eastern Time, August 3, 2020, through *Grants.gov*, to be eligible for grant funding. Please review the *Grants.gov* website at *https://www.grants.gov/web/grants/register.html*for instructions on the process of registering your organization as soon as possible to ensure that you are able to meet the electronic application deadline. Late applications are not eligible for funding under this Notice and will not be evaluated.

ADDRESSES: You are encouraged to contact your USDA Rural Development State Office well in advance of the application deadline to discuss your project and ask any questions about the RCDG program or application process. Contact information for State Offices can be found at *http://www.rd.usda.gov/contact-us/state-offices.*

Program guidance as well as application and matching funds templates may be obtained at *http://www.rd.usda.gov/programs-services/rural-cooperative-development-grant-program.* To submit an electronic application, follow the instructions for the RCDG funding announcement located at *http://www.grants.gov.*

FOR FURTHER INFORMATION CONTACT: Natalie Melton, Program Management Division, Rural Business-Cooperative Service, United States Department of Agriculture, 1400 Independence Avenue SW, Mail Stop–3226, Room 4204–South, Washington, DC 20250–3226, (202) 720–1400 or email *CPgrants@usda.gov.*

SUPPLEMENTARY INFORMATION:

Preface

The Agency encourages applications that will support recommendations made in the Rural Prosperity Task Force report to help improve life in rural America. *www.usda.gov/ruralprosperity* Applicants are encouraged to consider projects that provide measurable results in helping rural communities build robust and sustainable economies through strategic investments in infrastructure, partnerships and innovation. Key strategies include:

- Achieving e-Connectivity for rural America
- Developing the Rural Economy
- Harnessing Technological Innovation
- Supporting a Rural Workforce
- Improving Quality of Life

Overview

Federal Agency: Rural Business-Cooperative Service.

Funding Opportunity Title: Rural Cooperative Development Grants.

Announcement Type: Initial Notice.

Catalog of Federal Domestic Assistance Number: 10.771.

Date: Application Deadline. Electronic applications must be received by *http://www.grants.gov* no later than midnight Eastern Time, August 3, 2020, or it will not be considered for funding.

The Application Template provides specific, detailed instructions for each item of a complete application. The Agency emphasizes the importance of including every item and strongly encourages applicants to follow the instructions carefully, using the examples and illustrations in the Application Template. Prior to official submission of applications, applicants may request technical assistance or other application guidance from the Agency, as long as such requests are

made prior to August 3, 2020. Agency contact information can be found in Section D of this document.

Hemp related projects: Please note that no assistance or funding can be provided to a hemp producer unless they have a valid license issued from an approved State, Tribal or Federal plan as defined by the Agriculture Improvement Act of 2018, Public Law 115–334. Verification of valid hemp licenses will occur at the time of award.

Persistent poverty counties: The Further Consolidated Appropriations Act, 2020, SEC. 740 designates funding for projects in Persistent Poverty counties. Persistent Poverty counties as defined in SEC. 740 is ''any county that has had 20 percent or more of its population living in poverty over the past 30 years, as measured by the 1990 and 2000 decennial censuses, and 2007–2011 American Community Survey 5-year average, or any territory or possession of the United States''. Another provision in SEC. 740 expands the eligible population in Persistent Poverty counties to include any county seat of such a persistent poverty county that has a population that does not exceed the authorized population limit by more than 10 percent. This provision expands the current 50,000 population limit to 55,000 for only county seats located in Persistent Poverty counties. Therefore, applicants and/or beneficiaries of technical assistance services located in Persistent Poverty county seats with populations up to 55,000 (per the 2010 Census) are eligible.

COVID–19 Administrative Relief Exceptions: The Agency reviewed the Office of Budget and Management's (OMB) M–20–17 memorandum ''Administrative Relief for Recipients and Applicants of Federal Financial Assistance Directly Impacted by the Novel Coronavirus (COVID–19) due to Loss of Operations'', and OMB M–20–11, ''Administrative Relief for Recipients and Applicants of Federal Financial Assistance directly impacted by the novel coronavirus (COVID–19)'', cited and referenced by M–20–17 and has made every attempt to reduce administrative burden within our authority. Any reduction in burden will be discussed within the requirement.

The Agency will not solicit or consider new scoring or eligibility information that is submitted after the application deadline. The Agency reserves the right to contact applicants to seek clarification on materials contained in the submitted application. See the Application Template for a full discussion of each item. For requirements of completed grant applications, refer to Section D of this document.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act, the paperwork burden associated with this Notice has been approved by the Office of Management and Budget (OMB) under OMB Control Number 0570–0006.

A. Program Description

The RCDG program is authorized under section 310B(e) of the Consolidated Farm and Rural Development Act (CONACT) (7 U.S.C. 1932 (e)) as amended by the Agriculture Improvement Act of 2018 (Pub. L. 115–334). You are required to comply with the regulations for this program published at 7 CFR part 4284, subparts A and F, which are incorporated by reference in this Notice. Therefore, you should become familiar with these regulations. The primary objective of the RCDG program is to improve the economic condition of rural areas through cooperative development. Grants are awarded on a competitive basis. The maximum award amount per grant is $200,000. Grants are available for non-profit corporations or higher education institutions only. Grant funds may be used to pay for up to 75 percent of the cost of establishing and operating centers for rural cooperative development. Grant funds may be used to pay for 95 percent of the cost of establishing and operating centers for rural cooperative development when the applicant is a 1994 Institution as defined by 7 U.S.C. 301. The 1994 Institutions are commonly known as Tribal Land Grant Institutions. Centers may have the expertise on staff, or they can contract out for the expertise to assist individuals or entities in the startup, expansion or operational improvement of rural businesses, especially cooperative or mutually-owned businesses.

Definitions

The terms you need to understand are defined and published at 7 CFR 4284.3 and 7 CFR 4284.504. In addition, the terms ''rural'' and ''rural area,'' defined at section 343(a) (13) of the CONACT (7 U.S.C. 1991(a)), are incorporated by reference, and will be used for this program instead of those terms currently published at 7 CFR 4284.3. The term ''you'' referenced throughout this Notice should be understood to mean ''you'' the applicant. Finally, there has been some confusion on the Agency's meaning of the terms ''conflict of interest'' and ''mutually-owned business'' because they are not defined in the CONACT or in the regulations used for the program. Therefore, the terms are clarified and should be understood as follows.

Conflict of interest—A situation in which a person or entity has competing personal, professional, or financial interests that make it difficult for the person or business to act impartially. Regarding use of both grant and matching funds, Federal procurement standards prohibit transactions that involve a real or apparent conflict of interest for owners, employees, officers, agents, or their immediate family members having a financial or other interest in the outcome of the project; or that restrict open and free competition for unrestrained trade. Specifically, project funds may not be used for services or goods going to, or coming from, a person or entity with a real or apparent conflict of interest, including, but not limited to, owner(s) and their immediate family members. An example of conflict of interest occurs when the grantee's employees, board of directors, or the immediate family of either, have the appearance of a professional or personal financial interest in the recipients receiving the benefits or services of the grant.

Mutually-owned business—An organization owned and governed by members who either are its consumers, producers, employees, or suppliers.

B. Federal Award Information

Type of Award: Competitive Grant.
Fiscal Year Funds: FY 2020.
Total Funding: $5,800,000.
Maximum Award: $200,000.
Anticipated Award Date: September 30, 2020.

C. Eligibility Information

Applicants must meet all of the following eligibility requirements. Applications which fail to meet any of these requirements by the application deadline will be deemed ineligible and will not be evaluated further.

1. Eligible Applicants

You must be a nonprofit corporation or an institution of higher education to apply for this program. Public bodies and individuals cannot apply for this program. See 7 CFR 4284.507. You must also meet the following requirements:

a. An applicant is ineligible if they have been debarred or suspended or otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, ''Debarment and Suspension.'' The Agency will check the System for Award Management (SAM) to determine if the applicant has been debarred or

suspended. In addition, an applicant will be considered ineligible for a grant due to an outstanding judgment obtained by the U.S. in a Federal Court (other than U.S. Tax Court), is delinquent on the payment of Federal income taxes, or is delinquent on Federal debt. See 7 CFR 4284.6. The applicant must certify as part of the application that they do not have an outstanding judgment against them. The Agency will check the Do Not Pay System to verify this information.

b. Any corporation that has been convicted of a felony criminal violation under any Federal law within the past 24 months or that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, is not eligible for financial assistance provided with funds appropriated by the Further Consolidated Appropriations Act, 2020 (Pub. L. 116–94), unless a Federal agency has considered suspension or debarment of the corporation and has made a determination that this further action is not necessary to protect the interests of the Government. Note: You no longer must complete the Form AD 3030, ''Representation Regarding Felony Corporations and Tax Delinquent Status for Corporate Applicants'' as a part of your application. This information is now collected through your registration or annual recertification in *SAM.gov* via the Financial Assistance General Certifications and Representations.

c. Applications will be deemed ineligible if the application includes any funding restrictions identified under Section D.6. a and b. Inclusion of funding restrictions outlined in Section D.6. a. and b. preclude the Agency from making a federal award.

d. Applications will be deemed ineligible if the application is not complete in accordance with the requirements stated in Section C.3.

2. Cost Sharing or Matching

Your matching funds requirement is 25 percent of the total project cost (5 percent for 1994 Institutions). See 7 CFR 4284.508. When you calculate your matching funds requirement, please round up or down to whole dollars as appropriate. An example of how to calculate your matching funds is as follows:

a. Take the amount of grant funds you are requesting and divide it by .75. This will give you your total project cost.

Example: $200,000 (Grant Amount)/.75 (Percentage for use of Grant Funds) = $266,667 (Total Project Cost)

b. Subtract the amount of grant funds you are requesting from your total project cost. This will give you your matching funds requirement.

Example: $266,667 (total project cost) − $200,000 (grant amount) = $66,667 (matching funds requirement)

c. A quick way to double check that you have the correct amount of matching funds is to take your total project cost and multiply it by .25.

Example: $266,667 (total project cost) × .25 (maximum percentage of matching funds requirement) = $66,667 (matching funds requirement)

You must verify that all matching funds are available during the grant period and provide this documentation with your application in accordance with requirements identified in Section D.2.e.8. If you are awarded a grant, additional verification documentation may be required to confirm the availability of matching funds.

Other rules for matching funds that you must follow are listed below.

- They must be spent on eligible expenses during the grant period.
- They must be from eligible sources.
- They must be spent in advance or as a pro-rata portion of grant funds being spent.
- They must be provided by either the applicant or a third party in the form of cash or an in-kind contribution.
- They cannot include board/advisory council member's time.
- They cannot include other Federal grants unless provided by authorizing legislation.
- They cannot include cash or in-kind contributions donated outside of the grant period.
- They cannot include over-valued, in-kind contributions.
- They cannot include any project costs that are ineligible under the RCDG program.
- They cannot include any project costs that are restricted or unallowable under 2 CFR part 200, subpart E, and the Federal Acquisition Regulation (for-profits) or successor regulation.
- They can include loan funds from a Federal source.
- They can include travel and incidentals for board/advisory council members if you have established written policies explaining how these costs are normally reimbursed, including rates. You must include an explanation of this policy in your application or the contributions will not be considered as eligible matching funds.
- You must be able to document and verify the number of hours worked and the value associated with any in-kind contribution being used to meet a matching funds requirement.
- In-kind contributions provided by individuals, businesses, or cooperatives which are being assisted by you cannot be provided for the direct benefit of their own projects as USDA Rural Development considers this to be a conflict of interest or the appearance of a conflict of interest.

3. Other Eligibility Requirements

a. Completeness

Your application will not be considered for funding if it fails to meet an eligibility criterion by time of application deadline or does not provide sufficient information to determine eligibility and scoring. You must include all of the forms and proposal elements as discussed in the regulation and as clarified further in this Notice in one package. Incomplete applications will not be reviewed by the Agency. For more information on what is required for a complete application, see 7 CFR 4284.510.

b. Purpose Eligibility

Your application must propose the establishment or continuation of a cooperative development center concept. You must use project funds, including grant and matching funds, for eligible purposes only (see 7 CFR 4284.508). In addition, project funds may also be used for programs providing for the coordination of services and sharing of information among the centers (see 7 U.S.C 1932(e)(4)(C)(vi)).

c. Project Eligibility

All project activities must be for the benefit of a rural area.

d. Multiple Application Eligibility

Only one application can be submitted per applicant. If two applications are submitted (regardless of the applicant name) that include the same Executive Director and/or advisory boards or committees of an existing center, both applications will be determined ineligible for funding.

e. Grant Period

Your application must include no more than a one-year grant period, or it will not be considered for funding. The grant period should begin no earlier than October 1, 2020, and no later than January 1, 2021. Applications that request funds for a time period ending after January 1, 2021, will not be considered for funding. Projects must be

completed within a one-year timeframe. Prior approval is needed from the Agency if you are awarded a grant and desire the grant period to begin earlier or later than previously discussed or approved.

The Agency may approve requests for a one-time extension up to 12 months at its discretion. However, you may not have more than one active RCDG during the same grant period. Further guidance on grant period extensions will be provided in the award document. The Agency understands that fiscal year 2019 recipients may have had loss of operations due to COVID–19 and will work with them to determine an acceptable grant period if they are awarded in fiscal year 2020 in accordance with OMB Memoranda M–20–17 and 2 CFR 200.308.

f. Satisfactory Performance

You must be performing satisfactorily on any outstanding RCDG award to be considered eligible for a new award. Satisfactory performance includes being up-to-date on all financial and performance reports as prescribed in the grant award, and current on tasks and timeframes for utilizing grant and matching funds as approved in the work plan and budget. If you have any unspent grant funds on RCDG awards prior to fiscal year 2019, your application will not be considered for funding. If your fiscal year 2019 award has unspent funds of 50 percent or more than what your approved work plan and budget projected at the time that your fiscal year 2020 application is being evaluated, your application will not be considered for funding. The Agency will verify the performance status of the applicant's FY 2019 awards and make a determination after the FY 2020 application period closes. The Agency understands that fiscal year 2019 recipients may have had a loss of operations due to COVID–19 and will consider providing flexibility in terms of fund utilization on FY 19 awards with acceptable justification of delays resulting from the COVID–19 pandemic in accordance with OMB Memorandum M–20–17 and 2 CFR 200.343.

g. Duplication of Current Services

Your application must demonstrate that you are providing services to new customers or new services to current customers. If your work plan and budget is duplicative of your existing award, your application will not be considered for funding. If your workplan and budget is duplicative of a previous or existing RCDG and/or Socially Disadvantaged Groups Grant (SDGG) award, your application will not be considered for funding. The Agency will make this determination. Please note that the Agency only allows one active award to ensure that there is no duplication of services. The Agency will work with FY 2019 recipients who request an extension of their FY 2019 award due to COVID–19 loss of operations to determine an acceptable grant period if they are awarded in fiscal year 2020 in accordance with OMB Memorandum M–20–17 and 2 CFR 200.343. Thus, requesting an extension on a FY 2019 award is not cause for deeming a FY 2020 application ineligible.

h. Indirect Costs

Your negotiated indirect cost rate approval does not need to be included in your application, but you will be required to provide it if a grant is awarded. Approval for indirect costs that are requested in an application without an approved indirect cost rate agreement is at the discretion of the Agency.

D. Application and Submission Information

1. Address To Request Application Package

For further information, you should contact your State Office at *http://www.rd.usda.gov/contact-us/state-offices.* Program materials may also be obtained at *http://www.rd.usda.gov/programs-services/rural-cooperative-development-grant-program.*

2. Content and Form of Application Submission

You may submit your application electronically through *Grants.gov*. You are encouraged, but not required to utilize the application template found at *http://www.rd.usda.gov/programs-services/rural-cooperative-development-grant-program.*

a. Electronic Submission

An optional-use Agency application template is available online at *http://www.rd.usda.gov/programs-services/rural-cooperative-development-grant-program.*

To apply electronically, you must use the *Grants.gov* website at *http://www.Grants.gov.* You may not apply electronically in any way other than through *Grants.gov*.

You can locate the *Grants.gov* downloadable application package for this program by using a keyword, the program name, or the Catalog of Federal Domestic Assistance Number for this program.

When you enter the *Grants.gov* website, you will find information about applying electronically through the site, as well as the hours of operation.

To use *Grants.gov*, you must already have a DUNS number and you must also be registered and maintain registration in SAM. We strongly recommend that you do not wait until the application deadline date to begin the application process through *Grants.gov*.

You must submit all your application documents electronically through *Grants.gov*. Applications must include electronic signatures. Original signatures may be required if funds are awarded.

After electronically applying through *Grants.gov*, you will receive an automatic acknowledgement from *Grants.gov* that contains a *Grants.gov* tracking number.Supplemental Information

Your application must contain all the required forms and proposal elements described in 7 CFR 4284.510 and as otherwise clarified in this Notice. Specifically, your application must include: (1) The required forms as described in 7 CFR 4284.510(b) and (2) the required proposal elements as described in 7 CFR 4284.510(c). If your application is incomplete, it is ineligible to compete for funds. Applications lacking sufficient information to determine eligibility and scoring will be considered ineligible. Information submitted after the application deadline will not be accepted.

c. Clarifications on Forms

- Your DUNS number should be identified in the ''Organizational DUNS'' field on Standard Form (SF) 424, ''Application for Federal Assistance.'' You must also provide your SAM Commercial and Government Entity (CAGE) Code and expiration date under the applicant eligibility discussion in your proposal narrative. If you do not include the CAGE code and expiration date and the DUNS number in your application, it will not be considered for funding. In accordance with OMB Memoranda M–20–17, the Agency can accept an application without an active SAM registration. However, the registration must be completed before an award is made. Current registrants in SAM with active registrations expiring before May 16, 2020 will be afforded a one-time extension of 60 days.
- You no longer must complete the Form SF 424B, ''Assurances—Non-Construction Programs'' as a part of your application. This information is now collected through your registration or annual recertification in SAM.gov through the Financial Assistance

General Certifications and Representation.

• You can voluntarily fill out and submit the ''Survey on Ensuring Equal Opportunity for Applicants,'' as part of your application if you are a nonprofit organization.

d. Clarifications on Proposal Elements

1. You must include the title of the project as well as any other relevant identifying information on the Title Page.

2. You must include a Table of Contents with page numbers for each component of the application to facilitate review.

3. Your Executive Summary must include the items in 7 CFR 4284.510(c)(3) and discuss the percentage of work that will be performed among organizational staff, consultants, or other contractors. It should not exceed two pages.

4. Your Eligibility Discussion must not exceed two pages and cover how you meet the applicant eligibility requirements, matching funds, and other eligibility requirements.

5. Your Proposal Narrative must not exceed 40 pages using at least 11-point font and should describe the essential aspects of the project.

i. You are required to only have one title page for the proposal.

ii. If you list the evaluation criteria on the Table of Contents and then specifically and individually address each criterion in narrative form, it is not necessary for you to include an Information Sheet. Otherwise, the Information Sheet is required under 7 CFR 4284.510 (c)(5)(ii).

iii. You must include the following under Goals of the Project:

A. A statement that substantiates that the Center will effectively serve rural areas in the United States;

B. A statement that the primary objective of the Center will be to improve the economic condition of rural areas through cooperative development;

C. A description of the contributions that the proposed activities are likely to make to the improvement of the economic conditions of the rural areas for which the Center will provide services. Expected economic impacts should be tied to tasks included in the work plan and budget; and

D. A statement that the Center, in carrying out its activities, will seek, where appropriate, the advice, participation, expertise, and assistance of representatives of business, industry, educational institutions, the Federal government, and State and local governments.

iv. The Agency has established annual performance evaluation measures to evaluate the RCDG program. You must provide estimates on the following performance evaluation measures:

• Number of groups assisted who are not legal entities.

• Number of businesses assisted that are not cooperatives.

• Number of cooperatives assisted.

• Number of businesses incorporated that are not cooperatives.

• Number of cooperatives incorporated.

• Total number of jobs created as a result of assistance.

• Total number of jobs saved as a result of assistance.

• Number of jobs created for the Center as a result of RCDG funding.

• Number of jobs saved for the Center as a result of RCDG funding.

It is permissible to have a zero in a performance element. When you calculate jobs created, estimates should be based upon actual jobs to be created by your organization because of the RCDG funding or actual jobs to be created by cooperative businesses or other businesses as a result of assistance from your organization. When you calculate jobs saved, estimates should be based only on actual jobs that would have been lost if your organization did not receive RCDG funding or actual jobs that would have been lost without assistance from your organization.

v. You can also suggest additional performance elements, for example, where job creation or jobs saved may not be a relevant indicator (*e.g.,* housing). These additional criteria should be specific, measurable performance elements that could be included in an award document.

vi. You must describe in the application how you will undertake each of the following and prefer that you described these undertakings within the noted proposal evaluation criteria to reduce duplication in your application. The specific proposal evaluation criterion where you should address each undertaking is noted below.

A. Take all practicable steps to develop continuing sources of financial support for the Center, particularly from sources in the private sector (should be presented under proposal evaluation criterion j., utilizing the specific requirements of Section E.1.j.);

B. Make arrangements for the Center's activities to be monitored and evaluated (should be addressed under proposal evaluation criterion number h. utilizing the specific requirements of Section E.1.h.); and

C. Provide an accounting for the money received by the grantee in accordance with 7 CFR part 4284, subpart F. This should be addressed under proposal evaluation criterion number a., utilizing the specific requirements of Section E.1.a.

vii. You should present the Work Plan and Budget proposal element under proposal evaluation criterion number h., utilizing the specific requirements of Section E.1.h. of this Notice to reduce duplication in your application.

viii. You should present the Delivery of Cooperative development assistance proposal element under proposal evaluation criterion number b., utilizing the specific requirements of Section E.1.b. of this Notice.

ix. You should present the Qualifications of Personnel proposal element under proposal evaluation criterion number i., utilizing the specific requirements of Section E.1.i. of this Notice.

x. You should present the Local Support and Future Support proposal elements under proposal evaluation criterion number j., utilizing the requirements of Section E.1.j. of this Notice.

xi. Your application will not be considered for funding if you do not address all of the proposal evaluation criteria. See Section E.1. of this Notice for a description of the proposal evaluation criteria.

xii. Only appendices A–C will be considered when evaluating your application. You must not include resumes of staff or consultants in the application.

6. You must certify that there are no current outstanding Federal judgments against your property and that you will not use grant funds to pay for any judgment obtained by the United States. To satisfy the Certification requirement, you should include this statement in your application: ''[INSERT NAME OF APPLICANT] certifies that the United States has not obtained an unsatisfied judgment against its property, is not delinquent on the payment of Federal income taxes, or any Federal debt, and will not use grant funds to pay any judgments obtained by the United States.'' A separate signature is not required.

7. You must certify that matching funds will be available at the same time grant funds are anticipated to be spent and that expenditures of matching funds are pro-rated or spent in advance of grant funding, such that for every dollar of the total project cost, not less than the required amount of matching funds will be expended. Please note that this Certification is a separate requirement from the Verification of Matching Funds requirement. To satisfy the Certification requirement, you should include this

statement in your application: ''[INSERT NAME OF APPLICANT] certifies that matching funds will be available at the same time grant funds are anticipated to be spent and that expenditures of matching funds shall be pro-rated or spent in advance of grant funding, such that for every dollar of the total project cost, at least 25 cents (5 cents for 1994 Institutions) of matching funds will be expended.'' A separate signature is not required.

8. You must provide documentation in your application to verify all of your proposed matching funds. The documentation must be included in Appendix A of your application and will not count towards the 40-page limitation. Template letters are available for each type of matching funds contribution at: *http://www.rd.usda.gov/programs-services/rural-cooperative-development-grant-program.*

a. If matching funds are to be provided in cash, you must meet the following requirements:

• *You:* The application must include a statement verifying (1) the amount of the cash and (2) the source of the cash. You may also provide a bank statement dated 30 days or less from the application deadline date to verify your cash match.

• *Third-party:* The application must include a signed letter from the third party verifying (1) how much cash will be donated and (2) that it will be available corresponding to the proposed grant period or donated on a specific date within the grant period.

b. If matching funds are to be provided by an in-kind donation, you must meet the following requirements:

• *You:* The application must include a signed letter from you or your authorized representative verifying (1) the nature of the goods and/or services to be donated and how they will be used, (2) when the goods and/or services will be donated (*i.e.,* corresponding to the proposed grant period or to specific dates within the grant period), and (3) the value of the goods and/or services. Please note that most applicant contributions for the RCDG program are considered applicant cash match in accordance with this Notice. If you are unsure, please contact your State Office because identifying your matching funds improperly can affect your scoring.

• *Third-Party:* The application must include a signed letter from the third party verifying (1) the nature of the goods and/or services to be donated and how they will be used, (2) when the goods and/or services will be donated (*i.e.,* corresponding to the proposed grant period or to specific dates within the grant period), and (3) the value of the goods and/or services.

To ensure that you are identifying and verifying your matching funds appropriately, please note the following:

• If you are paying for goods and/or services as part of the matching funds requirement, the expenditure is considered a cash match, and you must verify it as such. Universities must verify the goods and services they are providing to the project as a cash match and the verification must be approved by the appropriate approval official (*i.e.,* sponsored programs office or equivalent).

• If you have already received cash from a third-party (*i.e.,* Foundation) before the start of your proposed grant period, you must verify this as your own cash match and not as a third-party cash match. If you are receiving cash from a third-party during the grant period, then you must be verifying the cash as a third-party cash match.

• Board resolutions for a cash match must be approved at the time of application.

• You can only consider goods or services for which no expenditure is made as an in-kind contribution.

• If a non-profit or another organization contributes the services of affiliated volunteers, they must follow the third-party, in-kind donation verification requirement for each individual volunteer.

• Expected program income may not be used to fulfill your matching funds requirement at the time you submit your application. However, if you have a contract to provide services in place at the time you submit your application, you can verify the amount of the contract as a cash match.

• The valuation processes used for in-kind contributions does not need to be included in your application, but you must be able to demonstrate how the valuation was derived if you are awarded a grant. The grant award may be withdrawn, or the amount of the grant reduced if you cannot demonstrate how the valuation was derived.

Successful applicants must comply with requirements identified in Section F, Federal Award Administration.

3. Dun and Bradstreet Data Universal Numbering System (DUNS) and System for Awards Management (SAM)

To be eligible (unless you are excepted under 2 CFR 25.110(b), (c) or (d)), you are required to:

(a) Provide a valid DUNS number in your application, which can be obtained at no cost via a toll-free request line at (866) 705–5711;

(b) Register in SAM before submitting your application. You may register in SAM at no cost at *https://www.sam.gov/portal/public/SAM/.* You must provide your SAM CAGE Code and expiration date. When registering in SAM, you must indicate you are applying for a Federal financial assistance project or program or are currently the recipient of funding under any Federal financial assistance project or program, and

(c) The SAM registration must remain active with current information at all times while RBCS is considering an application or while a Federal grant award or loan is active. To maintain the registration in the SAM database the applicant must review and update the information in the SAM database annually from date of initial registration or from the date of the last update. The applicant must ensure that the information in the database is current, accurate, and complete. Applicants must ensure they complete the Financial Assistance General Certifications and Representations in SAM

If you have not fully complied with all applicable DUNS and SAM requirements, the Agency may determine that the applicant is not qualified to receive a Federal award and the Agency may use that determination as a basis for making an award to another applicant. In accordance with OMB Memoranda M–20–17, the Agency can accept an application without an active SAM registration. However, the registration must be completed before an award is made. Current registrants in SAM with active registrations expiring before May 16, 2020 will be afforded a one-time extension of 60 days. Please refer to Section F.2. for additional submission requirements that apply to grantees selected for this program.

4. Submission Date and Time

Explanation of Deadline: Completed applications must be submitted electronically by no later than midnight Eastern Time, August 17, 2020, through *Grants.gov*, to be eligible for grant funding. Please review the *Grants.gov* website at *https://www.grants.gov/web/grants/register.html* for instructions on the process of registering your organization as soon as possible to ensure that you can meet the electronic application deadline. *Grants.gov* will not accept applications submitted after the deadline.

5. Intergovernmental Review of Applications

Executive Order (E.O.) 12372, ''Intergovernmental Review of Federal Programs,'' applies to this program. This

E.O. requires that Federal agencies provide opportunities for consultation on proposed assistance with State and local governments. Many States have established a Single Point of Contact (SPOC) to facilitate this consultation. For a list of States that maintain a SPOC, please see the White House website: *https://www.whitehouse.gov/wp-content/uploads/2017/11/SPOC-Feb.-2018.pdf.* If your State has a SPOC, you may submit a copy of the application directly for review. Any comments obtained through the SPOC must be provided to your State Office for consideration as part of your application. If your State has not established a SPOC, or if you do not want to submit a copy of the application, our State Offices will submit your application to the SPOC or other appropriate agency or agencies.

6. Funding Restrictions

a. Project funds, including grant and matching funds, cannot be used for ineligible grant purposes (see 7 CFR 4284.10). Also, you shall not use project funds for the following:

- To purchase, rent, or install laboratory equipment or processing machinery;
- To pay for the operating costs of any entity receiving assistance from the Center;
- To pay costs of the project where a conflict of interest exists;
- To fund any activities prohibited by 2 CFR part 200; or
- To fund any activities considered unallowable by 2 CFR part 200, subpart E, ''Cost Principles,'' and the Federal Acquisition Regulation (for-profits) or successor regulations.

b. In addition, your application will not be considered for funding if it does any of the following:

- Focuses assistance on only one cooperative or mutually-owned business;
- Requests more than the maximum grant amount; or
- Proposes ineligible costs that equal more than 10 percent of total project costs. The ineligible costs will NOT be removed at this stage to proceed with application processing. For purposes of this determination, the grant amount requested plus the matching funds amount constitutes the total project costs.

We will consider your application for funding if it includes ineligible costs of 10 percent or less of total project costs, if the remaining costs are determined eligible otherwise. However, if your application is successful, those ineligible costs must be removed and replaced with eligible costs before the Agency will make the grant award, or the amount of the grant award will be reduced accordingly. If we cannot determine the percentage of ineligible costs, your application will not be considered for funding.

7. Other Submission Requirements

a. You should not submit your application in more than one format. You must submit your application electronically. Note that we cannot accept applications through mail or courier delivery, in-person delivery, email, or fax. To submit an application electronically, you must follow the instruction for this funding announcement at *http://www.grants.gov.* A password is not required to access the website.

b. National Environmental Policy Act

All recipients under this Notice are subject to the requirements of 7 CFR part 1970. However, technical assistance awards under this Notice are classified as a Categorical Exclusion according to 7 CFR 1970.53(b), and usually do not require any additional documentation.

The Agency will review each grant application to determine its compliance with 7 CFR part 1970. The applicant may be asked to provide additional information or documentation to assist the Agency with this determination.

c. Civil Rights Compliance Requirements

All grants made under this Notice are subject to Title VI of the Civil Rights Act of 1964 as required by the USDA (7 CFR part 15, subpart A) and Section 504 of the Rehabilitation Act of 1973.

E. Application Review Information

The State Offices will review applications to determine if they are eligible for assistance based on requirements in 7 CFR part 4284, subparts A and F, this Notice, and other applicable Federal regulations. If determined eligible, your application will be scored by a panel of USDA employees in accordance with the point allocation specified in this Notice. Applications will be funded in rank order until the funding limitation has been reached. Applications that cannot be fully funded may be offered partial funding at the Agency's discretion.

1. Scoring Criteria

Scoring criteria will follow criteria published at 7 CFR 4284.513 as supplemented below including any amendments made by the Section 6013 of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110–234), which is incorporated by reference in this Notice. The regulatory and statutory criteria are clarified and supplemented below. You should also include information as described in Section D.2.e.5.vi. if you choose to address these items under the scoring criteria. Evaluators will base scores only on the information provided or cross-referenced by page number in each individual evaluation criterion. The maximum amount of points available is 110. Newly established or proposed Centers that do not yet have a track record on which to evaluate the following criteria should refer to the expertise and track records of staff or consultants expected to perform tasks related to the respective criteria. Proposed or newly established Centers must be organized well-enough at the time of application to address its capabilities for meeting these criteria.

a. Administrative capabilities (maximum score of 10 points). A panel of USDA employees will evaluate your demonstrated track record in carrying out activities in support of development assistance to cooperatively and mutually owned businesses. At a minimum, you must discuss the following administrative capabilities:

1. Financial systems and audit controls;
2. Personnel and program administration performance measures;
3. Clear written rules of governance; and
4. Experience administering Federal grant funding no later than the last 5 years, including but not limited to past RCDG awards. Please list the name of the Federal grant program(s), the amount(s), and the date(s) of funding received.

You will score higher on this criterion if you can demonstrate that the Center has independent governance. For applicants that are universities or parent organizations, you should demonstrate that there is a separate board of directors for the Center.

b. Technical assistance and other services (maximum score of 10 points). A panel of USDA employees will evaluate your demonstrated expertise no later than the last 5 years in providing technical assistance and accomplishing effective outcomes in rural areas to promote and assist the development of cooperatively and mutually owned businesses. You must discuss at least:

1. Your potential for delivering effective technical assistance;
2. The types of assistance provided;
3. The expected effects of that assistance;
4. The sustainability of organizations receiving the assistance; and

5. The transferability of your cooperative development strategies and focus to other areas of the United States.

A chart or table showing the outcomes of your demonstrated expertise based upon the performance elements listed in Section D.2.e.5.iv. or as identified in your award document on previous RCDG awards is recommended. At a minimum, please provide information for FY 2016—FY 2018 awards. You may also include any performance outcomes from an FY 2019 RCDG award. We prefer that you provide one chart or table separating out award years. The intention here is for you to provide actual performance numbers based upon award years (fiscal year) even though your grant period for the award was for the next calendar or fiscal year. Please provide a narrative explanation if you have not previously received an RCDG award.

You will score higher on this criterion if you provide more than 3 years of outcomes and can demonstrate that the organizations you assisted within the last 5 years are sustainable. Additional outcome information should be provided on RCDG grants awarded before FY 2016. Please describe specific project(s) when addressing items 1–5 of paragraph b. To reduce duplication, descriptions of specific projects and their impacts, outcomes and roles can be discussed once under criterion b or c. However, you must cross-reference the information under the other criterion.

c. Economic development (maximum score of 10 points). A panel of USDA employees will evaluate your demonstrated ability to facilitate:

1. Establishment of cooperatives or mutually owned businesses;

2. New cooperative approaches (*i.e.,* organizing cooperatives among underserved individuals or communities; an innovative market approach; a type of cooperative currently not in your service area; a new cooperative structure; novel ways to raise member equity or community capitalization; conversion of an existing business to cooperative ownership); and

3. Retention of businesses, generation of employment opportunities or other factors, as applicable, that will otherwise improve the economic conditions of rural areas.

You will score higher on this criterion if you provide quantifiable economic measurements showing the impacts of your past development projects no later than the last 5 years and identify your role in the economic development outcomes.

d. Past performance in establishing legal business entities (maximum score of 10 points). A panel of USDA employees will evaluate your demonstrated past performance in establishing legal cooperative business entities and other legal business entities during October 1, 2015– August 17, 2020. Provide the name of the organization(s) established, the date of formation and your role in assisting with the incorporation(s) under this criterion. In addition, documentation verifying the establishment of legal business entities must be included in Appendix C of your application and will not count against the 40-page limit for the narrative. The documentation must include proof that organizational documents were filed with the Secretary of State's Office (*i.e.* Certificate of Incorporation or information from the State's official website naming the entity established and the date of establishment); or if the business entity is not required to register with the Secretary of State, a certification from the business entity that a legal business entity has been established and when. Please note that you are not required to submit articles of incorporation to receive points under this criterion. You will score higher on this criterion if you have established legal cooperative businesses. If your State does not incorporate cooperative business entities, please describe how the established business entity operates like a cooperative. Due to extenuating circumstances of COVID–19, the Agency will utilize information in the narrative to score this criterion. Documentation to verify past performance in establishing legal entities will be required before an award is made.

e. Networking and regional focus (maximum score of 10 points). A panel of USDA employees will evaluate your demonstrated commitment to:

1. Networking with other cooperative development centers, and other organizations involved in rural economic development efforts, and

2. Developing multi-organization and multi-State approaches to addressing the economic development and cooperative needs of rural areas.

You will score higher on this criterion if you can demonstrate the outcomes of your multi-organizational and multi-State approaches. Please describe the project(s), partners and the outcome(s) that resulted from the approach.

f. Commitment (maximum score of 10 points). A panel of USDA employees will evaluate your commitment to providing technical assistance and other services to under-served and economically distressed areas in rural areas of the United States. You will score higher on this criterion if you define and describe the underserved and economically distressed areas within your service area, provide economic statistics, and identify past or current projects within or affecting these areas, as appropriate. Projects identified in the work plan and budget that are located in persistent poverty counties as defined in H.R.1865—118 SEC. 740 of Further Consolidated Appropriations Act 2020, will score even higher on this criterion.

g. Matching Funds (maximum score of 10 points). A panel of USDA employees will evaluate your commitment for the 25 percent (5 percent for 1994 Institutions) matching funds requirement. A chart or table should be provided to describe all matching funds being committed to the project. However, formal documentation to verify all the matching funds must be included in Appendix A of your application. You will be scored on the total amount and how you identify your matching funds.

1. If you meet the 25 percent (5 percent for 1994 Institutions) matching funds requirement, points will be assigned as follows:

- In-kind only—1 point;
- Mix of in-kind and cash—3–4 points (maximum points will be awarded if the ratio of cash to in-kind is 30 percent or more); or
- Cash only—5 points.

2. If you exceed the 25 percent (5 percent for 1994 Institutions) matching funds requirement, points will be assigned as follows:

- In-kind only—2 points;
- Mix of in-kind and cash—6–7 points (maximum points will be awarded if the ratio of cash to in-kind is 30 percent or more); or
- Cash only—up to 10 points.

h. Work Plan/Budget (maximum score of 10 points). A panel of USDA employees will evaluate your work plan for detailed actions and an accompanying timetable for implementing the proposal. The budget must present a breakdown of the estimated costs associated with cooperative and business development activities as well as the operation of the Center and allocate these costs to each of the tasks to be undertaken. Matching funds as well as grant funds must be accounted for in the budget.

You must discuss at a minimum:

1. Specific tasks (whether it be by type of service or specific project) to be completed using grant and matching funds;

2. How customers will be identified;

3. Key personnel; and

4. The evaluation methods to be used to determine the success of specific

tasks and overall objectives of Center operations. Please provide qualitative methods of evaluation. For example, evaluation methods should go beyond quantitative measurements of completing surveys or number of evaluations.

You will score higher on this criterion if you present a clear, logical, realistic, and efficient work plan and budget.

i. Qualifications of those Performing the Tasks (maximum score of 10 points). A panel of USDA employees will evaluate your application to determine if the personnel expected to perform key tasks have a track record of:

1. Positive solutions for complex cooperative development and/or marketing problems; or

2. A successful record of conducting accurate feasibility studies, business plans, marketing analysis, or other activities relevant to your success as determined by the tasks identified in the work plan; and

3. Whether the personnel expected to perform the tasks are full/part-time employees of your organization or are contract personnel.

You will score higher on this criterion if you demonstrate commitment and availability of qualified personnel expected to perform the tasks.

j. Local and Future Support (maximum score of 10 points). A panel of USDA employees will evaluate your application for local and future support. Support should be discussed directly within the response to this criterion.

1. Discussion on local support should include previous and/or expected local support and plans for coordinating with other developmental organizations in the proposed service area or with state and local government institutions. You will score higher if you demonstrate strong support from potential beneficiaries and formal evidence of intent to coordinate with other developmental organizations. You may also submit a maximum of 10 letters of support or intent to coordinate with the application to verify your discussion. These letters should be included in Appendix B of your application and will not count against the 40-page limit for the narrative. Due to extenuating circumstance of COVID–19, the Agency will utilize information in the narrative to score this criterion. Documentation to verify local support will be required before an award is made.

2. Discussion on future support will include your vision for funding operations in future years. You should document:

(i) New and existing funding sources that support your goals;

(ii) Alternative funding sources that reduce reliance on Federal, State, and local grants; and

(iii) The use of in-house personnel for providing services versus contracting out for that expertise. Please discuss your strategy for building in-house technical assistance capacity.

You will score higher if you can demonstrate that your future support will result in long-term sustainability of the Center.

k. Administrator Discretionary Points (maximum of 10 points). The Administrator may choose to award up to 10 points to an eligible non-profit corporation or institution of higher education who has never previously been awarded an RCDG grant and whose workplan and budget seeks to help rural communities build robust and sustainable economies through strategic investments in infrastructure, partnerships and innovation. Eligible applicants who want to be considered for discretionary points must discuss how their workplan and budget supports one or more of the five following key strategies:

Achieving e-Connectivity for Rural America;

Improving Quality of Life;

Supporting a Rural Workforce;

Harnessing Technological Innovation; or

Economic Development

2. Review and Selection Process

The State Offices will review applications to determine if they are eligible for assistance based on requirements in 7 CFR part 4284, subparts A and F, this Notice, and other applicable Federal regulations. If determined eligible, your application will be scored by a panel of USDA employees in accordance with the point allocation specified in this Notice. The Administrator may choose to award up to 10 Administrator priority points based on criterion (k) in section E.1. of this Notice. These points will be added to the cumulative score for a total possible score of 110. Applications will be funded in highest ranking order until the funding limitation has been reached. Applications that cannot be fully funded may be offered partial funding at the Agency's discretion. If your application is evaluated, but not funded, it will not be carried forward into the next competition. Successful applicants must comply with requirements identified in Section F, Federal Award Administration.

F. Federal Award Administration Information

1. Federal Award Notices

If you are selected for funding, you will receive a signed notice of Federal award by postal or electronic mail from the State Office where your application was submitted, containing instructions and requirements necessary to proceed with execution and performance of the award. You must comply with all applicable statutes, regulations, and notice requirements before the grant award will be funded.

If you are not selected for funding, you will be notified in writing via postal or electronic mail and informed of any review and appeal rights. See 7 CFR part 11 for USDA National Appeals Division procedures. There will be no available funds for successful appellants once all FY 2020 funds are awarded and obligated.

2. Administrative and National Policy Requirements

Additional requirements that apply to grantees selected for this program can be found in 7 CFR part 4284, subpart F; the Grants and Agreements regulations of the Department of Agriculture codified in 2 CFR parts 180, 400, 415, 417, 418, 421; 2 CFR parts 25 and 170; and 48 CFR 31.2, and successor regulations to these parts.

In addition, all recipients of Federal financial assistance are required to report information about first-tier subawards and executive compensation (see 2 CFR part 170). You will be required to have the necessary processes and systems in place to comply with the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109–282) reporting requirements (see 2 CFR 170.200(b), unless you are exempt under 2 CFR 170.110(b)).

The following additional requirements apply to grantees selected for awards within this program:

a. Execution of an Agency-approved Grant Agreement;

b. Acceptance of a written Letter of Conditions; and submission of the following Agency forms:

- Form RD 1940–1, ''Request for Obligation of Funds.''
- Form RD 1942–46, ''Letter of Intent to Meet Conditions.''
- SF LLL, ''Disclosure of Lobbying Activities,'' if applicable.

You no longer must complete the following five forms for acceptance of a Federal award. This information is now collected through your registration or annual recertification in SAM.gov in the Financial Assistance General

Certifications and Representations section:

- Form RD 400–4, ''Assurance Agreement.''
- Form AD–1047, ''Certification Regarding Debarment, Suspension, and Other Responsibility Matters-Primary Covered Transactions.''
- Form AD–1048, ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions'' if applicable.
- Form AD–1049, ''Certification Regarding Drug-Free Workplace Requirements (Grants).''
- Form AD–3031, ''Assurance Regarding Felony Conviction or Tax Delinquent Status for Corporate Applicants.'' Must be signed by corporate applicants who receive an award under this Notice. Institutions of Higher Education do not need to submit this form.

3. Reporting

After grant approval and through grant completion, you will be required to provide an SF–425, ''Federal Financial Report,'' and a project performance report on a semiannual basis (due 30 working days after end of the semiannual period). The project performance reports shall include the following:

a. A comparison of actual accomplishments to the objectives established for that period;

b. Reasons why established objectives were not met, if applicable;

c. Reasons for any problems, delays, or adverse conditions, if any, which have affected or will affect attainment of overall project objectives, prevent meeting time schedules or objectives, or preclude the attainment of particular objectives during established time periods. This disclosure shall be accompanied by a statement of the action taken or planned to resolve the situation; and

d. Objectives and timetable established for the next reporting period.

The grantee must provide a final project and financial status report within 90 days after the expiration or termination of the grant with a summary of the project performance reports and final deliverables in accordance to 2 CFR 200.343.

G. Agency Contacts

If you have questions about this Notice, please contact the appropriate State Office at *http://www.rd.usda.gov/contact-us/state-offices.* Program guidance as well as application and matching funds templates may be obtained at *http://www.rd.usda.gov/programs-services/rural-cooperative-development-grant-program.* If you want to submit an electronic application, follow the instructions for the RCDG funding announcement located at *http://www.grants.gov.* You may also contact National Office Program Management Division: RCDG Program Lead, *cpgrants@wdc.usda.gov* or call the main line at 202–720–1400.

H. Nondiscrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at *How to File a Program Discrimination Complaint* and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by:

(1) *Mail:* U.S. Department of Agriculture,Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410;

(2) *Fax:* (202) 690–7442; or

(3) *Email: program.intake@usda.gov.*

USDA is an equal opportunity provider, employer, and lender.

Mark Brodziski,

Acting Administrator, Rural Business-Cooperative Service.

[FR Doc. 2020–14286 Filed 7–1–20; 8:45 am]

BILLING CODE 3410–XY–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Oregon Advisory Committee

AGENCY: U.S. Commission on Civil Rights

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that the meeting of the Oregon Advisory Committee (Committee) to the Commission will be held at 4:30 p.m. (Pacific Time) Thursday, July 2, 2020. The purpose of the meeting will be review and vote on their statement of concern regarding police violence against Black Americans in Oregon.

DATES: The meeting will be held on Thursday, July 2, 2020 at 4:30 p.m. PT.

PUBLIC CALL INFORMATION:

Dial: 800–367–2403.

Conference ID: 5797253.

FOR FURTHER INFORMATION CONTACT: Ana Victoria Fortes, Designated Federal Officer (DFO) at *afortes@usccr.gov* or (202) 681–0857.

SUPPLEMENTARY INFORMATION: This meeting is available to the public through the following toll-free call-in number: 800–367–2403, conference ID number: 5797253. Any interested member of the public may call this number and listen to the meeting. 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. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be mailed to the

Western Regional Office, U.S. Commission on Civil Rights, 300 North Los Angeles Street, Suite 2010, Los Angeles, CA 90012. You may also email Ana Victoria Fortes at *afortes@usccr.gov.*

Records and documents discussed during the meeting will be available for public viewing prior to and after the meetings at *https://www.facadatabase.gov/FACA/apex/FACAPublicCommittee?id=a10t0000001gzlwAAA*. Please click on the ''Committee Meetings'' tab. Records generated from these meetings may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meetings. Persons interested in the work of this Committee are directed to the Commission's website, *https://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

I. Welcome
II. Review Statement of Concern
III. Public Comment
IV. Vote on Statement of Concern
V. Adjournment

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 COVID crisis and DFO availability.

Dated: June 26, 2020

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020–14241 Filed 7–1–20; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Pennsylvania Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA) that a meeting of the Pennsylvania Advisory Committee to the Commission will convene by conference call at 11:30 a.m. (ET) on Tuesday, July 21, 2020. The purpose of the project planning meeting is to discuss the Committee's draft report on its civil rights project titled, School Discipline and the School-to-Prison Pipeline in PA.

Public Call-In Information: Conference call-in number: 800–353–6461 and conference call ID number: 6813288.

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

SUPPLEMENTARY INFORMATION: Interested members of the public may listen to the discussion by calling the following toll-free conference call-in number: 800–353–6461 and conference call ID number: 6813288. Please be advised that before placing them into the conference call, the conference call operator will ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free conference call-in number.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1–800–877–8339 and providing the operator with the toll-free conference call-in number: 800–353–6461 and conference call ID number: 6813288.

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

Records and documents discussed during the meeting will be available for public viewing as they become available at: *https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzjZAAQ;* click the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Eastern Regional Office at the above phone number, email or street address.

Agenda: Tuesday, July 21, 2020

I. Rollcall
II. Welcome
III. Project Planning
—Discuss draft Committee report on its civil rights project
IV. Other Business
V. Next Planning Meeting
VI. Public Comments
VII. Adjourn

Dated: June 29, 2020.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020–14324 Filed 7–1–20; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–42–2020]

Foreign-Trade Zone (FTZ) 219—San Luis, Arizona; Notification of Proposed Production Activity; Barco Stamping Co., Inc. (Stamped Lighting Fixture Components); Yuma, Arizona

The Greater Yuma Economic Development Corporation, grantee of FTZ 219, submitted a notification of proposed production activity to the FTZ Board on behalf of Barco Stamping Co., Inc. (Barco), located in Yuma, Arizona. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on June 24, 2020.

The grantee has submitted a separate application for FTZ designation at the company's facility under FTZ 219. The facility is used for the production of stamped metal products. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Barco from customs duty payments on the foreign-status components used in export production. On its domestic sales, for the foreign-status materials/components noted below, Barco would be able to choose the duty rates during customs entry procedures that apply to the following stamped lighting fixture components: Plates (driver mounting; top; back; wall mounting); pipe clamps; latches; end caps; trays (lighting; power); bird guards; brackets (Romex®; wall pole mount; for aluminum frame (hinge; latch); emergency battery; hanger bar; heat sink interface; socket; torsion spring); can blanks; covers (arm; driver); heatsink base mounting surfaces; heatsinks; bracket junction boxes; can

tops; doubler panels; hanger bars; hanger bar carriers; housings; junction boxes and related components (assemblies; covers; supports; voltage dividers); plaster frames; collars; and, trim rings (duty rate—6%). Barco would be able to avoid duty on foreign-status components which become scrap/waste. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The components and materials sourced from abroad include flat rolled aluminum alloy coil, zinc coated flat rolled galvanized steel coil, flat rolled cold rolled steel coil, and galvanized steel roll (duty rate ranges from duty-free to 3%). The request indicates that certain materials/components are subject to duties under Section 232 of the Trade Expansion Act of 1962 (Section 232) or Section 301 of the Trade Act of 1974 (Section 301), depending on the country of origin. The applicable Section 232 and Section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is August 11, 2020.

A copy of the notification will be available for public inspection in the ''Reading Room'' section of the Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Juanita Chen at *juanita.chen@trade.gov* or 202–482–1378.

Dated: June 29, 2020.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2020–14335 Filed 7–1–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Corporation for Travel Promotion Board of Directors

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an opportunity for travel and tourism industry leaders to apply for membership on the Board of Directors of the Corporation for Travel Promotion.

SUMMARY: The Department of Commerce is currently seeking applications from travel and tourism leaders from specific industries for membership on the Board of Directors (Board) of the Corporation for Travel Promotion (doing business as Brand USA). The purpose of the Board is to guide the Corporation for Travel Promotion on matters relating to the promotion of the United States as a travel destination and communication of travel facilitation issues, among other tasks.

DATES: All applications must be received by the National Travel and Tourism Office by close of business on Friday July 31, 2020.

ADDRESSES: Please submit application information by email to *CTPBoard@trade.gov.*

FOR FURTHER INFORMATION CONTACT: Julie Heizer, National Travel and Tourism Office, U.S. Department of Commerce; telephone: 202–482–0140; email: *CTPBoard@trade.gov.*

SUPPLEMENTARY INFORMATION: The Travel Promotion Act of 2009 (TPA) was signed into law on March 4, 2010 and was amended in July 2010, December 2014, and again in December 2019. The TPA established the Corporation for Travel Promotion (the Corporation), as a non-profit corporation charged with the development and execution of a plan to (A) provide useful information to those interested in traveling to the United States; (B) identify and address perceptions regarding U.S. entry policies; (C) maximize economic and diplomatic benefits of travel to the United States through the use of various promotional tools; (D) ensure that international travel benefits all States, territories of the United States, and the District of Columbia; (E) identify opportunities to promote tourism to rural and urban areas equally, including areas not traditionally visited by international travelers; and (F) give priority to countries and populations most likely to travel to the United States.

The Corporation is governed by a Board of Directors, consisting of 11 members with knowledge of international travel promotion or marketing, broadly representing various regions of the United States. The TPA directs the Secretary of Commerce (after consultation with the Secretary of Homeland Security and the Secretary of State) to appoint the Board of Directors for the Corporation.

At this time, the Department will be selecting three individuals with the appropriate expertise and experience from specific sectors of the travel and tourism industry to serve on the Board as follows:

(A) 1 shall have appropriate expertise and experience in the *small business or retail* sector, or in associations representing that sector;

(B) 1 shall have appropriate expertise and experience as an official of a *State tourism office;* and

(C) 1 shall have appropriate expertise and experience in the *travel distribution services* sector.

To be eligible for Board membership, individuals must have international travel and tourism marketing experience, be a current or former chief executive officer, chief financial officer, or chief marketing officer or have held an equivalent management position. Additional consideration will be given to individuals who have experience working in U.S. multinational entities with marketing budgets, and/or who are audit committee financial experts as defined by the Securities and Exchange Commission (in accordance with 15 U.S.C. 7265). Individuals must be U.S. citizens, and in addition, cannot be federally registered lobbyists or registered as a foreign agent under the Foreign Agents Registration Act of 1938, as amended.

Those selected for the Board must be able to meet the time and effort commitments of the Board.

Board members serve at the discretion of the Secretary of Commerce (who may remove any member of the Board for good cause). The terms of office of each member of the Board appointed by the Secretary shall be three (3) years. Board members can serve a maximum of two consecutive full three-year terms. Board members are not considered Federal government employees by virtue of their service as a member of the Board and will receive no compensation from the Federal government for their participation in Board activities. Members participating in Board meetings and events may be paid actual travel expenses and per diem by the Corporation when away from their usual places of residence.

Individuals who want to be considered for appointment to the Board should submit the following information by the Friday July 31, 2020 deadline to the email address listed in the **ADDRESSES** section above:

1. Name, title, and personal resume of the individual requesting consideration, including address, email address, and phone number.

2. A brief statement of why the person should be considered for appointment to the Board. This statement should also address the individual's relevant international travel and tourism marketing experience and audit committee financial expertise, if any, and indicate clearly the sector or sectors enumerated above in which the

individual has the requisite expertise and experience. Individuals who have the requisite expertise and experience in more than one sector can be appointed for only one of those sectors. Appointments of members to the Board will be made by the Secretary of Commerce.

3. An affirmative statement that the applicant is a U.S. citizen, is not a federally-registered lobbyist and further, is not required to register as a foreign agent under the Foreign Agents Registration Act of 1938, as amended.

4. If applicable, a statement acknowledging that the applicant is an audit committee financial expert as defined by the Securities and Exchange Commission (in accordance with 15 U.S.C. 7265).

Dated: June 26, 2020.

Julie Heizer,

Deputy Director,National Travel and Tourism Office.

[FR Doc. 2020–14250 Filed 7–1–20; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–001]

Potassium Permanganate From the People's Republic of China: Rescission of Antidumping Duty Administrative Review; 2019

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) is rescinding the administrative review of the antidumping duty order on potassium permanganate from the People's Republic of China (China) for the period of review (POR) January 1, 2019 through December 31, 2019.

DATES: Applicable July 2, 2020.

FOR FURTHER INFORMATION CONTACT: Annathea Cook, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0250.

SUPPLEMENTARY INFORMATION:

Background

On January 2, 2020, Commerce published a notice of opportunity to request an administrative review of the antidumping duty order on potassium permanganate from China.[1] On March 10, 2020, pursuant to a request from Pacific Accelerator Limited (PAL) and its affiliate Chongqing Changyuan Group Limited (Changyuan),[2] Commerce initiated an administrative review with respect to PAL and Changyuan, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b).[3] On June 9, 2020, PAL and Changyuan timely withdrew their request for an administrative review.[4] No other party requested an administrative review of these companies.

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the party that requested the review withdraws its request within 90 days of the publication date of the notice of initiation. PAL and Changyuan timely withdrew their review request. No other party requested an administrative review of the order for this POR. Therefore, in accordance with 19 CFR 351.213(d)(1), we are rescinding this review in its entirety.

Assessment

Commerce will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of potassium permanganate from China during the POR. Antidumping duties shall be assessed at rates equal to the cash deposit rate of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions to CBP 15 days after publication of this notice in the **Federal Register**.

Notification to Importers

This notice serves as the only reminder to importers whose entries will be liquidated as a result of this rescission notice of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Order

This notice also serves as the only reminder to 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(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

This notice is issued and published in accordance with sections 751 and 777(i)(1) of the Act and 19 CFR 351.213(d)(4).

Dated: June 26, 2020.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2020–14320 Filed 7–1–20; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 85 FR 64 (January 2, 2020).

[2] *See* PAL and Changyuan's Letter, ''Request for Administrative Review of the Antidumping Duty Order on Potassium Permanganate from the People's Republic of China,'' dated January 31, 2020. In this letter, Changyuan referred to the company as ''Chongqing Changyuan Group Ltd (Chongqing Changyuan Chemical Corp Ltd).''

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 85 FR 13860 (March 10, 2020) (*Initiation Notice*). In this notice, we also referred to Changyuan as ''Chongqing Changyuan Group Ltd (Chongqing Changyuan Chemical Corp Ltd).''

[4] *See* PAL and Changyuan's Letter, ''Withdrawal of Review Request of Antidumping Duty Order on Potassium Permanganate from the People's Republic of China (A–570–001),'' dated June 9, 2020. This withdrawal request was timely because Commerce tolled all deadlines in administrative reviews by 50 days. *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.

DEPARTMENT OF COMMERCE

International Trade Administration

U.S. Travel and Tourism Advisory Board

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an Opportunity to Apply for Membership on the United States Travel and Tourism Advisory Board.

SUMMARY: The Department of Commerce is currently seeking applications for membership on the United States Travel and Tourism Advisory Board (Board). The purpose of the Board is to advise the Secretary of Commerce on matters relating to the U.S. travel and tourism industry.

DATES: Applications for immediate consideration for membership must be received by the National Travel and Tourism Office by 5:00 p.m. Eastern Daylight Time (EDT) on Friday, July 10, 2020. The International Trade Administration (ITA) will continue to accept applications under this notice for two years from the deadline to fill any vacancies.

ADDRESSES: Please submit application information by email to *TTAB@trade.gov.*

FOR FURTHER INFORMATION CONTACT: Jennifer Aguinaga, National Travel and Tourism Office, U.S. Department of Commerce; telephone: 202–482–2404; email: *TTAB@trade.gov.*

SUPPLEMENTARY INFORMATION: The United States Travel and Tourism Advisory Board (Board) is established under 15 U.S.C. 1512 and under the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (FACA). The Board advises the Secretary of Commerce on government policies and programs that affect the U.S. travel and tourism industry. The Board acts as a liaison to the stakeholders represented by the membership, consulting with them on current and emerging issues in the industry to support sustainable growth in travel and tourism.

The National Travel and Tourism Office is accepting applications for Board members. Members shall be Chief Executive Officers or senior executives from U.S. companies, U.S. organizations, or U.S. entities in the travel and tourism sectors representing a broad range of products and services, company sizes, and geographic locations. For eligibility purposes, a ''U.S. company'' is a for-profit firm that is incorporated in the United States (or an unincorporated U.S. firm with its principal place of business in the United States) that is controlled by U.S. citizens or by other U.S. companies. A company is not a U.S. company if 50 percent plus one share of its stock (if a corporation, or a similar ownership interest of an unincorporated entity) is known to be controlled, directly or indirectly, by non-U.S. citizens or non-U.S. companies. For eligibility purposes, a ''U.S. organization'' is an organization, including trade associations and nongovernmental organizations (NGOs), established under the laws of the United States, that is controlled by U.S. citizens, by another U.S. organization (or organizations), or by a U.S. company (or companies), as determined based on its board of directors (or comparable governing body), membership, and funding sources, as applicable. For eligibility purposes, a U.S. entity is a tourism-related entity that can demonstrate U.S. ownership or control, including but not limited to state and local tourism marketing entities, state government tourism offices, state and/or local government-supported tourism marketing entities, and multi-state tourism marketing entities.

Members of the Board will be selected in accordance with applicable Department of Commerce guidelines based on their ability to carry out the objectives of the Board as set forth in the Board's charter and in a manner that ensures that the Board is balanced in terms of geographic diversity, diversity in size of company or organization to be represented, and representation of a broad range of services in the travel and tourism industry. Each member shall serve for two years from the date of the appointment and at the pleasure of the Secretary of Commerce.

Members serve in a representative capacity, representing the views and interests of their particular business sector, and not as Special Government employees. Members will receive no compensation for their participation in Board activities. Members participating in Board meetings and events will be responsible for their travel, living, and other personal expenses. Meetings will be held regularly and, to the extent practical, not less than twice annually, usually in Washington, DC or virtually via teleconference.

To be considered for membership, please provide the following information to the address listed in the **ADDRESSES** section:

1. The name and title of the individual requesting consideration.
2. A sponsor letter from the applicant on his or her company/organization/entity letterhead or, if the applicant is to represent a company/organization/entity other than his or her employer, a letter from the company/organization/entity to be represented, containing a brief statement of why the applicant should be considered for membership on the Board. This sponsor letter should also address the applicant's travel and tourism-related experience.
3. The applicant's personal resume.
4. An affirmative statement that the applicant is not required to register as a foreign agent under the Foreign Agents Registration Act of 1938, as amended.
5. If the applicant is to represent a company, information regarding the control of the company, including the stock holdings as appropriate, signifying compliance with the criteria set forth above.
6. If the applicant is to represent an organization, information regarding the control of the organization, including the governing structure, members, and revenue sources as appropriate, signifying compliance with the criteria set forth above.
7. If the applicant is to represent a tourism-related entity, the functions and responsibilities of the entity, and information regarding the entity's U.S. ownership or control, signifying compliance with the criteria set forth above.
8. The company's, organization's, or entity's size, product or service line and major markets in which the company, organization, or entity operates.
9. A brief statement describing how the applicant will contribute to the work of the Board based on his or her unique experience and perspective (not to exceed 100 words).

Jennifer Aguinaga,

Designated Federal Officer, National Travel and Tourism Office.

[FR Doc. 2020–14287 Filed 7–1–20; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–052]

Hardwood Plywood Products From the People's Republic of China: Rescission of Countervailing Duty Administrative Review; 2019

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) is rescinding the administrative review of the countervailing duty order on hardwood plywood products from the People's Republic of China (China) for the period of review (POR) January 1, 2019 through December 31, 2019.

DATES: Applicable July 2, 2020.

FOR FURTHER INFORMATION CONTACT: Annathea Cook, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0250.

SUPPLEMENTARY INFORMATION:

Background

On January 2, 2020, Commerce published a notice of opportunity to request an administrative review of the countervailing duty order on hardwood plywood products from China.[1] On

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity*

Continued

March 10, 2020, pursuant to a request from interested parties,[2] Commerce initiated an administrative review with respect to 40 companies, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b).[3] On May 7, 2020, all interested parties that requested an administrative review timely withdrew their requests.[4] No other party requested an administrative review of these companies.

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the party that requested the review withdraws its request within 90 days of the publication date of the notice of initiation. All interested parties timely withdrew their review requests within 90 days of the publication date of the *Initiation Notice.* No other party requested an administrative review of the order for this POR. Therefore, in accordance with 19 CFR 351.213(d)(1), we are rescinding this review in its entirety.

Assessment

Commerce will instruct U.S. Customs and Border Protection (CBP) to assess countervailing duties on all appropriate entries of hardwood plywood products from China. Countervailing duties shall be assessed at rates equal to the cash deposit rate of estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions to CBP 15 days after publication of this notice in the **Federal Register**.

Notification To Importers

This notice serves as the only reminder to importers whose entries will be liquidated as a result of this rescission notice, of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of countervailing duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the presumption that reimbursement of the countervailing duties occurred and the subsequent assessment of double countervailing duties.

Notification Regarding Administrative Protective Order

This notice also serves as the only reminder to 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(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(d)(4).

Dated: June 22, 2020.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2020–14334 Filed 7–1–20; 8:45 am]

BILLING CODE 3510–DS–P

to Request Administrative Review, 85 FR 64 (January 2, 2020).

[2] Commerce received a request for review from 40 exporters/producers (collectively, Interested Parties). *See* Interested Parties' Letter, ''Hardwood Plywood Products from the People's Republic of China: Request for Administrative Review,'' dated January 31, 2020.

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 85 FR 13860 (March 10, 2020) (*Initiation Notice*).

[4] *See* Interested Parties' Letter, ''Hardwood Plywood Products from the People's Republic of China: Withdrawal of Review Request for Administrative Review,'' dated May 7, 2020.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–520–804]

Certain Steel Nails From the United Arab Emirates: Preliminary Results of Antidumping Duty Administrative Review; 2018–2019

AGENCY: Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily finds that sales of certain steel nails (steel nails) from the United Arab Emirates (UAE) were made at less than normal value during the period of review (POR) May 1, 2018 through April 30, 2019. We invite interested parties to comment on these preliminary results.

DATES: Applicable July 2, 2020.

FOR FURTHER INFORMATION CONTACT: Matthew Renkey, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2312.

SUPPLEMENTARY INFORMATION:

Background

On July 15, 2019, Commerce initiated an administrative review of the antidumping duty order on steel nails from the UAE in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).[1] This review covers one producer/exporter of the subject merchandise: Middle East Manufacturing Steel LLC (MEM). For details regarding the events that occurred subsequent to the initiation of the review, *see* the Preliminary Decision Memorandum.[2]

Pursuant to section 751(a)(3)(A) of the Act, Commerce determined that it was not practicable to complete the preliminary results of this review within 245 days and extended the deadline for issuance of the preliminary results by 119 days, until May 29, 2020.[3] On April 24, 2020, Commerce tolled the deadlines in all ongoing administrative reviews by 50 days.[4]

Scope of the Order

The products covered by this order are steel nails from the UAE. For a full description of the scope, *see* the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this review in accordance with section 751(a) of the Act. Export price is calculated in accordance with section 772 of the Act. Normal value is calculated in accordance with section 773 of the Act.

For a full description of the methodology underlying these preliminary results, *see* the Preliminary Decision Memorandum. A list of topics included in the Preliminary Decision Memorandum is included as an appendix to this notice. The Preliminary

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 84 FR 33739 (July 15, 2019).

[2] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the Administrative Review of the Antidumping Duty Order on Certain Steel Nails from the United Arab Emirates; 2018–2019,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[3] *See* Memorandum, ''Antidumping Duty Administrative Review of Certain Steel Nails from the United Arab Emirates: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,'' dated January 21, 2020.

[4] *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. Because the 50-day extension would result in the signature date being on July 18, 2020, a Saturday, the deadline moves to the next business day, Monday, July 20, 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).

Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum is available at *http://enforcement.trade.gov/frn/.* The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Results of the Review

We preliminarily determine that the following weighted-average dumping margin exists for the respondent for the period May 1, 2018 through April 30, 2019:

Exporter/producer	Weighted-average dumping margin (percent)
Middle East Manufacturing Steel LLC	27.28

Assessment Rates

Upon completion of this administrative review, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. If MEM's weighted-average dumping margin is not zero or *de minimis* (*i.e.,* less than 0.5 percent) in the final results of this review, we will calculate importer-specific *ad valorem* antidumping duty assessment rates based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1). We intend to instruct CBP to assess antidumping duties on all appropriate entries covered by this review where the importer-specific assessment rate calculated in the final results of this review is not zero or *de minimis.* If MEM's weighted-average dumping margin is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by this review and for future deposits of estimated duties, where applicable.[5]

In accordance with Commerce's ''automatic assessment'' practice, for entries of subject merchandise during the POR produced by MEM where MEM did not know that the merchandise was destined for the United States, we will instruct CBP to liquidate those entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[6]

We intend to issue liquidation instructions to CBP 15 days after publication of the final results of this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the finals results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for MEM will be equal to the weighted-average dumping margin established in the final results of this administrative review; (2) for previously reviewed or investigated companies not participating in this review, the cash deposit rate will continue to be the company-specific rates published for the most recently-completed segment of this proceeding in which they were reviewed; (3) if the exporter is not a firm covered by this review, a prior review, or the original investigation but the producer is, then the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the merchandise; (4) the cash deposit rate for all other producers or exporters will continue to be 4.30 percent,[7] the all-others rate established in the less-than-fair-value investigation. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure and Public Comment

We intend to disclose the calculations performed to parties within five days after public announcement of the preliminary results.[8] Pursuant to 19 CFR 351.309(c), interested parties may submit case briefs no later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than seven days after the date for filing case briefs.[9] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities.[10] Case and rebuttal briefs should be filed using ACCESS [11] and must be served on interested parties.[12] Executive summaries should be limited to five pages total, including footnotes. Note that Commerce has modified certain of its requirements for serving documents containing business proprietary information, until July 17, 2020, unless extended.[13]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS. An electronically filed document must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. Unless otherwise extended, Commerce intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1).

Notification to Importers

This notice also serves as a 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 doubled antidumping duties.

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections

[5] *See* section 751(a)(2)(C) of the Act.

[6] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[7] *See Certain Steel Nails from the United Arab Emirates: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order,* 77 FR 27421 (May 10, 2012).

[8] *See* 19 CFR 351.224(b).

[9] *See* 19 CFR 351.309(d); *see also Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 17006 (March 26, 2020) (*Temporary Rule*) (''To provide adequate time for release of case briefs via ACCESS, E&C intends to schedule the due date for all rebuttal briefs to be 7 days after case briefs are filed (while these modifications are in effect).'').

[10] *See* 19 CFR 351.309(c)(2) and (d)(2).

[11] *See generally* 19 CFR 351.303.

[12] *See* 19 CFR 351.303(f).

[13] *See Temporary Rule.*

751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: June 25, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Discussion of the Methodology
V. Assessment for MEM'S U.S. Sales and Entries of Subject Merchandise
VI. Currency Conversion
VII. Recommendation

[FR Doc. 2020–14319 Filed 7–1–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XX061]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

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

ACTION: Notice; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Greater Atlantic Region, NMFS, has made a preliminary determination that an Exempted Fishing Permit application contains all of the required information and warrants further consideration. The Exempted Fishing Permit would allow commercial fishing vessels to fish outside of scallop regulations in support of research conducted by the Coonamessett Farm Foundation. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed Exempted Fishing Permits.

DATES: Comments must be received on or before July 17, 2020.

ADDRESSES: You may submit written comments by email to *nmfs.gar.efp@noaa.gov.* Include in the subject line ''CFF Compensation Fishing Gear Research EFP.''

FOR FURTHER INFORMATION CONTACT: Shannah Jaburek, Fisheries Management Specialist, 978–282–8456.

SUPPLEMENTARY INFORMATION: Coonamessett Farm Foundation (CFF) submitted a complete application for an Exempted Fishing Permit (EFP) on April 28, 2020, that would allow gear research to be conducted by vessels on compensation fishing trips associated with projects funded by the 2020 Scallop Research Set-Aside (RSA) Program. The exemptions would allow 20 participating commercial fishing vessels to exceed the crew size regulations at 50 CFR 648.51(c) to place a researcher on the vessel and temporarily exempt the participating vessels from possession limits and minimum size requirements specified in 50 CFR part 648, subparts B and D through O, for biological sampling purposes. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited, including landing fish in excess of a possession limit or below the minimum size.

Experimental fishing activity would test a one-way extended link dredge gear modification to reduce flatfish bycatch and catch of pre-recruit scallops in the scallop dredge fishery. Any modification would comply with existing scallop gear regulations. All trips would take place in scallop open access areas of southern New England and scallop fishing areas open to scallop RSA compensation fishing.

The exemption from crew size limits is needed because a research technician would accompany vessels on the compensation fishing trips to collect catch data associated with the dredge modifications. The crew size exemption would be for approximately 120 days-at-sea and must be used in conjunction with a valid compensation fishing letter of authorization. The technician would only engage in data collection activities and would not process catch to be landed for sale. Exemption from possession limit and minimum sizes would support catch sampling activities and ensure the vessel is not in conflict with possession regulations while collecting catch data. All catch above a possession limit or below a minimum size would be discarded as soon as possible following data collection. The proposed gear modifications are not expected to increase catch above typical commercial fishing practices and gears. All research trips would otherwise be consistent with normal commercial fishing activity and catch would be retained for sale.

If approved, the applicant may request minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

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

Dated: June 29, 2020.

Hélène M.N. Scalliet,

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

[FR Doc. 2020–14306 Filed 7–1–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA262]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting via webinar.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a joint public meeting of its Ecosystem-Based Fishery Management (EBFM) Committee via webinar to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This webinar will be held on Thursday, July 16, 2020 at 9.30 a.m. Webinar registration URL information: *https://attendee.gotowebinar.com/register/3710429939133088527.*

ADDRESSES: The meeting will be held via webinar.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Ecosystem-Based Fishery Management (EBFM) Committee will receive, review, and provide feedback on additional public outreach materials prepared by Green Fin Studio. The Committee will receive a draft plain

language document on a worked example based on the Hydra operating model. They will also discuss and provide guidance on the framework and focus of public outreach workshops to be conducted during October to December. Other business will be discussed as necessary

Although non-emergency issues not contained on the agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: June 29, 2020.

Rey Israel Marquez,

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

[FR Doc. 2020–14308 Filed 7–1–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA250]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of public hearings via webinar.

SUMMARY: The New England Fishery Management Council's is convening a Public Hearing of Draft Amendment 23 to Northeast Multispecies Fishery Management Plan via webinar to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This webinar will be held on Thursday, July 16, 2020, from 4 p.m. to 6 p.m.

ADDRESSES: All meeting participants and interested parties can register to join the webinar for the July 16 webinar: *https://attendee.gotowebinar.com/register/7740866831961614094*

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

Meeting addresses: The meeting will be held via webinar INFORMATION.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Public comments: Mail to Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Mill #2, Newburyport, MA 01950. Mark the outside of the envelope ''DEIS for Amendment 23 to the Northeast Multispecies FMP''. Comments may also be sent via fax to (978) 465–3116 or submitted via email to *comments@nefmc.org* with ''DEIS for Amendment 23 to the Northeast Multispecies FMP'' in the subject line.

Agenda

Scheduling of hearings is ongoing due to the COVID–19 pandemic. Additional hearings will be announced in a separate notice. Council staff will brief the public on Draft Amendment 23 before receiving comments on the amendment. The hearing will begin promptly at the time indicated above. If all attendees who wish to do so have provided their comments prior to the end time indicated, the hearing may conclude early. To the extent possible, the Council may extend hearings beyond the end time indicated above to accommodate all attendees who wish to speak.

Although non-emergency issues not contained on the agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: June 29, 2020.

Rey Israel Marquez,

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

[FR Doc. 2020–14309 Filed 7–1–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA256]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) will hold a public meeting of the Council.

DATES: The meeting will be held Thursday, July 16, 2020, from 9 a.m. to 4 p.m. For agenda details, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: Due to public health concerns related to the spread of COVID–19 (coronavirus), the Mid-Atlantic Fishery Management Council's July meeting will be conducted by webinar only. Please see the Council's website (*www.mafmc.org*) for log-in procedures.

Council address: Mid-Atlantic Fishery Management Council, 800 N State St., Suite 201, Dover, DE 19901; telephone: (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D. Executive Director, Mid-Atlantic Fishery Management Council; telephone: (302) 526–5255. The Council's website, *www.mafmc.org* also has details on the proposed agenda, webinar connection, and briefing materials.

SUPPLEMENTARY INFORMATION:

Agenda: Thursday, July 16, 2020

The Mid-Atlantic Fishery Management Council will meet via webinar on July 16, 2020 to review

alternatives, related analyses, Committee recommendations, and take final action on the Mackerel, Squid, Butterfish FMP Goals/Objectives, and *Illex* Permits Amendment. Details and briefing materials will be posted to *https://www.mafmc.org/briefing/july-2020.*

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

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

Dated: June 29, 2020.

Rey Israel Marquez,

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

[FR Doc. 2020–14307 Filed 7–1–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. PTO–P–2020–0027]

Fast-Track Appeals Pilot Program

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Notice.

SUMMARY: The United States Patent and Trademark Office (USPTO) is initiating the Fast-Track Appeals Pilot Program to provide for the advancement of applications out of turn in ex parte appeals before the Patent Trial and Appeal Board (PTAB). An appellant who has filed an ex parte appeal and received a notice that the appeal has been docketed may file a petition, accompanied by a petition fee, to expedite the review of his or her appeal. The Fast-Track Appeals Pilot Program sets a target of reaching a decision on the ex parte appeal within six months from the date an appeal is entered into the Pilot Program.

DATES: *Applicability Date:* July 2, 2020. *Duration:* The Fast-Track Appeals Pilot Program is offered on a temporary basis, and petitions to request inclusion of an ex parte appeal in the Pilot Program will be accepted until 500 appeals have been accorded fast-track status under the program, or until July 2, 2021, whichever occurs earlier. The USPTO may extend the Fast-Track Appeals Pilot Program (with or without modification) on either a temporary or a permanent basis, or may discontinue the program for either insufficient usage or after July 2, 2021.

FOR FURTHER INFORMATION CONTACT: Steven Bartlett, Patent Trial and Appeal Board, by telephone at 571–272–9797, or by email at *fasttrackappeals@uspto.gov.*

SUPPLEMENTARY INFORMATION:

Background

Appeals to the PTAB are normally taken up for decision in the order in which they are docketed. *See* USPTO Standard Operating Procedure 1 (Sept. 20, 2018), available at *https://www.uspto.gov/patents-application-process/patent-trial-and-appeal-board/resources.* However, a small number of appeals are advanced out of turn due to a special status. For example, reexamination proceedings, which are handled by the USPTO with ''special dispatch,'' and reissue applications are treated as special throughout their pendency, including during appeal. *See* Manual of Patent Examining Procedure (MPEP) 708.01. Applications that have been ''made special'' during examination through a petition based on the age or health of an applicant, or for other reasons listed in 37 CFR 1.102 (a)–(d), also maintain their special status through any appeal. *See* MPEP 1203(II). Furthermore, for the same reasons, an appellant may also petition the PTAB to have an application on appeal made special. *See id.* Currently, about 1.1% of appeals are given a special status through one of the above methods.

The America Invents Act created a mechanism for the prioritized examination of patent applications, which permits an applicant to advance an application out of turn (*i.e.,* accord special status) for examination by filing a request accompanied by the appropriate fees. *See* Changes to Implement the Prioritized Examination Track (Track I) of the Enhanced Examination Timing Control Procedures Under the Leahy-Smith America Invents Act, 76 FR 59050 (Sept. 23, 2011) (Track I Notice). In view of the program's popularity and high demand, the USPTO recently increased the yearly number of requests that may be granted from 10,000 to 12,000. *See* Increase of the Annual Limit on Accepted Requests for Track I Prioritized Examination, 84 FR 45907 (Sept. 3, 2019). In FY 2019, prioritized examination was granted for approximately 2.7% of the total number of applications filed. Prioritized examination status, however, does not carry through to any appeal from a final rejection. *See* 76 FR 59051.

In view of the success and popularity of prioritized examination, the PTAB is adopting, on a temporary basis, the Fast-Track Appeals Pilot Program, under which an appellant may have any ex parte appeal to the PTAB accorded fast-track status by filing a petition accompanied by a fee. Under the Pilot Program, the PTAB will endeavor to issue a decision on an ex parte appeal within six months from the date the appeal is entered into the program. Currently, the average appeal pendency is about 15 months. *See* PTAB Statistics, available at *https://www.uspto.gov/patents-application-process/patent-trial-and-appeal-board/statistics.* Thus, fast-track decisions on ex parte appeals under this Pilot Program may hasten patentability determinations on new inventions and the pace at which products or services embodying these inventions are brought to the marketplace, thus spurring follow-on innovation, economic growth, and job creation.

The Fast-Track Appeals Pilot Program will accept petitions for advancing out of turn and according fast-track status to ex parte appeals for up to one year from the effective date of the program or until 500 appeals have been accorded fast-track status under the program, whichever occurs earlier. The threshold of 500 granted petitions corresponds to approximately 8% of the total number of new appeals received in the average fiscal year and was chosen in accordance with maintaining the PTAB's overall decision pendency goals.

The USPTO will evaluate the Pilot Program at the conclusion of this one-year period or 500-appeal threshold to determine if it should be made permanent. Likewise, the USPTO will consider what changes, if any, would be required to provide a sustainable mechanism for some number of ex parte appeals to be advanced out of turn without adversely affecting the timeliness of providing decisions on the other appeals before the PTAB.

If the USPTO finds that the Fast-Track Appeals Pilot Program adversely impacts the pendency of other appeals at any point in time during the program's operation, then the USPTO may modify or terminate the Pilot Program. Moreover, if the Pilot Program is not sufficiently used, it may be modified or terminated.

Requirements for Entry Into the Pilot Program

The PTAB will accord fast-track status to a pending ex parte appeal in accordance with the following conditions:

(1) The application must be an original utility, design, or plant

nonprovisional application. The Fast-Track Appeals Pilot Program is not available for applications or proceedings that are already treated as special during appeal, such as reissue applications, reexamination proceedings, appeals made special due to the age or health of an applicant, or appeals subject to any other pilot program that advances an appeal out of turn. See MPEP 708.01 for a complete list of cases that are treated as special.

(2) Petition Requirements

A petition under 37 CFR 41.3 must be filed in the application involved in the ex parte appeal for which fast-track status is sought and must identify that application and appeal by application number and appeal number, respectively. See MPEP 502.05. The petition may be submitted via: (1) The USPTO patent electronic filing systems (EFS-Web or Patent Center); (2) the U.S. Postal Service by Priority Mail Express under 37 CFR 1.10 or with a certificate of mailing under 37 CFR 1.8; or (3) hand-delivery to the USPTO Customer Service Window (MPEP 501). Electronic submission of a petition is preferred for faster petition processing. In addition, the appeal for which fast-track status is sought must be an appeal for which a notice of appeal has been filed under 37 CFR 41.31 and an appeal docketing notice has been mailed by the PTAB.

The USPTO has created a form-fillable Portable Document Format (PDF) ''Petition—Fast-Track Appeals Pilot Program'' (Form PTO/SB/451) for use in filing a certification and petition under 37 CFR 41.3 for the Fast-Track Appeals Pilot Program. Form PTO/SB/451 is available on the USPTO's website (*http://www.uspto.gov/patent/patents-forms*). Form PTO/SB/451 does not collect ''information'' within the meaning of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). *See* 5 CFR 1320.3(h). Therefore, this notice does not involve information collection requirements that are subject to review by the Office of Management and Budget. Appellants are recommended to use, but are not required to use, Form PTO/SB/451 when petitioning for entry into the Fast-Track Appeals Pilot Program. Any petition filed by any means other than Form PTO/SB/451 must still contain the required information.

(3) Signature Requirements

The petition under 37 CFR 41.3 must be signed by an applicant who is prosecuting the applicant's own case under 37 CFR 1.31 (except that a juristic entity must be represented by a registered practitioner even if the juristic entity is the applicant), a registered practitioner who has a power of attorney under 37 CFR 1.32, or a registered practitioner who has authority to act under 37 CFR 1.34, in order for the application involved in the appeal to be accorded fast-track status.

(4) Fee

A petition fee of $400 under 37 CFR 41.20(a) is required at the time the petition is filed. Due to statutory limitations on fee collection, the USPTO may not refund the petition fee once collected. *See* 35 U.S.C. 42(d) and 37 CFR 1.26(a) (permits refunds only for fees ''paid by mistake or any amount paid in excess of that required''). Thus, no refund will be granted for any petition that does not meet the requirements set forth above and/or is not granted for any other reason.

(5) Limit on Number of Ex Parte Appeals Accorded Fast-Track Status

One purpose of the Fast-Track Appeals Pilot Program is to gauge the public's interest in the ability to obtain a speedier resolution of an ex parte appeal. The number of granted petitions in the Fast-Track Appeals Pilot Program during the one-year program period is limited to 125 granted petitions per quarter, and a total of 500 granted petitions. A ''quarter'' under this Pilot Program is defined as a three-month period measured from the applicability date of this Notice. For example, if this Notice has an applicability date of June 1, then a ''quarter'' under this Pilot Program spans the three months from June 1 to August 31.

The thresholds of 125 and 500 granted petitions have been chosen to allow for robust participation in the Fast-Track Appeals Pilot Program without compromising the PTAB's ability to deliver on other appeal pendency goals. The limit of 500 granted petitions corresponds to approximately 8% of the total number of new appeals received in the average fiscal year. If the Pilot Program adversely impacts the pendency of other appeals, then the USPTO may modify or terminate the Pilot Program. Additionally, if the Pilot Program is not sufficiently used, it may be modified or terminated.

Handling of Petitions in the Fast-Track Appeals Pilot Program

Petitions for entry into the Fast-Track Appeals Pilot Program will be decided in the order they are received. Petitions meeting the requirements listed above for entry into the Pilot Program will be granted, and the petitioner will be notified by a decision granting the petition to accord fast-track status. Petitions not meeting the requirements listed above for entry into the Pilot Program will be denied, and the petitioner will be notified of a decision denying the petition. A petitioner may reapply if a first petition is denied. Any second petition filed by a petitioner for the same application and same appeal covered by a first, failed petition will not be accorded the filing date of the first petition for purposes of determining whether the second petition fell within the thresholds of 125 or 500 granted petitions.

The PTAB will communicate the number of granted petitions for fast-track appeal via the PTAB website, *www.uspto.gov/PTABFastTrack,* and appellants should take this information into account when deciding whether to file a petition. Consequently, appellants should consult the PTAB's website for information on the status of the Fast-Track Appeals Pilot Program.

The PTAB may also exercise discretion to grant a small number of petitions in excess of the thresholds of 125 and 500 granted petitions in a given quarter or for the year, respectively. Should a significant number of petitions exceeding the quarterly threshold of 125 granted petitions be filed in a quarter, those petitions may be held in abeyance and decided, in order of receipt, in the subsequent quarter. An appeal for which a petition is held in abeyance will not be accelerated unless and until the petition is granted in the subsequent quarter.

Conduct of Fast-Track Appeals Pilot Program

(1) Time to Decision

The goal for rendering a decision on the petition to accord fast-track status to an ex parte appeal is no later than one month from the filing date of the petition. The goal for rendering a decision on the ex parte appeal is no later than six months from the date an appeal is entered into the program, which occurs when a petition to accord fast-track status to the appeal is granted.

(2) When a Petition May Be Filed

A petition may be filed anytime between (1) the date when the PTAB issues a notice that the appeal has been docketed to the PTAB, and (2) the date at which the appellant withdraws the appeal, a final decision is rendered by the PTAB under 37 CFR 41.50, or PTAB jurisdiction ends under 37 CFR 41.35. Petitions for fast-track status may be filed for ex parte appeals regardless of whether the appeal is newly docketed or was docketed previously. If the petition complies with the formal requirements

(*e.g.,* signature, identification of application) and is accompanied by the required fee, the appeal will be given fast-track status in accordance with current procedures, including the quarterly and overall program thresholds described above.

(3) Hearings

Inclusion in the Fast-Track Appeals Pilot Program may be requested for ex parte appeals in which the appellant seeks an oral hearing before the PTAB (''heard'' appeals), as well as those appeals for which no oral hearing is requested (''on-brief'' appeals). Hearings in ex parte appeals accorded fast-track status under the Pilot Program will be conducted according to the ordinary PTAB hearing procedures. Appellants seeking an oral hearing should submit with the request for oral hearing any preferences as to the time, date, or location of the hearing. The PTAB will make its best efforts to schedule a hearing in accordance with such preferences, consistent with the goals of the Pilot Program. If the PTAB is unable to accommodate an appellant's preferences, it will schedule the hearing in an available hearing room at any office, including a regional office, and at a time and date best suited to meeting the goals of the Pilot Program. If no such hearing room is available, the PTAB will schedule a hearing to be conducted by videoconference or telephone.

Because an appellant seeks a faster decision and hearing room availability is limited, an appellant in an ex parte appeal accorded fast-track status may not seek to relocate (to a different office) the hearing after receiving a Notice of Hearing. An appellant who does not wish to attend the hearing at the designated location may, however, request to attend the hearing by videoconference or telephone, in accordance with current PTAB hearing procedures. An appellant may also waive the hearing and continue under the Fast-Track Appeals Pilot Program for consideration and decision on the briefs.

An appellant may not reschedule the date or time of a hearing and remain in the Fast-Track Appeals Pilot Program. If an appellant in an ex parte appeal accorded fast-track status must reschedule the date or time of a hearing and is not willing to waive the oral hearing, then the appellant may opt out of the Fast-Track Appeals Pilot Program, thereby regaining the ability to reschedule or relocate the hearing as per ordinary PTAB hearing procedures. If an appellant opts out of the Fast-Track Appeals Pilot Program for purposes of rescheduling the date of a hearing, the appellant will not be entitled to a refund of the petition fee.

(4) Termination of Fast-Track Status Under the Fast-Track Appeals Pilot Program

Fast-track status will be maintained in an ex parte appeal from the date at which the petition for inclusion in the Fast-Track Appeals Pilot Program is granted until the PTAB's jurisdiction ends under 37 CFR 41.35(b). Activities subsequent to an appellant's withdrawal from the Pilot Program or the PTAB's decision, including any reopened prosecution, will not be treated as subject to fast-track status, nor will filing a petition for inclusion in the Fast-Track Appeals Pilot Program cause an application to be accorded fast-track status outside the jurisdiction of the PTAB. Additionally, any request by an appellant causing a delay in the conduct of the appeal, such as for an extension of time under 37 CFR 1.136(b), or for additional briefing, will be cause for removal of fast-track status without refund of the petition fee.

Status of the Pilot Program

The Fast-Track Appeals Pilot Program is being adopted on a temporary basis until July 2, 2021 or 500 appeals have been accorded fast-track status under the Fast-Track Appeals Pilot Program, whichever occurs earlier. The USPTO may extend the Fast-Track Appeals Pilot Program (with or without modification) on either a temporary or a permanent basis or may discontinue the Pilot Program for adversely interfering with the timely processing of other appeals or insufficient usage. The USPTO will notify the public when the threshold of 500 granted petitions for the Fast-Track Appeals Pilot Program is about to be reached, and with any further relevant information, on the PTAB website at *www.uspto.gov/PTABFastTrack.*

Dated: June 19, 2020.

Andrei Iancu,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2020–14244 Filed 7–1–20; 8:45 am]

BILLING CODE 3510–16–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND ORSEVERELY DISABLED

Procurement List; Proposed deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed deletions from the Procurement List.

SUMMARY: The Committee is proposing to delete products on the Procurement List furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Comments must be received on or before:* August 1, 2020.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 603–2117, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Deletions

The following products are proposed for deletion from the Procurement List:

Products

NSN(s)—Product Name(s):
7510–01–318–8641—Refill, Eraser, Mechanical Pencil, Thin, White
Mandatory Source of Supply: San Antonio Lighthouse for the Blind, San Antonio, TX
Contracting Activity: GSA/FAS ADMIN SVCS ACQUISITION BR(2, NEW YORK, NY

NSN(s)—Product Name(s):
7510–01–600–7625—Wall Calendar, Dated 2020, Wire Bound w/Hanger, 12″ x 17″
7510–01–679–2414—Wall Calendar, Recycled, Dated 2020, Vertical, 3 Months, 12–1/4″ x 26″
7510–01–679–2688—Monthly Planner, Recycled, Dated 2020, 14-month, 6–7/8″ x 8–3/4″
7510–01–679–5239—Professional Planner, Dated 2020, Recycled, Weekly, Black, 8–1/2″ x 11″
7530–01–600–7589—Daily Desk Planner, Dated 2020, Wire bound, Non-refillable, Black Cover
7530–01–600–7596—Weekly Desk Planner, Dated 2020, Wire Bound, Non-refillable, Black Cover
Mandatory Source of Supply: Chicago Lighthouse Industries, Chicago, IL
Contracting Activity: GSA/FAS ADMIN SVCS ACQUISITION BR(2, NEW YORK, NY

NSN(s)—Product Name(s):
7530–01–583–3819—Folders, File, Interior Height, Manila, ⅓ Cut, Legal
Mandatory Source of Supply: Association for Vision Rehabilitation and Employment, Inc., Binghamton, NY
Contracting Activity: GSA/FAS ADMIN SVCS ACQUISITION BR(2, NEW YORK,

NY
NSN(s)—Product Name(s):
7210–00–715–9130—Cover, Mattress
Mandatory Source of Supply: LC Industries, Inc., Durham, NC
Contracting Activity: DLA TROOP SUPPORT, PHILADELPHIA, PA

Michael R. Jurkowski,

Deputy Director, Business & PL Operations.

[FR Doc. 2020–14282 Filed 7–1–20; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID USAF–2016–HQ–0005]

Submission for OMB Review; Comment Request

AGENCY: Air Force Equal Opportunity (AF/E.O.) Program, DoD.

ACTION: 30-Day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by August 3, 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: Angela James, 571–372–7574, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form, and OMB Number: AF E.O. IT Systems—Entellitrack and iComplaints; AF FORM 1271, Equal Opportunity Record of Assistance/Contact; AF FORM 1587, Military Equal Opportunity Formal Complaint Summary; AF FORM 1587–1, Military Equal Opportunity Informal Complaint Summary; OMB Control Number 0701–XXXX.

Type of Request: New.

Number of Respondents: 530.

Responses per Respondent: 1.

Annual Responses: 530.

Average Burden per Response: 2 hours.

Annual Burden Hours: 1,060 hours.

Needs and Uses: The information collection requirement is necessary for the purpose of counseling, processing, investigating and adjudicating complaints of unlawful discrimination brought by AF applicants, former AF employees, contractors, retirees, and military dependents. Particularly, the information is used to investigate and resolve complaints of unlawful discrimination and sexual harassment under the AF Equal Opportunity Program; and to maintain records created as a result of the filing of allegations and appeals involving unlawful discrimination because of race, color, religion, sex, national origin, age, physical/mental disability, or genetic information.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Angela James.

Requests for copies of the information collection proposal should be sent to Ms. James at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: June 26, 2020.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2020–14247 Filed 7–1–20; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DOD–2020–HA–0038]

Submission for OMB Review; Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Health Affairs, DoD.

ACTION: 30-Day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by August 3, 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: Angela James, 571–372–7574, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION: *Title; Associated Form; and OMB Number:* Continued Health Care Benefit Program, DD Form 2837; OMB Control Number 0720–XXXX (formerly 0704–0364).

Type of Request: Reinstatement.

Number of Respondents: 1,475.

Responses per Respondent: 1.

Annual Responses: 1,475.

Average Burden per Response: 15 minutes.

Annual Burden Hours: 369.

Needs and Uses: The information collection requirement is necessary for individuals to apply for enrollment in the continued Health Care Benefit Program (CHCBP). The CHCBP is a program of temporary health care benefit coverage that is made available to eligible individuals who lose health care coverage under the Military Health System (MHS).

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Josh Brammer.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Angela James.

Requests for copies of the information collection proposal should be sent to Ms. James at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: June 26, 2020.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2020–14242 Filed 7–1–20; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Mid-Breton Sediment Diversion, in Plaquemines Parish, Louisiana

AGENCY: U.S. Army Corps of Engineers, Defense Department (DoD).

ACTION: Notice of intent.

SUMMARY: The U.S. Army Corps of Engineers (Corps), New Orleans District (CEMVN), has received an application for a U.S. Department of Army (DA) permit pursuant to Section 10 of the Rivers and Harbors Act of 1899 (Section 10), Section 404 of the Clean Water Act (Section 404), and Section 14 of the Rivers and Harbors Act of 1899 (Section 408), from the Coastal Protection and Restoration Authority of Louisiana (CPRA) to construct, maintain, and operate the Mid-Breton Sediment Diversion Project (Breton SD or proposed Action).

ADDRESSES: U.S. Army Corps of Engineers, New Orleans District, Attn: CEMVN–ODR–E, 7400 Leake Avenue, New Orleans, Louisiana 70118.

FOR FURTHER INFORMATION CONTACT: Questions and scoping comments regarding the proposed Breton SD, EIS, and DA permit process should be directed to Mr. Brad LaBorde at U.S. Army Corps of Engineers, New Orleans District, Attn: CEMVN–ODR–E, 7400 Leake Avenue, New Orleans, Louisiana 70118, by phone (504) 862–2225, or by email at *CEMVN-Midbreton@usace.army.mil.* Questions and comments concerning the Section 408 permissions should be directed to Mr. Jeffrey Varisco at U.S. Army Corps of Engineers, New Orleans District, Attn: CEMVN–PPMD, 7400 Leake Avenue, New Orleans, Louisiana 70118, by phone (504) 862–2853, or by email at *CEMVN-Midbreton@usace.army.mil.* Commenters will be placed on a Breton SD mailing list unless requested otherwise.

SUPPLEMENTARY INFORMATION: The Breton SD is proposed to be located on the east bank of the Mississippi River, at approximately 68 miles above ''Head of Passes'' and south of the Towns of Braithwaite and Scarsdale, in Plaquemines Parish, Louisiana. The requested Federal action associated with the Breton SD is authorization of the discharge of dredged or fill material into the Waters of the United States (Section 404) and the construction of structures and/or work that may affect navigable waters (Section 10), and permission to use, occupy, and alter Corps' Civil Works projects (Section 408) through the issuance of a DA Section 10/404 permit and Section 408 permission. Based on the potential impacts, both individually and cumulatively, Federal authorization for the proposed Action would constitute a ''major federal action''. The Corps intends to prepare an Environmental Impact Statement (EIS) in compliance with the National Environmental Policy Act (NEPA) as part of its decision-making process before rendering a decision on CPRA's permit application. The Corps' decision will be to issue, issue with modification, or deny the requested DA permit/permissions for the proposed Action. The EIS will assess the potential effects of the proposed Breton SD on the human environment (including the natural and physical environment and relationship of people with that environment) and is intended to be sufficient in scope to address Federal, State, and local requirements and permit reviews, and environmental and socioeconomic issues concerning the proposed Action. The CEMVN DA permit number for the Breton SD is MVN–2018–1120–EOO.

1. Project Details. The proposed Breton SD Project is a large-scale, complex ecosystem restoration project intended to convey sediment, fresh water, and nutrients from the Mississippi River into the Breton Sound Basin in an effort to reduce coastal land loss and sustain surrounding wetlands. If constructed and operated as proposed, CPRA would maintain a base flow up to 5,000 cubic feet per second (cfs) through the Breton SD Structure. When the Mississippi River gage at Belle Chasse exceeds 450,000 cfs in flow, the Breton SD structure would ''open'' to divert varying volumes of sediment, fresh water, and nutrients into the Breton Sound Basin. Maximum discharge of the Breton SD Structure would be 75,000 cfs, reached when the Belle Chasse gage measures 1,000,000 cfs.

The proposed Breton SD gated intake would impact the Mississippi River batture on the east bank, or left descending bank, of the Mississippi River, at approximately 68 miles above ''Head of Passes'' and extend eastward, with the conveyance structure and guide levees extending through the Mississippi River Levee, Louisiana Highway 39, and the non-Federal back levee south of the Towns of Braithwaite and Scarsdale, Louisiana. The Breton SD structure would terminate at the outfall channel which would initially widen to convey sediment, fresh water, and nutrients into Breton Sound Basin with a pilot channel connecting to River Aux Chenes.

If constructed as proposed, the Breton SD footprint would directly impact approximately 309 acres of jurisdictional wetlands and approximately 52 acres of waters of the U.S. The proposed Breton SD operation will result in additional impacts, to the Breton Sound Basin where the current landscape is expected to be altered via diversion-related processes such as channelization, accretion, and delta formation. According to CPRA, the area to be potentially impacted within the Breton Sound Basin encompasses 5,277 acres of existing jurisdictional wetlands and 2,225 acres of waters of the U.S.

The Corps requires compensatory mitigation to offset unavoidable impacts to jurisdictional wetlands and other aquatic resources. CPRA proposes this project as a large scale ecosystem restoration that is self-mitigating. CEMVN will assess whether compensatory mitigation is required as part of the EIS process and permit review.

The proposed Breton SD project would directly and/or indirectly impact multiple CEMVN Civil Works projects, including but not limited to projects within the Mississippi Rivers and Tributaries Program such as the Mississippi River Levee and the Mississippi River (federal navigation) Ship Channel.

CPRA submitted a complete joint permit application to CEMVN and the Louisiana Department of Natural Resources for the proposed Breton SD on March 11, 2019; it was advertised on joint public notice on March 19, 2019. Following a review of the permit application, joint public notice comments, related sediment diversion sources, and based on a preliminary assessment of the environmental impacts, CEMVN determined that an EIS is required due to the proposed Action's potential to significantly impact the quality of the human environment on July 31, 2019. Since that decision, an independent third-party contractor was selected to draft the EIS on behalf of CEMVN, and

CEMVN, CPRA, and the Cooperating Agencies (identified below), developed the proposed Breton SD purpose and need (identified in the following paragraph), selected hydraulic modeling inputs and parameters, and identified a preliminary range of alternatives (identified below).

The established Breton SD purpose and need is as follows: The purpose of the proposed Action is to reconnect and re-establish the deltaic sediment deposition process between the Mississippi River and the Breton Sound Basin through a large-scale sediment diversion that is consistent with the Louisiana Coastal Master Plan (LCMP) and delivers sediment, freshwater, and nutrients to create, preserve, restore, and sustain wetlands to counteract the effects of natural and man-made disturbances, such as the Deep Water Horizon oil spill. The proposed Action is needed to serve as a long-term, resilient, sustainable strategy to reduce land loss rates and sustain and restore wetlands altered by natural and man-made disturbances in the Breton Sound Basin.

2. Scoping Process. Public Scoping meetings will be held virtually, accessible by phone and internet. The Corps invites all affected federal, state, and local agencies, affected Native American Tribes, other interested parties, and the general public to participate in the NEPA process during development of the EIS. The purpose of the public scoping process is to provide information to the public, narrow the scope of analysis to significant environmental issues, serve as a mechanism to solicit agency and public input on alternatives and issues of concern, and ensure full and open participation in scoping for the Draft EIS. To ensure that all the issues related to the proposed Breton SD are addressed, the Corps will conduct virtual public scoping meeting(s) to which agencies, organizations, and members of the general public are invited to present comments or suggestions with regard to the range of actions, alternatives, and potential impacts to be considered in the EIS. Project and public scoping meeting information, including information as to where, when, and how to participate and submit scoping comments as well as other opportunities for public involvement, will be available on CEMVN's website at: *https://www.mvn.usace.army.mil/Missions/Regulatory/Permits/Mid-Breton-Sediment-Diversion-EIS/* and *http://www.mvn.usace.army.mil/Missions/Regulatory/Public-Notices/.* Notification of Breton SD virtual scoping meetings will also be available via press releases, special public notices, and on CEMVN's social media platforms.

3. Federal Authority. The EIS will disclose the context and intensity of environmental impacts, including direct, indirect, and cumulative impacts, of the proposed Action as required under the Council of Environmental Quality's (CEQ) National Environmental Policy Act (NEPA) regulations at 40 CFR parts 1500–1508 and the Department of the Army's (DA) NEPA regulations at 33 CFR part 325, appendix B. A reasonable range of alternatives will be determined and significant issues related to the proposed Action will be identified during agency and public scoping. As explained below, a preliminary range of alternatives has been developed. The EIS will address the Public Interest Review requirements of the DA permitting process (33 CFR parts 320–332), as well as the requirements of the Clean Water Act Section 404(b)(1) guidelines (40 CFR part 230). The EIS will inform the CEMVN decision-making processes for Section 10 (33 U.S.C. 403), Section 404 (33 U.S.C. 1344), and Section 408 (33 U.S.C. 408).

Under Section 10/Section 404, the District Engineer issues permits for the discharge of dredged and/or fill material into the waters of the U.S. and for work in navigable water in the U.S., to include installation and maintenance of structures based on the public interest review and Section 404(b)(1) Clean Water Act guidelines.

Under Section 408, the Corps of Engineers reviews requests to use, occupy, alter or modify existing Corps of Engineers projects. The decision whether to grant a Section 408 permission for such use, occupation or alteration is based on whether the proposed Action would be injurious to the public interest and whether it would impair the usefulness of affected Corps of Engineers projects.

The proposed Action is subject to Executive Order 13807 of August 15, 2017 titled ''Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects'' and Title 41 of the Fixing America's Surface Transportation Act (FAST–41) (42 U.S.C. 4370m, *et seq.*). Project milestones established via a Coordinated Project Plan will be maintained and updated quarterly on the Federal Permitting Dashboard. Interested parties can monitor project milestones at: *https://www.permits.performance.gov/permitting-projects/mid-breton-sediment-diversion.*

At this time, Cooperating Agencies on the EIS include the: Environmental Protection Agency (EPA), Department of Interior's U.S. Fish and Wildlife Service (USFWS), National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NMFS), U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS), U.S. Coast Guard (USCG), Advisory Council on Historic Preservation (ACHP), Louisiana's Historic Preservation Office (SHPO), and Louisiana's Department of Transportation and Development (LADOTD).

4. Alternatives. The EIS will address a reasonable range of alternatives based on the proposed Breton SD's purpose and need. CEMVN, through consultation with Cooperating Agencies and CPRA, has identified a preliminary range of alternatives to evaluate in greater detail in the EIS. Prospective alternatives were developed from, but not limited to, Breton SD public notice comments, Mid-Barataria Sediment Diversion scoping comments, existing studies prepared under the Coastal Wetlands Planning, Protection, and Restoration Act (CWPPRA) Program and Louisiana Coastal Area (LCA) Program, including the LCA Medium Diversion at Myrtle Grove with Dedicated Dredging Feasibility Study and the LCA Medium Diversion at White Ditch Feasibility Study, and the 2017 Louisiana Coastal Master Plan. CEMVN's preliminary range of alternatives is a sediment diversion with maximum flows of 35,000 cfs, 75,000 cfs (CPRA's preferred alternative), and 115,000 cfs. Each of the three sediment diversion alternatives will be evaluated with two base flow alternatives, 2,500 cfs and 5,000 cfs. Other reasonable alternatives may be developed based on comments received through the NEPA scoping process.

5. Potentially Significant Issues. The EIS will analyze the potential impacts on the human and natural environment resulting from the project. The scoping, public involvement, and interagency coordination processes will help identify and define the range of potential significant issues that will be considered. Important resources and issues to be evaluated in the EIS could include, but are not limited to, the direct, indirect, and cumulative effects on tidal wetlands and other waters of the U.S.; aquatic resources; commercial and recreational fisheries; wildlife resources; essential fish habitat; water quality; cultural resources; geology and soils including agricultural land and prime and unique farmland; hydrology and hydraulics; air quality; marine mammals; threatened and endangered

species and their critical habitats; navigation and navigable waters; induced flooding; employment and incomes; land use; property values; tax revenues; population and housing; community and regional growth; environmental justice; community cohesion; public services; recreation; transportation and traffic; utilities and community service systems; and cumulative effects of related projects in the study area.

6. Environmental Consultation and Review. The proposed Action is being coordinated with a number of federal, state, regional, and local agencies. In accordance with relevant environmental laws and regulations, CEMVN will consult with the following agencies: USFWS under the Fish and Wildlife Coordination Act; USFWS and NMFS under the Endangered Species Act; NMFS under the Magnuson-Stevens Fishery Conservation and Management Act; and, the ACHP, Louisiana SHPO, and the appropriate Tribal Historic Preservation Officers under the National Historic Preservation Act and integrated NHPA/EIS process.

On March 15, 2018, NMFS issued a Marine Mammal Protection Act (MMPA) waiver pursuant to Title II, Section 20201 of the Bipartisan Budget Act of 2018 and Section 101(a)(3)(A) of the MMPA for the Mid-Barataria Sediment Diversion, Mid-Breton Sound Sediment Diversion, and Calcasieu Ship Channel Salinity Control Measures.

7. Availability. The draft EIS is presently scheduled to be available for public review and comment on November 9, 2022. All comments received throughout the review process will become part of the project file for the proposed Breton SD project and will be subject to public release.

Edward E. Belk, Jr.,

Director of Programs.

[FR Doc. 2020–14031 Filed 7–1–20; 8:45 am]

BILLING CODE 3720–58–P

ELECTION ASSISTANCE COMMISSION

Sunshine Act Meetings

AGENCY: U.S. Election Assistance Commission.

ACTION: Sunshine Act Notice; Notice of Public Hearing Agenda.

SUMMARY: Public Hearing: U.S. Election Assistance Commission Standards Board Annual Meeting.

DATES: Friday, July 24, 2020 1:30 p.m.–3:30p.m. Eastern.

ADDRESSES:

Virtual via Zoom.

The hearing is open to the public and will be livestreamed on the U.S. Election Assistance Commission YouTube Channel: *https://www.youtube.com/channel/UCpN6i0g2rlF4ITWhwvBwwZw.*

FOR FURTHER INFORMATION CONTACT: Kristen Muthig, Telephone: (202) 897–9285, Email: *kmuthig@eac.gov.*

SUPPLEMENTARY INFORMATION:

Purpose: In accordance with the Government in the Sunshine Act (Sunshine Act), Public Law 94–409, as amended (5 U.S.C. 552b), the U.S. Election Assistance Commission (EAC) will conduct a virtual annual meeting of the EAC Standards Board to discuss the proposed Voluntary Voting System Guidelines (VVSG) 2.0 Requirements as submitted by the Technical Guidelines Development Committee (TGDC).

Agenda: The U.S. Election Assistance Commission (EAC) Standards Board will hold their 2020 Annual Meeting primarily to discuss the proposed VVSG 2.0 Requirements. This meeting will include a question and answer discussion between board members. Staff from NIST and the EAC will be available to answer questions, and provide information on the VVSG process and the proposed VVSG 2.0 Requirements.

Board members will also review FACA Board membership guidelines and policies with EAC Associate Counsel and receive a general update about the EAC from the Executive Director. The Board will also elect a new member to the Executive Board Committee and consider amendments to the Bylaws.

Background: The VVSG 2.0 Requirements were published for a 90-day public comment period that concluded on June 22, 2020. The first VVSG public hearing on March 27, 2020 covered an introduction to the VVSG process as well a high-level overview of the proposed VVSG 2.0 requirements. A recording of the hearing is available on the EAC's website. The second public hearing on May 6, 2020 addressed the importance of VVSG 2.0 at the state and local level, and the consideration of accessibility and security in VVSG 2.0. A recording of the second hearing is available on the EAC's website. The third public hearing on May 20, 2020 included discussions with voting system manufacturers and voting system testing labs. A recording of the third hearing is available on the EAC's website. The EAC Board of Advisors held their annual meeting to discuss the VVSG 2.0 on June 16, 2020. A recording of the hearing is available on the EAC's website.

The TGDC unanimously approved to recommend VVSG 2.0 Requirements on February 7, 2020, and sent the Requirements to the then EAC Acting Executive Director via the Director of the National Institute of Standards and Technology (NIST), in the capacity of the Chair of the TGDC on March 9, 2020. Upon adoption, the VVSG 2.0 would become the fifth iteration of national level voting system standards. The Federal Election Commission published the first two sets of federal standards in 1990 and 2002. The EAC then adopted Version 1.0 of the VVSG on December 13, 2005. In an effort to update and improve version 1.0 of the VVSG, on March 31, 2015, the EAC commissioners unanimously approved VVSG 1.1.

The full agenda will be posted in advance on the EAC website: *https://www.eac.gov.*

Status: This hearing will be open to the public.

Amanda Joiner,

Associate Counsel, U.S. Election Assistance Commission.

[FR Doc. 2020–14428 Filed 6–30–20; 4:15 pm]

BILLING CODE 6820–KF–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to

respond to any facts or contentions made in a prohibited off-the-record communication and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Docket Nos.	File date	Presenter or requester
Prohibited:		
1. EL14–9–000, EL14–8–000, EL18–48–000	6–10–2020	Gregory Swecker.
2. EL20–42–000	6–12–2020	Mass Mailings.[1]
3. EL20–42–000	6–15–2020	Mass Mailings.[2]
4. EL20–42–000	6–16–2020	Mass Mailings.[3]
5. EL20–42–000	6–17–2020	Mass Mailings.[4]
6. CP15–558–000, CP19–78–000, CP19–78–001, CP20–47–000	6–17–2020	Aurelle Sprout.
7. EL20–42–000	6–18–2020	Mass Mailings.[5]
8. EL20–42–000	6–18–2020	Nancy Acopine.
9. ER20–1541–000, ER20–1542–000, ER20–1543–000, ER20–1545–000, ER20–1547–000, ER20–1548–000.	6–22–2020	Dentons Associates.
10. EL20–42–000	6–25–2020	Mass Mailings.[6]
Exempt:		
1. RP20–859–000	5–27–2020	U.S. Congress [7]
2. P–2197–127	6–11–2020	U.S. Congress.[8]
3. P–190–105	6–12–2020	State of Utah Department of Environmental Quality.
4. EL20–42–000	6–15–2020	U.S. Congress.[9]
5. CP16–9–000	6–18–2020	U.S. Senate.[10]
6. EC20–70–000	6–19–2020	U.S. Congress.[11]
7. EL20–42–000	6–23–2020	Commonwealth of Virginia House of Delegates.[12]

[1] Emailed comments of Lois Clement and 57 other individuals.
[2] Emailed comments of Evan Rosenberg and 90 other individuals.
[3] Emailed comments of Andrew Causey and 229 other individuals.
[4] Emailed comments of Marcia Kane and 7 other individuals.
[5] Emailed comments of Gilbert Nicolson and 1 other individual.
[6] Emailed comments of Alysha Pennachio and 243 other individual.
[7] U.S. Senators John Hoeven, Kevin Cramer, and U.S. Representative Kelly Armstrong.
[8] U.S. Senators Richard Burr, Thom Tillis, and Congressmen Richard Hudson, and Ted Budd.
[9] Representatives Chellie Pingree, Louie Gohmert, Mike Quigley, Mark Pocan, Andy Biggs, Jared Golden, Paul Tonko, Chip Roy, Chris Pappas, Paul A. Gosar, D.D.S., Peter Welch, David Schweikert, Ann McLane Kuster, and Deb Haaland.
[10] U.S. Senators Elizabeth Warren and Edward J. Markey.
[11] U.S. Senators Shelley Moore Capito, Joe Manchin III, and Representative David B. McKinley, P.E.
[12] Delegates Alfonso Lopez, Jennifer Carroll Foy, Sam Rasoul, Chris Hurst, Danica Roem, Elizabeth Guzman, David Reid, Kathleen Murphy, Mark Keam, Kenneth Plum, David Bulova, Kaye Kory, Vivian Watts, Daniel Helmer, Kathy Tran, and Mark Sickles.

Dated: June 26, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–14279 Filed 7–1–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 553–235]

Seattle City Light; Notice of Intent To File License Application, Filing of Pre-Application Document (Pad), Commencement of Pre-Filing Process, and Scoping; Waiving Parts of The Pre-Filing Process; Request for Comments on the Pad and Scoping Document, and Identification of Issues and Associated Study Requests

a. *Type of Filing:* Notice of Intent to File License Application for a New License and Commencing Pre-filing Process.

b. *Project No.:* 553–235.

c. *Dated Filed:* April 27, 2020.

d. *Submitted By:* Seattle City Light.

e. *Name of Project:* Skagit River Hydroelectric Project.

f. *Location:* On the Skagit River, in Whatcom, Snohomish, and Skagit Counties, Washington. The project occupies 19,281.93 acres of United States lands under the jurisdiction of the National Park Service and the U.S. Forest Service.

g. *Filed Pursuant to:* 18 CFR part 5 of the Commission's Regulations.

h. Potential *Applicant Contact:* Andrew Bearlin, Seattle City Light, Skagit License Manger, PO Box 34023, Seattle, Washington 98104–4023; phone: 206–684–3496 or email at *Andrew.Bearlin@seattle.gov.*

i. *FERC Contact:* Matt Cutlip at (503) 552–2762 or email at *matt.cutlip@ferc.gov.*

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item o below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See* 94 FERC 61,076 (2001).

k. With this notice, we are initiating informal consultation with: (a) The U.S. Fish and Wildlife Service and NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402 and (b) the State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Seattle City Light as the Commission's non-federal representative for carrying out informal consultation, pursuant to section 7 of the Endangered Species Act and section 106 of the National Historic Preservation Act.

m. Seattle City Light filed with the Commission a Pre-Application Document (PAD; including a proposed process plan and schedule), pursuant to 18 CFR 5.6 of the Commission's regulations.

n. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCONlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TYY, (202) 502–8659.

Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. With this notice, we are soliciting comments on the PAD and Commission's staff Scoping Document 1 (SD1), as well as study requests. All comments on the PAD and SD1, and study requests should be sent to the address above in paragraph h. In addition, all comments on the PAD and SD1, study requests, requests for cooperating agency status, and all communications to and from Commission staff related to the merits of the potential application must be filed with the Commission.

The Commission strongly encourages electronic filing. Please file all documents using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov.*

All filings with the Commission must bear the appropriate heading: Comments on Pre-Application Document, Study Requests, Comments on Scoping Document 1, Request for Cooperating Agency Status, or Communications to and from Commission Staff. Any individual or entity interested in submitting study requests, commenting on the PAD or SD1, and any agency requesting cooperating status must do so by October 24, 2020.

p. Although our current intent is to prepare an environmental assessment (EA), there is the possibility that an Environmental Impact Statement (EIS) will be required. Nevertheless, this Scoping Document will satisfy the NEPA scoping requirements, irrespective of whether an EA or EIS is issued by the Commission.

Scoping Meetings and Environmental Site Review: Due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020, we are waiving section 5.8(b)(viii) of the Commission's regulations and do not intend to conduct a public scoping meeting or site visit in this case. Instead, we are soliciting written comments, recommendations, and information, on the SD1. Any individual or entity interested in submitting scoping comments must do so by the date specified in item o. SD1, which outlines the subject areas to be addressed in the environmental document, was mailed to the individuals and entities on the Commission's official mailing list. Copies of SD1 may be viewed on the web at *http://www.ferc.gov*, using the eLibrary link. Follow the directions for accessing information in paragraph n. Based on all written comments, a Scoping Document 2 (SD2) may be issued. SD2 may include a revised process plan and schedule, as well as a list of issues, identified through the scoping process.

We may conduct the site visit, if needed, later in the process, such as in conjunction with the study plan meeting required by section 5.11(e) of the Commission's regulations which is required to occur by January 7, 2021. Further revisions to the schedule may be made as appropriate.

Dated: June 26, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–14276 Filed 7–1–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER20–2176–000]

LA3 West Baton Rouge, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of LA3 West Baton Rouge, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 16, 2020.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: June 26, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–14280 7–1–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC20–66–000.
Applicants: Northern States Power Company, a Minnesota corporation, Crowned Ridge Wind II, LLC.
Description: Supplement to May 8, 2020 Application for Authorization Under Section 203 of the Federal Power Act, et al. of Northern States Power Company, a Minnesota corporation, et al.
Filed Date: 6/24/20.
Accession Number: 20200624–5215.
Comments Due: 5 p.m. ET 7/6/20.

Docket Numbers: EC20–77–000.
Applicants: Blooming Grove Wind Energy Center LLC.
Description: Application for Authorization Under Section 203 of the Federal Power Act, et al. of X Blooming Grove Wind Energy Center LLC.
Filed Date: 6/26/20.
Accession Number: 20200626–5273.
Comments Due: 5 p.m. ET 7/17/20.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2253–015; ER10–3319–019.
Applicants: Astoria Energy LLC, Astoria Energy II LLC.
Description: Triennial Compliance Filing and Notice of Non-Material Change in Status of Astoria Energy LLC, et al.
Filed Date: 6/26/20.
Accession Number: 20200626–5270.
Comments Due: 5 p.m. ET 8/25/20.

Docket Numbers: ER10–2527–009; ER10–2532–015; ER10–2533–009; ER20–1610–001; ER10–2535–011.
Applicants: Allegheny Ridge Wind Farm, LLC, Crescent Ridge LLC, GSG, LLC, Lone Tree Wind, LLC, Mendota Hills, LLC.
Description: Updated Market Power Analysis for the Northeast Region of Allegheny Ridge Wind Farm, LLC, et al.
Filed Date: 6/25/20.
Accession Number: 20200625–5217.
Comments Due: 5 p.m. ET 8/24/20.

Docket Numbers: ER10–3097–011.
Applicants: Bruce Power Inc.
Description: Updated Market Power Analysis for the Northeast Region of Bruce Power Inc.
Filed Date: 6/25/20.
Accession Number: 20200625–5214.
Comments Due: 5 p.m. ET 8/24/20.

Docket Numbers: ER12–1563–007; ER12–1562–007; ER11–3642–020.
Applicants: Cayuga Operating Company, LLC, Somerset Operating Company LLC, Tanner Street Generation, LLC.
Description: Updated Market Power Analysis for the Northeast Region of Cayuga Operating Company, LLC, et al.
Filed Date: 6/26/20.
Accession Number: 20200626–5255.
Comments Due: 5 p.m. ET 8/25/20.

Docket Numbers: ER15–572–008.
Applicants: New York Transco, LLC, New York Independent System Operator, Inc.
Description: Compliance filing: NY Transco compliance—cost allocation mechanism transmission facilities to be effective 4/8/2019.
Filed Date: 6/26/20.
Accession Number: 20200626–5121.
Comments Due: 5 p.m. ET 7/17/20.

Docket Numbers: ER16–2462–009.
Applicants: Oregon Clean Energy, LLC.
Description: Triennial Compliance filing of Oregon Clean Energy, LLC.
Filed Date: 6/26/20.
Accession Number: 20200626–5259.
Comments Due: 5 p.m. ET 8/25/20.

Docket Numbers: ER17–2364–004.
Applicants: St. Joseph Energy Center, LLC.
Description: Triennial Compliance filing of St. Joseph Energy Center, LLC.
Filed Date: 6/26/20.
Accession Number: 20200626–5260.
Comments Due: 5 p.m. ET 8/25/20.

Docket Numbers: ER20–924–003.
Applicants: PacifiCorp.
Description: Compliance filing: OATT Queue Reform—Compliance dated 5/12/2020 to be effective 4/1/2020.
Filed Date: 6/26/20.
Accession Number: 20200626–5174.
Comments Due: 5 p.m. ET 7/17/20.

Docket Numbers: ER20–1898–001.
Applicants: Pleinmont Solar 2, LLC.
Description: Tariff Amendment: Pleinmont Solar 2, LLC Supplemental Certificate of Concurrence with SFA to be effective 5/27/2020.
Filed Date: 6/26/20.
Accession Number: 20200626–5177.
Comments Due: 5 p.m. ET 7/17/20.

Docket Numbers: ER20–1900–001.
Applicants: Highlander Solar Energy Station 1, LLC.
Description: Tariff Amendment: Highlander Solar Energy Station 1, LLC Supp Certificate of Concurrence with SFA to be effective 5/27/2020.
Filed Date: 6/26/20.
Accession Number: 20200626–5203.
Comments Due: 5 p.m. ET 7/17/20.

Docket Numbers: ER20–2156–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Request for Waiver Tariff Provisions, et al. of Midcontinent Independent System Operator, Inc.
Filed Date: 6/24/20.
Accession Number: 20200624–5194.
Comments Due: 5 p.m. ET 6/29/20.

Docket Numbers: ER20–2175–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original WMPA SA No. 5667; Queue No. 5667 to be effective 5/28/2020.
Filed Date: 6/25/20.
Accession Number: 20200625–5131.
Comments Due: 5 p.m. ET 7/16/20.

Docket Numbers: ER20–2176–000.
Applicants: LA3 West Baton Rouge, LLC.
Description: Baseline eTariff Filing: Application for MBR Authorization and Request for Certain Waivers, et al. to be effective 6/26/2020.
Filed Date: 6/25/20.
Accession Number: 20200625–5137.
Comments Due: 5 p.m. ET 7/16/20.

Docket Numbers: ER20–2177–000.
Applicants: Helios 5 MT, LLC.
Description: Baseline eTariff Filing: Application for MBR Authorization and Request for Certain Waivers, et al. to be effective 6/26/2020.
Filed Date: 6/25/20.
Accession Number: 20200625–5139.
Comments Due: 5 p.m. ET 7/16/20.

Docket Numbers: ER20–2179–000.
Applicants: Baldwin Wind Energy, LLC.
Description: Baseline eTariff Filing: Baldwin Wind Energy, LLC Application for MBR Authority to be effective 8/25/2020.
Filed Date: 6/25/20.
Accession Number: 20200625–5159.
Comments Due: 5 p.m. ET 7/16/20.

Docket Numbers: ER20–2180–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 3204R1 Evergy Missouri West & City of Rich Hill, MO Int Agr to be effective 8/25/2020.
Filed Date: 6/26/20.
Accession Number: 20200626–5069.
Comments Due: 5 p.m. ET 7/17/20.

Docket Numbers: ER20–2181–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 3702 KMEA and Empire District Meter Agent Agreement to be effective 6/1/2020.
Filed Date: 6/26/20.
Accession Number: 20200626–5071.
Comments Due: 5 p.m. ET 7/17/20.

Docket Numbers: ER20–2182–000.
Applicants: American Transmission Systems, Incorporated, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: ATSI submits Two ECSAs, SA Nos. 5640 and 5643 to be effective 8/26/2020.
Filed Date: 6/26/20.
Accession Number: 20200626–5113.
Comments Due: 5 p.m. ET 7/17/20.

Docket Numbers: ER20–2183–000.
Applicants: Mid-Atlantic Interstate Transmission, LLC, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: MAIT submits Four ECSA Nos. 5584, 5585, 5641 and 5642 to be effective 8/26/2020.
Filed Date: 6/26/20.
Accession Number: 20200626–5117.
Comments Due: 5 p.m. ET 7/17/20.

Docket Numbers: ER20–2184–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original WMPA SA No. 5669; Queue No. AF1–291 to be effective 5/28/2020.
Filed Date: 6/26/20.
Accession Number: 20200626–5119.
Comments Due: 5 p.m. ET 7/17/20.

Docket Numbers: ER20–2185–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Second Revised ISA, SA No. 5481; Queue No. AE2–005 to be effective 5/28/2020.
Filed Date: 6/26/20.
Accession Number: 20200626–5138.
Comments Due: 5 p.m. ET 7/17/20.

Docket Numbers: ER20–2186–000.
Applicants: Fern Solar LLC.
Description: Initial rate filing: Reactive Power Tariff filing to be effective 8/1/2020.
Filed Date: 6/26/20.
Accession Number: 20200626–5140.
Comments Due: 5 p.m. ET 7/17/20.

Docket Numbers: ER20–2187–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 3220R1 Evergy KS Cent, ITC Great Plains & Sunflower Int Agr to be effective 8/25/2020.
Filed Date: 6/26/20.
Accession Number: 20200626–5142.
Comments Due: 5 p.m. ET 7/17/20.

Docket Numbers: ER20–2188–000.
Applicants: Southern California Edison Company.
Description: § 205(d) Rate Filing: DSA Painter Energy Storage, LLC & Cancel Letter Agreement Painter BESS to be effective 8/26/2020.
Filed Date: 6/26/20.
Accession Number: 20200626–5147.
Comments Due: 5 p.m. ET 7/17/20.

Docket Numbers: ER20–2189–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 2888R4 Arkansas Electric Cooperative Corp NITSA NOA to be effective 6/1/2020.
Filed Date: 6/26/20.
Accession Number: 20200626–5155.
Comments Due: 5 p.m. ET 7/17/20.

Docket Numbers: ER20–2190–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 3675 Doniphan Electric Cooperative Assn, Inc. NITSA NOA to be effective 6/1/2020.
Filed Date: 6/26/20.
Accession Number: 20200626–5169
Comments Due: 5 p.m. ET 7/17/20.

Docket Numbers: ER20–2191–000.
Applicants: PacifiCorp.
Description: § 205(d) Rate Filing: OATT Reconciliation (Merge Queue Reform & Order 845 Changes) to be effective 6/27/2020.
Filed Date: 6/26/20.
Accession Number: 20200626–5187.
Comments Due: 5 p.m. ET 7/17/20.

Docket Numbers: ER20–2192–000.
Applicants: Brooklyn Navy Yard Cogeneration Partners.
Description: § 205(d) Rate Filing: Category 1 Status Filing to be effective 6/30/2020.
Filed Date: 6/26/20.
Accession Number: 20200626–5196.
Comments Due: 5 p.m. ET 7/17/20.

Docket Numbers: ER20–2193–000.
Applicants: Old Dominion Electric Cooperative.

Description: § 205(d) Rate Filing: Old Dominion Electric Cooperative Superseding Cost-of-Service Rate Schedule to be effective 1/1/2021.
Filed Date: 6/26/20.
Accession Number: 20200626–5216.
Comments Due: 5 p.m. ET 7/17/20.

Docket Numbers: ER20–2194–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original WMPA, Service Agreement No. 5665; Queue No. AF1–032 to be effective 5/28/2020.
Filed Date: 6/26/20.
Accession Number: 20200626–5218.
Comments Due: 5 p.m. ET 7/17/20.

Docket Numbers: ER20–2195–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: GridLiance High Plains Submission of Tariff Revisions for Add'l Facilities to be effective 9/1/2020.
Filed Date: 6/26/20.
Accession Number: 20200626–5222.
Comments Due: 5 p.m. ET 7/17/20.

Docket Numbers: ER20–2196–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 3690 GridLiance High Plains & Evergy Kansas South Int Agr to be effective 9/1/2020.
Filed Date: 6/26/20.
Accession Number: 20200626–5234.
Comments Due: 5 p.m. ET 7/17/20.

Docket Numbers: ER20–2197–000.
Applicants: Atlantic City Electric Company, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: ACE submits Revisions to OATT, Att. H–1A and H–1B to be effective 9/1/2020.
Filed Date: 6/26/20.
Accession Number: 20200626–5240.
Comments Due: 5 p.m. ET 7/17/20.

Docket Numbers: ER20–2198–000.
Applicants: Delmarva Power & Light Company, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Delmarva submits Revisions to OATT, Att. H–3D and H–3E to be effective 9/1/2020.
Filed Date: 6/26/20.
Accession Number: 20200626–5243.
Comments Due: 5 p.m. ET 7/17/20.

Docket Numbers: ER20–2199–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original WMPA SA No. 5670; Queue No. AE2–151 to be effective 5/28/2020.
Filed Date: 6/26/20.
Accession Number: 20200626–5251.
Comments Due: 5 p.m. ET 7/17/20.

Docket Numbers: ER20–2200–000.
Applicants: Duke Energy Carolinas, LLC.
Description: § 205(d) Rate Filing: Revisions to Rate Schedule Nos. 328, 330, and 337 to be effective 6/1/2020.
Filed Date: 6/26/20.
Accession Number: 20200626–5276.
Comments Due: 5 p.m. ET 7/17/20.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES20–46–000.
Applicants: ISO New England Inc.
Description: Application Under Section 204 of the Federal Power Act for an Order Authorizing Future Drawdowns Under Existing Authorized Securities of ISO New England Inc.
Filed Date: 6/25/20.
Accession Number: 20200625–5213.
Comments Due: 5 p.m. ET 6/30/20.

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 26, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–14277 Filed 7–1–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP20–859–000]

Notice of Technical Conference; Northern Border Pipeline Company

Take notice that a technical conference concerning the above-captioned proceeding will be held remotely on August 6, 2020, at 10:00 a.m. (EDT). The purpose of the teleconference will be to discuss comments and protests filed in the proceeding.

At the technical conference, the parties to the proceeding should be prepared to discuss all issues set for technical conference as established in the May 29, 2020 Order (*Northern Border Pipeline Company,* 171 FERC 61,180 (2020)). All interested persons are permitted to attend.

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations, please email *accessibility@ferc.gov* or call toll free 1–866–208–3372 (voice) or 202–502–8659 (TTY); or send a fax to 202–208–2106 with the required accommodations.

All interested parties are invited to participate remotely. Staff will use the WebEx platform to view supporting documents related to this docket. For more information about this technical conference, please contact John Martinic at *John.Martinic@ferc.gov* or call (202) 502–8630 by August 3, 2020, to register and to receive specific instructions on how to participate in the WebEx platform.

Dated: June 26, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–14285 Filed 7–1–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER20–2177–000]

Helios 5 MT, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Helios 5 MT, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 16, 2020.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: June 26, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–14278 Filed 7–1–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP15–490–000; CP15–490–001; CP16–20–000]

Delfin LNG LLC; Notice of Request for Extension of Time

Take notice that on June 25, 2020, Delfin LNG LLC (Delfin) requested that the Federal Energy Regulatory Commission (Commission) grant an extension of time, until September 28, 2021, to construct and place into service the facilities that were authorized in the original certificate authorization issued on September 28, 2017 (Certificate Order). The Certificate Order authorized certain onshore facilities that would be used exclusively to transport natural gas to Delfin LNG's deepwater port ''offshore facilities'' (collectively, the Project) in federal waters offshore Louisiana. The onshore facilities would be used to meet the requirements of the customers of the offshore facilities. The Certificate Order required Delfin to construct and place the facilities in service by September 28, 2019.

Delfin states that on June 21, 2019 it requested an extension of time until March 28, 2023 to complete the construction of the onshore facilities in conjunction with construction of the offshore facilities. Delfin states that on July 8, 2019, the Commission's Office of Energy Projects granted an extension of time until September 28, 2020 to construct the onshore facilities and make them available for service. (2019 Extension)

Delfin asserts that since the 2019 Extension, it has been working to develop the Project. However, Delfin states that due to the global coronavirus pandemic, U.S. trade disputes with China, and the drop in global oil prices, it has been difficult to conclude LNG offtake agreements. Delfin states that it continues to negotiate LNG offtake agreements and development of the Project. Accordingly, applicants request an extension of time until September 28, 2021 to complete construction of the onshore facilities and place them into service.

This notice establishes a 15-calendar day intervention and comment period deadline. Any person wishing to comment on Delfin's request for an extension of time may do so. No reply comments or answers will be considered. If you wish to obtain legal status by becoming a party to the proceedings for this request, you should, on or before the comment date stated below, file a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10).[1]

As a matter of practice, the Commission itself generally acts on requests for extensions of time to complete construction for Natural Gas Act facilities when such requests are contested before order issuance. For those extension requests that are contested,[2] the Commission will aim to issue an order acting on the request within 45 days.[3] The Commission will address all arguments relating to whether the applicant has demonstrated there is good cause to grant the extension.[4] The Commission will not consider arguments that re-litigate the issuance of the certificate order, including whether the Commission properly found the project to be in the public convenience and necessity and whether the Commission's environmental analysis for the certificate complied with the National Environmental Policy Act.[5] At the time a pipeline requests an extension of time, orders on certificates of public convenience and necessity are final and the Commission will not re-litigate their issuance.[6] The OEP Director, or his or her designee, will act on all of those extension requests that are uncontested.

In addition to publishing the full text of this document in the **Federal Register**, The Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the eFiling link at*http://www.ferc.gov.* Persons unable to file electronically should submit an original and three copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

[1] Only motions to intervene from entities that were party to the underlying proceeding will be accepted. *Algonquin Gas Transmission, LLC,* 170 FERC 61,144, at P 39 (2020).

[2] Contested proceedings are those where an intervenor disputes any material issue of the filing. 18 CFR 385.2201(c)(1) (2019).

[3] *Algonquin Gas Transmission, LLC,* 170 FERC 61,144, at P 40 (2020).

[4] *Id.* at P 40.

[5] Similarly, the Commission will not re-litigate the issuance of an NGA section 3 authorization, including whether a proposed project is not inconsistent with the public interest and whether the Commission's environmental analysis for the permit order complied with NEPA.

[6] *Algonquin Gas Transmission, LLC,* 170 FERC 61,144, at P 40 (2020).

Comment Date: 5:00 p.m. Eastern Time on, July 13, 2020.

Dated: June 26, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–14281 Filed 7–1–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Number: PR20–67–000.

Applicants: Gulf Coast Express Pipeline LLC.

Description: Tariff filing per 284.123(b),(e)+(g): Estimated Fuel Adjustment to be effective 7/1/2020 under PR20–67.

Filed Date: 6/25/2020.

Accession Number: 202006255085.

Comments Due: 5 p.m. ET 7/16/2020.

284.123(g) Protests Due: 5 p.m. ET 8/24/2020.

Docket Numbers: RP20–966–000.

Applicants: Algonquin Gas Transmission, LLC.

Description: § 4(d) Rate Filing: Negotiated Rates—Bay State to UGI Energy to be effective 7/1/2020.

Filed Date: 6/25/20.

Accession Number: 20200625–5032.

Comments Due: 5 p.m. ET 7/7/20.

Docket Numbers: RP20–967–000.

Applicants: NEXUS Gas Transmission, LLC.

Description: § 4(d) Rate Filing: Tariff Revisions—Contracting for Service to be effective 8/1/2020.

Filed Date: 6/25/20.

Accession Number: 20200625–5035.

Comments Due: 5 p.m. ET 7/7/20.

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 26, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–14275 Filed 7–1–20; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9051–6]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202–564–5632 or *https://www.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements (EIS).

Filed June 22, 2020, 10 a.m. EST

Through June 26, 2020, 10 a.m. EST.

Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search.*

EIS No. 20200134, Final, USACE, FL, Combined Operational Plan, Review Period Ends: 08/03/2020, Contact: Melissa Nasuti 904–232–1368.

Amended Notice

EIS No. 20200068, Draft, NMFS, MA, Northeast Multispecies Fishery Management Plan Draft Amendment 23, Comment Period Ends: 08/31/2020, Contact: Mark Grant 978–281–9145.

Revision to FR Notice Published 5/29/2020; Extending the Comment Period from 6/30/2020 to 8/31/2020.

EIS No. 20200100, Draft Supplement, NCPC, DHS, GSA, DC, St. Elizabeth's Master Plan Amendment 2, Comment Period Ends: 07/16/2020, Contact: Paul Gyamfi 202–440–3405.

Revision to FR Notice Published 5/8/2020; Extending the Comment Period from 7/2/2020 to 7/16/2020.

EIS No. 20200120, Draft, FRA, DC, Washington Union Station Expansion Project, Comment Period Ends: 09/28/2020, Contact: David Valenstein 202–493–6368.

Revision to FR Notice Published 6/12/2020; Extending the Comment Period from 7/27/2020 to 9/28/2020.

Dated: June 29, 2020.

Cindy S. Barger,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2020–14301 Filed 7–1–20; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1208; FRS 16899]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

DATES: Written comments should be submitted on or before August 31, 2020. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: The FCC may not conduct or sponsor a collection of information unless it displays a

currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

As part of its continuing effort to reduce paperwork burdens, and as required by the PRA of 1995 (44 U.S.C. 3501–3520), the FCC invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–1208.

Title: Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households, business or other for-profit entities, not-for-profit institutions and State, local or Tribal governments.

Number of Respondents: 1,350 respondents; 3,597 responses.

Estimated Time per Response: .5 hours to 1 hour.

Frequency of Response: Third-party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in Sections 1, 2, 4(i), 7, 201, 301, 303, and 309 of the Communications Act of 1934, as amended, and Sections 6003, 6213, and 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112–96, 126 Stat. 156, 47 U.S.C. 151, 152, 154(i), 157, 201, 301, 303, 309, 1403, 1433, and 1455(a).

Total Annual Burden: 3,535 hours.

Total Annual Cost: None.

Privacy Impact Assessment: This information collection may affect individuals or households. However, the information collection consists of third-party disclosures in which the Commission has no direct involvement. Personally identifiable information (PII) is not being collected by, made available to, or made accessible by the Commission. There are no additional impacts under the Privacy Act.

Nature and Extent of Confidentiality: No known confidentiality between third parties.

Needs and Uses: This information collection will be submitted for extension to the Office of Management and Budget (OMB) after the 60-day comment period to obtain the full three-year clearance. The Commission has not changed the collection, which includes disclosure requirements pertaining to subpart CC of part 1 of the Commission's rules. This Subpart was adopted to implement and enforce Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012. Section 6409(a) provides, in part, that ''a State or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.'' 47 U.S.C. 1455(a)(1). In subpart CC, the Commission adopted definitions of ambiguous terms, procedural requirements, and remedies to provide guidance to all stakeholders on the proper interpretation of the provision and to enforce its requirements, reducing delays in the review process for wireless infrastructure modifications and facilitating the rapid deployment of wireless infrastructure.

The following are the information collection requirements in connection with subpart CC of part 1 of the Commission's rules:

- 47 CFR 1.40001(c)(3)(i)—To toll the 60-day review timeframe on grounds that an application is incomplete, the reviewing State or local government must provide written notice to the applicant within 30 days of receipt of the application, clearly and specifically delineating all missing documents or information. Such delineated information is limited to documents or information meeting the standard under paragraph (c)(1) of § 1.140001.
- 47 CFR 1.140001(c)(3)(iii)—Following a supplemental submission from the applicant, the State or local government will have 10 days to notify the applicant in writing if the supplemental submission did not provide the information identified in the State or local government's original notice delineating missing information. The timeframe for review is tolled in the case of second or subsequent notices of incompleteness pursuant to the procedures identified in paragraph (c)(3). Second or subsequent notices of incompleteness may not specify missing documents or information that were not delineated in the original notice of incompleteness.
- 47 CFR 1.140001(c)(4)—If a request is deemed granted because of a failure to timely approve or deny the request, the deemed grant does not become effective until the applicant notifies the applicable reviewing authority in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.

These collections are necessary to effectuate the rule changes that implement and enforce the requirements of Section 6409(a).

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2020–14300 Filed 7–1–20; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[GN Docket No. 17–83; FRS 16890]

Meeting of the Broadband Deployment Advisory Committee

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the FCC announces and provides an agenda for the next meeting of the Broadband Deployment Advisory Committee (BDAC), which will be held via live internet link.

DATES: July 29, 2020. The meeting will come to order at 11 a.m.

ADDRESSES: The Meeting will be held via conference call and available to the public via WebEx at *http://www.fcc.gov/live.*

FOR FURTHER INFORMATION CONTACT: Justin L. Faulb, Designated Federal Authority (DFO) of the BDAC, at *justin.faulb@fcc.gov* or 202–418–1589; Zachary Ross, Deputy DFO of the BDAC, at *Zachary.ross@fcc.gov* or 202–418–1033; or Belinda Nixon, Deputy DFO of the BDAC, at 202–418–1382, or *Belinda.Nixon@fcc.gov.* The TTY number is: (202) 418–0484.

SUPPLEMENTARY INFORMATION: The BDAC meeting is open to the public on the internet via live feed from the FCC's web page at *http://www.fcc.gov/live.* Open captioning will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request. Requests for such accommodations

should be submitted via email to *fcc504@fcc.gov* or by calling the Consumer & 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 FCC to contact the requester if more information is needed to fill the request. Please allow at least five days' advance notice for accommodation requests; last minute requests will be accepted, but may not be possible to accommodate. Oral statements at the meeting by parties or entities not represented on the BDAC will be permitted to the extent time permits, at the discretion of the BDAC Chair and the DFO. Members of the public may submit comments to the BDAC in the FCC's Electronic Comment Filing System, ECFS, at *www.fcc.gov/ecfs.* Comments to the BDAC should be filed in Docket 17–83.

Proposed Agenda: At this meeting, the BDAC will hear reports from the Increasing Broadband Investment in Low-Income Communities, Broadband Infrastructure Deployment Job Skills and Training Opportunities, and Disaster Response and Recovery working groups. This agenda may be modified at the discretion of the BDAC Chair and the Designated Federal Officer (DFO).

Federal Communications Commission.

Pamela Arluk,

Chief, Competition Policy Division, Wireline Competition Bureau.

[FR Doc. 2020–14266 Filed 7–1–20; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments, relevant information, or documents regarding the agreements to the Secretary by email at *Secretary@fmc.gov,* or by mail, Federal Maritime Commission, Washington, DC 20573. Comments will be most helpful to the Commission if received within 12 days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's website (*www.fmc.gov*) or by contacting the Office of Agreements at (202)–523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 012439–006.

Agreement Name: THE Alliance Agreement.

Parties: Hapag-Lloyd AG and Hapag-Lloyd USA LLC (acting as a single party); Ocean Network Express Pte. Ltd.; HMM Company Limited; and Yang Ming Marine Transport Corp., Yang Ming (UK) Ltd. and Yang Ming (Singapore) Pte. Ltd (acting as a single party).

Filing Party: Joshua Stein; Cozen O'Connor.

Synopsis: The amendment revises the Agreement to reflect HMM's name change from Hyundai Merchant Marine Co., Ltd. to HMM Company Limited.

Proposed Effective Date: 6/24/2020.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/1912.

Agreement No.: 201340–001.

Agreement Name: Hyundai Glovis/Kawasaki Kisen Kaisha Ltd. Europe/United States Space Charter Agreement.

Parties: Hyundai Glovis Co., Ltd. and Kawasaki Kisen Kaisha, Ltd.

Filing Party: John Meade; ''K'' Line America, Inc.

Synopsis: The amendment authorizes the charter of space between both parties, expands to the geographic scope to include the inbound and outbound U.S. trades, and updates the name of the Agreement.

Proposed Effective Date: 6/24/2020.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/29491.

Agreement No.: 201103–015.

Agreement Name: Memorandum Agreement of December 14, 1983 Concerning Assessments to Pay ILWU–PMA Employee Benefit Costs.

Parties: International Longshoremen's and Warehousemen's Union and Pacific Maritime Association.

Filing Party: Robert Magovern; Cozen O'Connor.

Synopsis: The amendment revises the divisor for the man-hour base assessment rate in the agreement, and also accordingly revises various figures set forth in Appendix 1. The amendment also adds the COVID–19 Sick Leave Plan to the list of employee fringe benefits plans established under the ILWU–PMA Pacific Coast Longshore and Clerks' Agreement and subject to the FMC Agreement.

Proposed Effective Date: 6/25/2020.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/10164.

Dated: June 26, 2020.

Rachel Dickon,

Secretary.

[FR Doc. 2020–14238 Filed 7–1–20; 8:45 am]

BILLING CODE 6730–02–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington DC 20551–0001, not later than August 3, 2020.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Tri Valley Bancshares, Inc., Talmage, Nebraska,* to merge with Eagle Bancshares, Inc., and thereby indirectly acquire Eagle State Bank, both in Eagle, Nebraska.

Board of Governors of the Federal Reserve System, June 29, 2020.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2020–14292 Filed 7–1–20; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank

Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue, NW, Washington DC 20551–0001, not later than July 17, 2020.

A. Federal Reserve Bank of St. Louis (David L. Hubbard, Senior Manager) P.O. Box 442, St. Louis, Missouri 63166–2034. Comments can also be sent electronically to *Comments.applications@stls.frb.org*:

1. *Kyle Townsend, Linden, Tennessee, and Valerie Townsend, Parsons, Tennessee;* individually and as members of the Townsend Family Control Group, also of Parsons, Tennessee, a group acting in concert to retain voting shares of Townsend Financial Corporation and thereby indirectly retain voting shares of Farmers Bank, both of Parsons, Tennessee.

Board of Governors of the Federal Reserve System, June 29, 2020.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2020–14322 Filed 7–1–20; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Supplemental Evidence and Data Request on Breast Reconstruction After Mastectomy

AGENCY: Agency for Healthcare Research and Quality (AHRQ), Health and Human Services (HHS).

ACTION: Request for supplemental evidence and data submissions.

SUMMARY: The Agency for Healthcare Research and Quality (AHRQ) is seeking scientific information submissions from the public. Scientific information is being solicited to inform our review on *Breast Reconstruction after Mastectomy,* which is currently being conducted by the AHRQ's Evidence-based Practice Centers (EPC) Program. Access to published and unpublished pertinent scientific information will improve the quality of this review.

DATES: *Submission Deadline* on or before 30 days after the date of publication of this Notice.

ADDRESSES:

Email submissions: epc@ahrq.hhs.gov.

Print submissions:

Mailing Address: Center for Evidence and Practice Improvement, Agency for Healthcare Research and Quality, ATTN: EPC SEADs Coordinator, 5600 Fishers Lane, Mail Stop 06E53A, Rockville, MD 20857.

Shipping Address (FedEx, UPS, etc.): Center for Evidence and Practice Improvement, Agency for Healthcare Research and Quality, ATTN: EPC SEADs Coordinator, 5600 Fishers Lane, Mail Stop 06E77D, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Jenae Benns, Telephone: 301–427–1496 or Email: *epc@ahrq.hhs.gov.*

SUPPLEMENTARY INFORMATION: The Agency for Healthcare Research and Quality has commissioned the Evidence-based Practice Centers (EPC) Program to complete a review of the evidence for Breast Reconstruction after Mastectomy. AHRQ is conducting this systematic review pursuant to Section 902(a) of the Public Health Service Act, 42 U.S.C. 299a(a).

The EPC Program is dedicated to identifying as many studies as possible that are relevant to the questions for each of its reviews. In order to do so, we are supplementing the usual manual and electronic database searches of the literature by requesting information from the public (*e.g.,* details of studies conducted). We are looking for studies that report on *Breast Reconstruction after Mastectomy,* including those that describe adverse events. The entire research protocol is available online at: *https://effectivehealthcare.ahrq.gov/products/breast-reconstruction-mastectomy/protocol.*

This is to notify the public that the EPC Program would find the following information on *Breast Reconstruction after Mastectomy* helpful:

- A list of completed studies that your organization has sponsored for this indication. In the list, please *indicate whether results are available on ClinicalTrials.gov along with the ClinicalTrials.gov trial number.*
- *For completed studies that do not have results on ClinicalTrials.gov*, a summary, including the following elements: Study number, study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, primary and secondary outcomes, baseline characteristics, number of patients screened/eligible/enrolled/lost to follow-up/withdrawn/analyzed, effectiveness/efficacy, and safety results.
- *A list of ongoing studies that your organization has sponsored for this indication.* In the list, please provide the *ClinicalTrials.gov* trial number or, if the trial is not registered, the protocol for the study including a study number, the study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, and primary and secondary outcomes.
- Description of whether the above studies constitute *ALL Phase II and above clinical trials* sponsored by your organization for this indication and an index outlining the relevant information in each submitted file.

Your contribution is very beneficial to the Program. Materials submitted must be publicly available or able to be made public. Materials that are considered confidential; marketing materials; study types not included in the review; or information on indications not included in the review cannot be used by the EPC Program. This is a voluntary request for information, and all costs for complying with this request must be borne by the submitter.

The draft of this review will be posted on AHRQ's EPC Program website and available for public comment for a period of four weeks. If you would like to be notified when the draft is posted, please sign up for the email list at: *https://www.effectivehealthcare.ahrq.gov/email-updates.*

The systematic review will answer the following questions. This information is provided as background. AHRQ is not requesting that the public provide answers to these questions.

Key Questions (KQ)

KQ 1: For adult women who are undergoing (or have undergone) mastectomy for breast cancer, what are the comparative benefits and harms of implant-based (IBR) versus autologous (AR) breast reconstruction?

KQ 2: For adult women undergoing IBR or AR after mastectomy for breast cancer that requires either chemotherapy or radiation therapy, what is the optimal time for IBR or AR with respect to

(a) chemotherapy or

(b) radiation therapy?

KQ 3: For adult women undergoing IBR after mastectomy for breast cancer, what are the comparative benefits and harms of different types of implants (*e.g.,* silicone, saline)?

KQ 4: For adult women undergoing IBR after mastectomy for breast cancer, what are the comparative benefits and harms of different anatomic planes of implant placement (prepectoral, partial submuscular, and total submuscular)?

KQ 5: For adult women undergoing IBR after mastectomy for breast cancer, what are the comparative benefits and harms of IBR *with versus without the use of a human acellular dermal matrix (ADM)* in the reconstruction procedure?

KQ 6: For adult women undergoing AR after mastectomy for breast cancer, what are the comparative benefits and harms of *different flap types* for AR?

Contextual Questions

Contextual Question 1:

What patient *preferences and values* inform decisionmaking about breast reconstruction after mastectomy for breast cancer? This includes the initial choice to undergo reconstruction, as well as the type and timing of surgery.

Contextual Question 2:

What *strategies or tools* (including shared decisionmaking) are available to help women make *informed choices* about breast reconstruction after mastectomy for breast cancer?

Study Eligibility Criteria

The specific eligibility criteria provided below have been refined based on discussions with a panel of Key Informants (KIs) and a Technical Expert Panel (TEP).

Key Question 1 (IBR Versus AR)

Population

- Adult (≥18 years old) women who are undergoing (or have undergone) mastectomy for any type of breast cancer (or carcinoma in situ) and have decided to undergo breast reconstruction
- Either therapeutic or prophylactic mastectomy
- *Exclude:* Studies where ≥10% of women underwent breast reconstruction (combined across reasons):
  - For solely cosmetic purposes (*i.e.,* augmentation)
  - for revision reconstruction (*i.e.,* after a previous reconstruction for breast cancer)

Interventions

- IBR
  - Either single- or multi-stage
  - Any type of implant material, either smooth or textured, silicone or saline
  - Any anatomic plane of implant placement
  - With or without use of human ADM
  - With or without mastectomy and reconstruction of the contralateral breast (*i.e.,* unilateral or bilateral)
  - With or without symmetry procedure (*e.g.,* mastopexy) in the contralateral breast

Comparators

- AR using any flap (either free flap or pedicled), for example:
  - Deep inferior epigastric perforator (DIEP)
  - Latissimus dorsi (LD)
  - Transverse rectus abdominis myocutaneous (TRAM)
  - Superficial inferior epigastric artery perforator (SIEA)
  - Gluteal artery perforator (GAP)
  - Transverse musculocutaneous gracilis (TMG)
  - Transverse upper gracilis (TUG)
  - Profundal artery perforator (PAP)
- Combination of IBR and AR
- *Exclude:* Non-autologous flap transplants (*i.e.,* cadaveric or xenotransplant)
- *Exclude:* Exclusive lipofilling/autologous fat reconstruction

Outcomes

- Quality of life
- Physical well-being (*e.g.,* pain, discomfort)
- Psychosocial well-being (*e.g.,* self-esteem, emotionality, normality)
- Sexual well-being
- Patient satisfaction with aesthetics (*i.e.,* satisfaction with breast)
- Patient satisfaction with outcome (*e.g.,* satisfaction with care)
- Planned staged surgeries for reconstruction
- Recurrence of breast cancer
- Harms
  - Mortality
  - Unplanned repeat hospitalization
  - Duration of unplanned repeat hospitalization
  - Unplanned repeat surgeries—for revision of reconstruction (*e.g.,* for asymmetry)
  - Unplanned repeat surgeries—for complications (*e.g.,* for infection, bleeding)*
  - Pain, including chronic pain
  - Analgesic (*e.g.,* opioid) use
  - Necrosis, such as of the nipple or of the flap
  - Animation deformity
  - Complications that lead to delays in other cancer-related treatments (*e.g.,* chemotherapy, radiation therapy)
  - Thromboembolic events
  - Infection
  - Wound dehiscence
  - Delayed healing
  - Seroma
  - Chronic conditions (*e.g.,* rheumatologic diseases)
  - Touch sensitivity
  - Scarring

Potential Effect Modifiers

- Age
- Stage of breast cancer
- First occurrence versus recurrent breast cancer
- Immediate versus delayed reconstruction
- Single-stage (direct to reconstruction) versus multi-stage (with tissue expander) reconstruction
- Unilateral versus bilateral reconstruction
- Radiation therapy versus no radiation therapy
- Chemotherapy versus no chemotherapy

Timing

- Any

Setting

- Any, including single- and multicenter

Design

- Randomized controlled trials (RCTs), N≥10 per group
- Nonrandomized comparative studies (NRCSs), N≥30 per group
- Case-control studies, N≥100 per group
- Single group studies, N≥500
- Studies may be prospective or retrospective
- *Exclude:* case reports and series of individually-reported case reports

Key Question 2 (Optimal Time For IBR or AR)

Population(s)

- Adult (≥18 years old) women who are undergoing IBR or AR after a

mastectomy for breast cancer (or carcinoma in situ) that requires either chemotherapy or radiation therapy
- Either therapeutic or prophylactic mastectomy
- *Exclude:* Studies where ≥10% of women underwent breast reconstruction (combined across reasons):
  - For solely cosmetic purposes (*i.e.,* augmentation)
  - for solely prophylactic purposes (*i.e.,* without diagnosed breast cancer)
  - for revision reconstruction (*i.e.,* after a previous reconstruction for breast cancer)

Interventions

(a) IBR or AR *before* chemotherapy
(b) IBR or AR *before* radiation therapy
- Either single- or multistage
- With or without mastectomy and reconstruction of the contralateral breast (*i.e.,* unilateral or bilateral)
- With or without symmetry procedure (*e.g.,* mastopexy) in the contralateral breast
- With or without use of human ADM
- For IBR—Any type of implant material, either smooth or textured
- For IBR—Any anatomic plane of implant placement
- For AR—Any flap type

Comparators

(a) IBR or AR *after* chemotherapy
(b) IBR or AR *after* radiation therapy

Outcomes

- Quality of life
- Physical well-being (*e.g.,* pain, discomfort)
- Psychosocial well-being (*e.g.,* self-esteem, emotionality, normality)
- Sexual well-being
- Patient satisfaction with aesthetics (*i.e.,* satisfaction with breast)
- Patient satisfaction with outcome (*e.g.,* satisfaction with care)
- Planned staged surgeries for reconstruction
- Recurrence of breast cancer
- Harms
  - Mortality
  - Unplanned repeat hospitalization
  - Duration of unplanned repeat hospitalization
  - Unplanned repeat surgeries—for revision of reconstruction (*e.g.,* for asymmetry)
  - Unplanned repeat surgeries—for complications (*e.g.,* for infection, bleeding)*
  - Pain, including chronic pain
  - Analgesic (*e.g.,* opioid) use
  - Necrosis, such as of the nipple or of the flap
  - Animation deformity
  - Complications that cause delays in other cancer-related treatments (*e.g.,* chemotherapy, radiation therapy)
  - Thromboembolic events
  - Infection
  - Wound dehiscence
  - Delayed healing
  - Seroma
  - Chronic conditions (*e.g.,* rheumatologic diseases)
  - Touch sensitivity
  - Scarring

Potential Effect Modifiers:

- Age
- Stage of breast cancer
- First occurrence versus recurrent breast cancer
- Type of chemotherapy (for KQ 2a) or radiation therapy (for KQ 2b)
- Immediate versus delayed reconstruction
- Single-stage (direct to reconstruction) versus multi-stage (with tissue expander) reconstruction
- Unilateral versus bilateral reconstruction

Timing

- Any

Setting

- Any, including single- and multicenter

Design

- RCTs, N≥10 per group
- NRCSs, N≥30 per group
- Case-control studies, N≥100 per group
- Single group studies, N≥500
- Studies may be prospective or retrospective
- *Exclude:* case reports and series of individually-reported case reports

Key Question 3 (Type of Implant Material)

Population(s)

- Adult (≥18 years old) women who are undergoing (or have undergone) mastectomy for any type of breast cancer (or carcinoma in situ) and have decided to undergo IBR
- Either therapeutic or prophylactic mastectomy
- *Exclude:* Studies where ≥10% of women underwent breast reconstruction (combined across reasons):
  - For solely cosmetic purposes (*i.e.,* augmentation)
  - for revision reconstruction (*i.e.,* after a previous reconstruction for breast cancer)

Interventions

- IBR using one type of implant material
  - Saline
  - Silicone
  - Other materials
  - Either smooth or textured
  - Either single- or multistage
  - Any anatomic plane of implant placement
  -

With or without use of human ADM
  - With or without mastectomy and reconstruction of the contralateral breast (*i.e.,* unilateral or bilateral)
  - With or without symmetry procedure (*e.g.,* mastopexy) in the contralateral breast

Comparators

- IBR using another type of implant material

Outcomes

- Quality of life
- Physical well-being (*e.g.,* pain, discomfort)
- Psychosocial well-being (*e.g.,* self-esteem, emotionality, normality)
- Sexual well-being
- Patient satisfaction with aesthetics (*i.e.,* satisfaction with breast)
- Patient satisfaction with outcome (*e.g.,* satisfaction with care)
- Planned staged surgeries for reconstruction
- Recurrence of breast cancer
- Harms
  - Mortality
  - Unplanned repeat hospitalization
  - Duration of unplanned repeat hospitalization
  - Unplanned repeat surgeries—for revision of reconstruction (*e.g.,* for asymmetry)
  - Unplanned repeat surgeries—for complications (*e.g.,* for infection, bleeding) *
  - Pain, including chronic pain
  - Analgesic (*e.g.,* opioid) use
  - Necrosis, such as of the nipple
  - Animation deformity
  - Implant-related infections
  - Implant rupture, including asymptomatic rupture
  - Implant deflation
  - Implant malposition
  - Need for explant surgery
  - Capsular contracture
  - New neoplasms (*e.g.,* BIA–ALCL)
  - Complications that cause delays in other cancer-related treatments (*e.g.,* chemotherapy, radiation therapy)
  - Thromboembolic events
  - Wound dehiscence
  - Delayed healing
  - Seroma
  - Chronic conditions (*e.g.,* rheumatologic diseases)
  - Touch sensitivity
  - Scarring

- Red breast syndrome

Potential Effect Modifiers

- Age
- Stage of breast cancer
- First occurrence versus recurrent breast cancer
- Immediate versus delayed reconstruction
- Single-stage (direct to reconstruction) versus multistage (with tissue expander) reconstruction
- Unilateral versus bilateral reconstruction
- Surface of implant (smooth versus textured)
- Shape of implant (round versus anatomic/teardrop)
- Size of implant (volume)

Timing

- Any

Setting

- Any, including single- and multicenter

Design

- RCTs, N≥10 per group
- NRCSs, N≥30 per group
- Case-control studies, N≥100 per group
- Single group studies, N≥500
- Studies may be prospective or retrospective
- *Exclude:* case reports and series of individually-reported case reports

Key Question 4 (Anatomic Plane of Implant Placement)

Population(s)

- Adult (≥18 years old) women who are undergoing (or have undergone) mastectomy for any type of breast cancer (or carcinoma in situ) and have decided to undergo IBR
- Either therapeutic or prophylactic mastectomy
- *Exclude:* Studies where ≥10% of women underwent breast reconstruction (combined across reasons):
  - for solely cosmetic purposes (*i.e.,* augmentation)
  - for revision reconstruction (*i.e.,* after a previous reconstruction for breast cancer)

Interventions

- IBR with implant placement in one anatomic plane
  - Prepectoral placement
  - Partial submuscular placement
  - Total submuscular placement
  - Either single- or multi-stage
  - Any type of implant material, either smooth or textured
  - With or without use of human ADM
  - With or without mastectomy and reconstruction of the contralateral breast (*i.e.,* unilateral or bilateral)
  - With or without symmetry procedure (*e.g.,* mastopexy) in the contralateral breast

Comparators

- IBR with implant placement in a different anatomic plane

Outcomes

- Quality of life
- Physical well-being (*e.g.,* pain, discomfort)
- Psychosocial well-being (*e.g.,* self-esteem, emotionality, normality)
- Sexual well-being
- Patient satisfaction with aesthetics (*i.e.,* satisfaction with breast)
- Patient satisfaction with outcome (*e.g.,* satisfaction with care)
- Planned staged surgeries for reconstruction
- Recurrence of breast cancer
- Harms
  - Mortality
  - Unplanned repeat hospitalization
  - Duration of unplanned repeat hospitalization
  - Unplanned repeat surgeries—for revision of reconstruction (*e.g.,* for asymmetry)
  - Unplanned repeat surgeries—for complications (*e.g.,* for infection, bleeding)*
  - Pain, including chronic pain
  - Analgesic (*e.g.,* opioid) use
  - Necrosis, such as of the nipple
  - Animation deformity
  - Implant-related infections
  - Implant rupture, including asymptomatic rupture
  - Implant deflation
  - Implant malposition
  - Need for explant surgery
  - Capsular contracture
  - New neoplasms (*e.g.,* BIA–ALCL)
  - Complications that cause delays in other cancer-related treatments (*e.g.,* chemotherapy, radiation therapy)
  - Thromboembolic events*
  - Infection
  - Wound dehiscence
  - Delayed healing
  - Seroma
  - Chronic conditions (*e.g.,* rheumatologic diseases)
  - Touch sensitivity
  - Scarring
  - Red breast syndrome

Potential Effect Modifiers:

- Age
- Stage of breast cancer
- First occurrence versus recurrent breast cancer
- Immediate versus delayed reconstruction
- Single-stage (direct to reconstruction) versus multistage (with tissue expander) reconstruction
- Unilateral versus bilateral reconstruction
- Surface of implant (smooth versus textured)
- Shape of implant (round versus anatomic/teardrop)
- Size of implant (volume)

Timing

- Any

Setting

- Any, including single- and multicenter

Design

- RCTs, N≥10 per group
- NRCSs, N≥30 per group
- Case-control studies, N≥100 per group
- Single group studies, N≥500
- Studies may be prospective or retrospective
- *Exclude:* case reports and series of individually-reported case reports

Key Question 5 (Use of Human ADM)

Population(s)

- Adult (≥18 years old) women who are undergoing (or have undergone mastectomy) for any type of breast cancer (or carcinoma in situ) and have decided to undergo IBR
- Either therapeutic or prophylactic mastectomy
- *Exclude:* Studies where ≥10% of women underwent breast reconstruction (combined across reasons):
  - for solely cosmetic purposes (*i.e.,* augmentation)
  - for revision reconstruction (*i.e.,* after a previous reconstruction for breast cancer)

Interventions

- IBR with use of human ADM
  - Either single- or multistage
  - Any anatomic plane of implant placement
  - Any type of implant material, either smooth or textured
  - With or without mastectomy and reconstruction of the contralateral breast (*i.e.,* unilateral or bilateral)
  - With or without symmetry procedure (*e.g.,* mastopexy) in the contralateral breast

Comparators

- IBR without use of human or nonhuman ADM

Outcomes

- Quality of life
- Physical well-being (*e.g.,* pain, discomfort)

- Psychosocial well-being (*e.g.,* self-esteem, emotionality, normality)
- Sexual well-being
- Patient satisfaction with aesthetics (*i.e.,* satisfaction with breast)
- Patient satisfaction with outcome (*e.g.,* satisfaction with care)
- Planned staged surgeries for reconstruction
- Recurrence of breast cancer
- Harms
  - Mortality
  - Unplanned repeat hospitalization
  - Duration of unplanned repeat hospitalization
  - Unplanned repeat surgeries—for revision of reconstruction (*e.g.,* for asymmetry)
  - Unplanned repeat surgeries—for complications (*e.g.,* for infection, bleeding)
  - Pain, including chronic pain
  - Analgesic (*e.g.,* opioid) use
  - Necrosis, such as of the nipple
  - Animation deformity
  - Implant-related infections
  - Implant rupture, including asymptomatic rupture
  - Implant deflation
  - Implant malposition
  - Need for explant surgery
  - Capsular contracture
  - New neoplasms (*e.g.,* BIA–ALCL)
  - Complications that cause delays in other cancer-related treatments (*e.g.,* chemotherapy, radiation therapy)
  - Thromboembolic events
  - Infection
  - Wound dehiscence
  - Delayed healing
  - Seroma
  - Chronic conditions (*e.g.,* rheumatologic diseases)
  - Touch sensitivity
  - Scarring
  - Red breast syndrome

Potential Effect Modifiers

- Age
- Stage of breast cancer
- First occurrence versus recurrent breast cancer
- Immediate versus delayed reconstruction
- Single-stage (direct to reconstruction) versus multi-stage (with tissue expander) reconstruction
- Unilateral versus bilateral reconstruction
- Anatomic plane of implant placement (prepectoral versus partial submuscular versus total submusclar)
- Surface of implant (smooth versus textured)
- Shape of implant (round versus anatomic/teardrop)
- Size of implant (volume)
- Brand of human ADM (*e.g.,* Alloderm®, FlexHD®, BellaDerm®, AlloMax®, Cortiva®, DermACELL®)

Timing

- Any

Setting

- Any, including single- and multicenter

Design

- RCTs, N≥10 per group
- NRCSs, N≥30 per group
- Case-control studies, N≥100 per group
- Single group studies, N≥500
- Studies may be prospective or retrospective
- *Exclude:* case reports and series of individually-reported case reports

Key Question 6 (Different Flap Types For AR)

Population(s)

- Adult (≥18 years old) women who are undergoing (or have undergone mastectomy) for any type of breast cancer (or carcinoma in situ) and have decided to undergo AR
- Either therapeutic or prophylactic mastectomy
- *Exclude:* Studies where ≥10% of women underwent breast reconstruction (combined across reasons):
  - for solely cosmetic purposes (*i.e.,* augmentation)
  - for revision reconstruction (*i.e.,* after a previous reconstruction for breast cancer)

Interventions

- AR using one flap (either free flap or pedicled), for example:
  - Deep inferior epigastric perforator (DIEP)
  - Latissimus dorsi (LD)
  - Transverse rectus abdominis myocutaneous (TRAM)
  - Superficial inferior epigastric artery perforator (SIEA)
  - Gluteal artery perforator (GAP)
  - Transverse musculocutaneous gracilis (TMG)
  - Transverse upper gracilis (TUG)
  - Profundal artery perforator (PAP)
  - With or without mastectomy and reconstruction of the contralateral breast (*i.e.,* unilateral or bilateral)
  - With or without symmetry procedure (*e.g.,* mastopexy) in the contralateral breast
  - *Exclude:* Non-autologous flap transplants (*i.e.,* cadaveric or xenotransplant)
  - *Exclude:* Exclusive lipofilling/autologous fat reconstruction

Comparators

- AR using a different flap (either free flap or pedicled)
- Combination of IBR and AR
- *Exclude:* Non-autologous flap transplants (*i.e.,* cadaveric or xenotransplant)
- *Exclude:* Exclusive lipofilling/autologous fat reconstruction

Outcomes

- Quality of life
- Physical well-being (*e.g.,* pain, discomfort)
- Psychosocial well-being (*e.g.,* self-esteem, emotionality, normality)
- Sexual well-being
- Patient satisfaction with aesthetics (*i.e.,* satisfaction with breast)
- Patient satisfaction with outcome (*e.g.,* satisfaction with care)
- Planned staged surgeries for reconstruction
- Duration of initial hospitalization
- Recurrence of breast cancer
- Harms
  - Mortality
  - Unplanned repeat hospitalization
  - Duration of unplanned repeat hospitalization
  - Unplanned repeat surgeries—for revision of reconstruction (*e.g.,* for asymmetry)
  - Unplanned repeat surgeries—for complications (*e.g.,* for infection, bleeding)
  - Pain, including chronic pain
  - Analgesic (*e.g.,* opioid) use
  - Necrosis, such as of the nipple or of the flap
  - Harms to area of flap harvest (*e.g.,* hernia, bulge formation)
  - Complications that lead to delays in other cancer-related treatments (*e.g.,* chemotherapy, radiation therapy)
  - Thromboembolic events
  - Infection
  - Wound dehiscence
  - Delayed healing
  - Seroma
  - Touch sensitivity
  - Scarring

Potential Effect Modifiers

- Age
- Stage of breast cancer
- First occurrence versus recurrent breast cancer
- Immediate versus delayed reconstruction
- Single-stage (direct to reconstruction) versus multi-stage (with tissue expander) reconstruction
- Unilateral versus bilateral reconstruction

Timing

- Any

Setting

- Any, including single- and multicenter

Design

- RCTs, N≥10 per group
- NRCSs, N≥30 per group
- Case-control studies, N≥100 per group
- Single group studies, N≥500
- Studies may be prospective or retrospective
- *Exclude:* case reports and series of individually-reported case reports

Dated: June 26, 2020.

Virginia Mackay-Smith,

Associate Director.

[FR Doc. 2020–14237 Filed 7–1–20; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–20–20EC]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled Enterprise Laboratory Information Management System (ELIMS) to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on December 23, 2019 to obtain comments from the public and affected agencies. CDC received one comment related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Enterprise Laboratory Information Management System (ELIMS) Existing Collection in Use Without an OMB Control Number—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The collection of specimen information designated for testing by the CDC occurs on a regular and recurring basis (multiple times per day) using an electronic PDF file called the *CDC Specimen Submission 50.34 Form* or an electronic XSLX file called the *Global File Accessioning Template.* Hospitals, doctor's offices, medical clinics, commercial testing labs, universities, state public health laboratories, U.S. federal institutions and foreign institutions use the *CDC Specimen Submission Form 50.34* when submitting a single specimen to CDC Infectious Diseases laboratories for testing. The *CDC Specimen Submission 50.34 Form* consists of over 200 data entry fields (of which five are mandatory fields that must be completed by the submitter) that captures information about the specimen being sent to the CDC for testing. The type of data captured on the *50.34 Form* identifies the origin of the specimen (human, animal, food, environmental, medical device or biologic), CDC test order name/code, specimen information, patient information (as applicable), animal information (as applicable) information about the submitting organization requesting the testing, patient history (as applicable), owner information and animal history (as applicable) and epidemiological information. The collection of this type of data is pertinent in ensuring a specimen's testing results are linked to the correct patient and the final test reports are delivered to the appropriate submitting organization to aid in making proper health-related decisions related to the patient. Furthermore, the data provided on this form may be used by the CDC to identify sources of potential outbreaks and other public-health related events. When the form is filled out, a user in the submitting organization prints a hard copy of it that will be included in the specimen's shipping package sent to the CDC. The printed form has barcodes on it that allow the CDC testing laboratory to scan its data directly into ELIMS where the specimen's testing lifecycle is tracked and managed.

Likewise, the *Global File Accessioning Template* records the same data as the *50.34 Form* but provides the capability to submit information for a batch of specimens (typically 50–1,000 specimens per batch) to a specific CDC laboratory for testing. The CDC testing laboratory electronically uploads the *Global File Accessioning Template* into ELIMS where the batch of specimens are then logged and are ready to be tracked through their respective testing and reporting workflow. There is no cost to respondents other than their time. The total burden hours are 2,131 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Medical Assistant, Doctor's Office/Hospital	CDC Specimen Submission 50.34 Form	2,000	3	5/60
19–1042 Medical Scientists, Except Epidemiologists, State Public Health Lab.	CDC Specimen Submission 50.34 Form	98	193	5/60
Medical Assistant, Doctor's Office/Hospital	Global File Accessioning Template	15	11	20/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2020–14329 Filed 7–1–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–20–20PJ; Docket No. CDC–2020–0073]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled ''Formative Research on Community-Level Factors that Promote the Primary Prevention of Adverse Childhood Experiences (ACEs) and Opioid Misuse Among Children, Youth, and Families in Tribal American Indian and Alaska Native (AI/AN) Communities.'' The proposed collection is designed to conduct formative qualitative studies to identify community-level protective factors and primary prevention strategies across a range of Tribal communities to prevent adverse childhood experiences (ACEs) and opioid misuse.

DATES: CDC must receive written comments on or before August 31, 2020.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2020–0073 by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *http://www.regulations.gov.*

Please note: Submit all comments through the Federal eRulemaking portal (*http://www.regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.
5. Assess information collection costs.

Proposed Project

Formative Research on Community-Level Factors That Promote the Primary Prevention of Adverse Childhood Experiences (ACEs) and Opioid Misuse Among Children, Youth, and Families in Tribal American Indian and Alaska Native (AI/AN) Communities—New—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC)

Background and Brief Description

Adverse childhood experiences (ACEs) are preventable, potentially traumatic events that occur in childhood (0–17 years) such as experiencing violence, abuse, or neglect; witnessing violence in the home; and having a family member attempt or die by suicide. There is a robust evidence base linking ACEs to a variety of poor health outcomes across the life span, including depression, alcohol and substance use disorder, and violence perpetration and victimization. The ongoing opioid epidemic is a complex and significant public health crisis that exposes children to opioid misuse, violence, and other ACEs, and challenges the ability of Health and Human Service (HHS) systems to mitigate the effects of opioid misuse and ACEs on children and families across the U.S. American Indian/Alaska Native (AI/AN) populations experience a disproportionate burden of opioid misuse and ACEs, and ACE-related

health outcomes, including opioid overdose, sexual assault, and suicide attempts. The nature and consequences of ACEs in Tribal communities is unique because of historical trauma and stark socioeconomic disparities. In addition, there are gaps in the provision of adequate healthcare.

This collection addresses critical research gaps and extends efforts to prevent violence and other ACEs before they occur and to build evidence of effectiveness of community-level strategies and approaches at the outer levels of the social ecology to Tribal communities. Results from this data collection will be communicated to relevant public health officials and community stakeholders in the study locations. These local public health officials and community stakeholders will use the study results to guide strategies to further strengthen their local prevention efforts within their regions.

Data collection methods used in this study include well-established qualitative methods, including in-depth open-ended individual interviews and focus groups. Quantitative methods include brief structured surveys. There will be a total of six Tribal communities (three urban and three rural) in regions identified with higher opioid overdose mortality rates relatively to other areas in Indian Country. Due to COVID–19, at the time of the focus groups/interviews, social distancing and public health safety measures will be implemented, including considerations for phone/virtual meetings instead of in-person sessions.

The total estimated annualized burden hours are 918. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Data collection	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Adults 18 years or older affected by the opioid epidemic living in Tribal urban and rural communities.	Information Letter	336	1	5/60	28
	Telephone screening	336	1	20/60	112
	Confirmation email/letter	252	1	3/60	13
	Reminder email	252	1	2/60	9
	Informed Consent	252	1	15/60	63
	Survey	252	1	45/60	189
	Focus group/interview	252	1	2	504
Total					918

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2020–14331 Filed 7–1–20; 8:45 am]

BILLING CODE 4163–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–20–20PM; Docket No. CDC–2020–0072]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled Oral Health Basic Screening Survey for Children. The project provides state-specific data on dental caries (tooth decay) and dental sealants from a state-representative sample of elementary school children or children enrolled in Head Start programs and has been used by states to monitor oral health status of children and evaluate public health programs and policies.

DATES: CDC must receive written comments on or before August 31, 2020.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2020–0072 by any of the following methods:

- *Federal eRulemaking Portal: http://www.Regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *http://www.regulations.gov/.*

Please note: Submit all comments through the Federal eRulemaking portal (*http://www.regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the

functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

5. Assess information collection costs.

Proposed Project

Oral Health Basic Screening Survey for Children—Existing Collection in Use Without an OMB Control Number—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC)

Background and Brief Description

Dental caries (tooth decay) is one of the most common chronic diseases among children in the United States and can lead to pain, infection, and diminished quality of life throughout the lifespan. Dental sealants are a cost-effective measure to prevent caries but remain underutilized.

To address states' critical need for state-level oral health surveillance data on dental caries and sealants, the Association of State and Territorial Dental Directors (ASTDD) developed and released an oral health screening survey protocol referred to as the Basic Screening Survey (BSS) in 1999 in collaboration with the Ohio Department of Health and with technical assistance from the CDC's Division of Oral Health.

BSS is a non-invasive visual observation of the mouth performed by trained screeners including dental and non-dental health professionals (*e.g.,* dentists, hygienists, school nurses). The BSS data collection is not duplicative of any other federal collection. Though the National Health and Nutrition Examination Survey (NHANES) collects national data on oral health status including dental caries and sealants based on clinical examination, it is not designed to provide state-level data. BSS is designed to be easy to perform, while being consistent and aligned with the oral health Healthy People objectives, which are based on NHANES measures. BSS is the only data source that provides state-representative data on oral health status based on clinical examination. BSS is also used to monitor state progress toward key national oral health objectives.

The BSS is a state-tailored survey administered and conducted by individual states. CDC has supported some of the 50 states to build and maintain their oral health surveillance system and ASTDD to provide technical assistance to states through state and partner cooperative agreements since 2001. Conducting BSS for third graders is a key component of that support.

The target populations include school children in grades K–3 and children enrolled in Head Start in 50 states and Washington, DC. ASTDD and CDC recommend that states conduct BSS at minimum for third graders at least once every five years. Individual states determine how often to conduct BSS and which grade or grades to target based on their program needs and available resources. Forty-seven states have conducted BSS for children, and all 47 conducted third grade BSS. Thirty-two states also have conducted BSS in one or more other grades (K–2) or in Head Start. CDC estimates that approximately 34 states, including 20 states currently funded by CDC, will conduct one BSS, at least for third grade, during the period for which this approval is being sought.

State health departments administer the survey by determining probability samples, arranging logistics with selected schools or Head Start sites, gaining consent, obtaining demographic data, training screeners, conducting the oral health screening at schools or Head Start sites. Screeners record four data points either electronically or on a paper form: (1) Presence of treated caries, (2) presence of untreated tooth decay, (3) urgency of need for treatment, and (4) presence of dental sealants on at least one permanent molar tooth.

State programs enter, clean and analyze the data; de-identify it; and respond to ASTDD's annual email request for state-aggregated prevalence of dental caries and sealants. ASTDD reviews the data to ensure that both survey design and data meet specific criteria before sending it to CDC for publication on the CDC's public-facing Oral Health Data website (*http://www.cdc.gov/oralhealthdata*).

BSS for children serves as a key state oral health surveillance data source and facilitates state capacity to (1) monitor children's oral health status, trends, and disparities, and compare with other states; (2) inform planning, implementation and evaluation of effective oral health programs and policies; (3) measure state progress toward Healthy People objectives; and (4) educate the public and policy makers regarding cross-cutting public health programs. CDC also uses the data to evaluate performance of CDC oral health funding recipients.

There are no costs to children respondents except their time. The estimated total annualized burden hours for the survey across the 34 states over the three years of this request are 40,207 with an average of 1,183 per state.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Child	Screening form	150,370	1	5/60	12,531
Parent/caretaker	Consent	150,370	1	1/60	2,506
Screener	Screening form	301	1	666/60	3,341
School/site	Participation form	2,890	1	68/60	3,275
State Official	Data Submission form	34	1	32,742/60	18,554
Total					40,207

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2020–14332 Filed 7–1–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2020–N–1360]

Teva Branded Pharmaceutical Products R&D, Inc.; Withdrawal of Approval of a New Drug Application for ZECUITY (Sumatriptan Iontophoretic Transdermal System)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing the approval of the new drug application (NDA) for ZECUITY (sumatriptan iontophoretic transdermal system) held by Teva Branded Pharmaceutical Products R&D, Inc. (Teva), 41 Moores Rd., P.O. Box 4011, Frazer, PA 19355. Teva requested withdrawal of this application and has waived its opportunity for a hearing.

DATES: Approval is withdrawn as of July 2, 2020.

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: On January 17, 2013, FDA approved NDA 202278 for ZECUITY (sumatriptan iontophoretic transdermal system) for the acute treatment of migraine with or without aura in adults. On June 2, 2016, FDA issued a Drug Safety Communication announcing the FDA is investigating the risk of serious burns and potential permanent scarring with the use of ZECUITY for migraine headaches. (*https://www.fda.gov/drugs/drug-safety-and-availability/fda-drug-safety-communication-fda-evaluating-risk-burns-and-scars-ZECUITY-sumatriptan-migraine-patch*). On June 10, 2016, Teva suspended sales, marketing and distribution to investigate the cause of burns and scars associated with ZECUITY.

On July 19, 2019, Teva requested withdrawal of NDA 202278 for ZECUITY under § 314.150(d) (21 CFR 314.150(d)) and waived its opportunity for a hearing. In its letter requesting withdrawal of approval, Teva stated that it voluntarily discontinued manufacture and sale of products under NDA 202278 in 2016 for commercial reasons and has agreed to withdrawal of the application for those reasons only.

For the reasons discussed above, and pursuant to the applicant's request, approval of NDA 202278 for ZECUITY (sumatriptan iontophoretic transdermal system), and all amendments and supplements thereto, is withdrawn under § 314.150(d).

Distribution of ZECUITY into interstate commerce without an approved application is illegal and subject to regulatory action (see sections 505(a) and 301(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(a) and 331(d)).

Dated: June 22, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–14284 Filed 7–1–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0583]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Radioactive Drug Research Committees

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by August 3, 2020.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. The OMB control number for this information collection is 0910–0053. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–7726, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Radioactive Drug Research Committees—21 CFR 361.1

OMB Control Number 0910–0053—Extension

Under sections 201, 505, and 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 355, and 371), FDA has the authority to issue regulations governing the use of radioactive drugs for basic scientific research. This information collection request supports those regulations. Specifically, § 361.1 (21 CFR 361.1) sets forth specific regulations about establishing and composing radioactive drug research committees (RDRCs) and their role in approving and monitoring basic research studies using radiopharmaceuticals. No basic research study involving any administration of a radioactive drug to research subjects is permitted without the authorization of an FDA-approved RDRC (§ 361.1(d)(7)). The type of research that may be undertaken with a radiopharmaceutical drug must be intended to obtain basic information and not to carry out a clinical trial for safety or efficacy. The types of basic research permitted are specified in the regulations and include studies of metabolism, human physiology, pathophysiology, or biochemistry.

Section 361.1(c)(2) requires that each RDRC will select a chairman, who will sign all applications, minutes, and reports of the committee. Each committee will meet at least once each quarter in which research activity has been authorized or conducted. Minutes will be kept and will include the numerical results of votes on protocols involving use in human subjects. Under § 361.1(c)(3), each RDRC will submit an annual report to FDA. The annual report will include the names and qualifications of the members of and of any consultants used by the RDRC, using Form FDA 2914 entitled ''Radioactive Drug Research Committee Report on Research Use of Radioactive Drugs Membership Summary.'' The annual report will also include a summary of each study conducted during the preceding year, using Form

FDA 2915 entitled ''Radioactive Drug Research Committee Report on Research Use of Radioactive Drugs Study Summary.''

Under § 361.1(d)(5), each investigator will obtain the proper consent required under the regulations. Each female research subject of childbearing potential must state in writing that she is not pregnant or, based on a pregnancy test, be confirmed as not pregnant.

Under § 361.1(d)(8), the investigator will immediately report to the RDRC all adverse effects associated with use of the drug, and the committee will then report to FDA all adverse reactions probably attributed to the use of the radioactive drug.

Section 361.1(f) sets forth labeling requirements for radioactive drugs. These requirements are not in the reporting burden estimate because they are information supplied by the Federal Government to the recipient for the purposes of disclosure to the public (5 CFR 1320.3(c)(2)).

Types of research studies not permitted under the regulations are also specified and include those intended for immediate therapeutic, diagnostic, or similar purposes or to determine the safety or effectiveness of the drug in humans for such purposes (*i.e.,* to carry out a clinical trial for safety or efficacy). These studies require filing of an investigational new drug application under 21 CFR part 312, and the associated information collections are covered in OMB control number 0910–0014.

The primary purpose of this collection of information is to determine whether the research studies are being conducted in accordance with required regulations and that human subject safety is assured. If these studies were not reviewed, human subjects could be subjected to inappropriate radiation or pharmacologic risks. Respondents to this information collection are the chairperson or chairpersons of each individual RDRC, investigators, and participants in the studies. The burden estimates are based on our experience with these reporting and recordkeeping requirements and the number of submissions we received under the regulations over the past 3 years.

In the **Federal Register** of January 21, 2020 (85 FR 3390), we published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1] [2]

21 CFR section and applicable form	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
§ 361.1(c)(3) reports and (c)(4) approval (Form FDA 2914: Membership Summary) [3].	62	1	62	1	62
§ 361.1(c)(3) reports (Form FDA 2915: Study Summary) [4].	40	10	434	3.5	1,519
§ 361.1(d)(8) adverse events	10	1	10	.5 (30 minutes)	5
Total			506		1,586

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Numbers may not sum due to rounding.
[3] *https://www.fda.gov/downloads/AboutFDA/ReportsManualsForms/Forms/UCM094979.pdf.*
[4] *https://www.fda.gov/downloads/AboutFDA/ReportsManualsForms/Forms/UCM074720.pdf.*

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1] [2]

21 CFR section	Number of recordkeepers	Number of records per recordkeepers	Total annual responses	Average burden per recordkeeping	Total hours
§ 361.1(c)(2) RDRC	62	4	248	10	2,480
§ 361.1(d)(5) human research subjects	40	10	434	.75 (45 minutes)	326
Total			682		2,806

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Numbers may not sum due to rounding.

We have adjusted our estimate for the information collection to reflect an annual decrease of 525 hours and 147 responses since last OMB review. This adjustment corresponds to fewer submissions we have received under the information collection over the last few years.

Dated: June 24, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–14262 Filed 7–1–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0588]

Agency Information Collection Activities; Proposed Collection; Comment Request; Exceptions or Alternatives To Labeling Requirements for Products Held by the Strategic National Stockpile

AGENCY: Food and Drug Administration, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice

solicits comments on the information collection requirements related to the exceptions or alternatives to labeling requirements for products held by the Strategic National Stockpile (SNS).

DATES: Submit either electronic or written comments on the collection of information by August 31, 2020.

ADDRESSES: You may submit comments as follows: Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before August 31, 2020. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of August 31, 2020. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2010–N–0588 for ''Exceptions or Alternatives to Labeling Requirements for Products Held by the Strategic National Stockpile.'' 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, 240–402–7500.

• 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.'' The Agency 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 to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Exceptions or Alternatives To Labeling Requirements for Products Held by the Strategic National Stockpile

OMB Control Number 0910–0614—Extension

Under the Public Health Service Act (PHS Act), the Department of Health and Human Services stockpiles medical products that are essential to the health security of the Nation (see 42 U.S.C. 247d–6b). This collection of medical products for use during national health emergencies, known as the SNS, is to provide for the emergency health security of the United States, including the emergency health security of children and other vulnerable populations, in the event of a

bioterrorist attack or other public health emergency.

It may be appropriate for certain medical products that are or will be held in the SNS to be labeled in a manner that would not comply with certain FDA labeling regulations given their anticipated circumstances of use in an emergency. However, noncompliance with these labeling requirements could render such products misbranded under section 502 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352).

Under 21 CFR 201.26, 610.68, 801.128, and 809.11 (§§ 201.26, 610.68, 801.128, and 809.11), the appropriate FDA Center Director may grant a request for an exception or alternative to certain regulatory provisions pertaining to the labeling of human drugs, biological products, medical devices, and in vitro diagnostics that currently are or will be included in the SNS if certain criteria are met. The appropriate FDA Center Director may grant an exception or alternative to certain FDA labeling requirements if compliance with these labeling requirements could adversely affect the safety, effectiveness, or availability of products that are or will be included in the SNS. An exception or alternative granted under the regulations may include conditions or safeguards so that the labeling for such products includes appropriate information necessary for the safe and effective use of the product given the product's anticipated circumstances of use. Any grant of an exception or alternative will only apply to the specified lots, batches, or other units of medical products in the request. The appropriate FDA Center Director may also grant an exception or alternative to the labeling provisions specified in the regulations on his or her own initiative.

Under §§ 201.26(b)(1)(i) (human drug products), 610.68(b)(1)(i) (biological products), 801.128(b)(1)(i) (medical devices), and 809.11(b)(1)(i) (in vitro diagnostic products for human use) an SNS official or any entity that manufactures (including labeling, packing, relabeling, or repackaging), distributes, or stores such products that are or will be included in the SNS may submit, with written concurrence from a SNS official, a written request for an exception or alternative to certain labeling requirements to the appropriate FDA Center Director. Except when initiated by an FDA Center Director, a request for an exception or alternative must be in writing and must:

- Identify the specified lots, batches, or other units of the affected product;
- identify the specific labeling provisions under the regulations that are the subject of the request;
- explain why compliance with the specified labeling provisions could adversely affect the safety, effectiveness, or availability of the product subject to the request;
- describe any proposed safeguards or conditions that will be implemented so that the labeling of the product includes appropriate information necessary for the safe and effective use of the product given the anticipated circumstances of use of the product;
- provide copies of the proposed labeling of the specified lots, batches or other units of the affected product that will be subject to the exception or alternative; and
- provide any other information requested by the FDA Center Director in support of the request.

If the request is granted, the manufacturer may need to report to FDA any resulting changes to the new drug application, biologics license application, premarket approval application, or premarket notification (510(k)) in effect, if any. The submission and grant of an exception or an alternative to the labeling requirements specified in the regulations may be used to satisfy certain reporting obligations relating to changes to product applications under §§ 314.70, 601.12, 814.39, and 807.81 (21 CFR 314.70 (human drugs), 21 CFR 601.12 (biological products), 21 CFR 814.39 (medical devices subject to premarket approval), or 21 CFR 807.81 (medical devices subject to 510(k) clearance requirements)). The information collection provisions in §§ 314.70, 601.12, 807.81, and 814.39 have been approved under OMB control numbers 0910–0001, 0910–0338, 0910–0120, and 0910–0231 respectively. On a case-by-case basis, the appropriate FDA Center Director may also determine when an exception or alternative is granted that certain safeguards and conditions are appropriate, such as additional labeling on the SNS products, so that the labeling of such products would include information needed for safe and effective use under the anticipated circumstances of use.

Respondents to this collection of information are entities that manufacture (including labeling, packing, relabeling, or repackaging), distribute or store affected SNS products. Based on data from fiscal years 2017, 2018, and 2019, FDA estimates an average of one request annually for an exception or alternative received by FDA. FDA estimates an average of 24 hours preparing each request. The average burden per response for each submission is based on the estimated time that it takes to prepare a supplement to an application, which may be considered similar to a request for an exception or alternative. To the extent that labeling changes not already required by FDA regulations are made in connection with an exception or alternative granted under the regulations, FDA is estimating one occurrence annually in the event FDA would require any additional labeling changes not already covered by FDA regulations. FDA estimates 8 hours to develop and revise the labeling to make such changes. The average burden per response for each submission is based on the estimated time to develop and revise the labeling to make such changes.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response (in hours)	Total hours
201.26(b)(1)(i), 610.68(b)(1)(i), 801.128(b)(1)(i), and 809.11(b)(1)(i)	1	1	1	24	24
201.26(b)(1)(i), 610.68(b)(1)(i), 801.128(b)(1)(i), and 809.11(b)(1)(i)	1	1	1	8	8
Total					32

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Consistent with the PRA, our current estimate of the burden of the information collection is based on our evaluation over the past 3 years. However, in light of recent consumption of products from the SNS, we expect future adjustments may be necessary and invite specific comment in this regard.

Dated: June 24, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–14267 Filed 7–1–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2020–N–0145]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Reporting Associated With Animal Drug and Animal Generic Drug User Fees

AGENCY: Food and Drug Administration, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by August 3, 2020.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. The OMB control number for this information collection is 0910–0540. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–7726, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Reporting Associated With Animal Drug and Animal Generic Drug User Fees—21 U.S.C. 379j–12 and 379j–21

OMB Control Numbers 0910–0540—Extension

This information collection supports FDA's animal drug and animal generic drug user fee programs. The Animal Drug User Fee Act of 2003 (ADUFA) (Pub. L. 108–130) amended the Federal Food, Drug, and Cosmetic Act (FD&C Act) by adding section 740 of the FD&C Act (21 U.S.C 379j–12), which requires that FDA assess and collect user fees with respect to new animal drug applications for certain applications, products, establishments, and sponsors. It also requires the Agency to grant a waiver from, or a reduction of, those fees in certain circumstances. The Animal Generic Drug User Fee Act of 2008 (AGDUFA) (Pub. L. 110–316) added section 741 of the FD&C Act (21 U.S.C. 379j–21), which establishes three different kinds of user fees: (1) Fees for certain types of abbreviated applications for generic new animal drugs; (2) annual fees for certain generic new animal drug products; and (3) annual fees for certain sponsors of abbreviated applications for generic new animal drugs and/or investigational submissions for generic new animal drugs (21 U.S.C. 379j–21(a)). On August 14, 2018, H.R. 5554, the Animal Drug and Animal Generic Drug User Fee Amendments of 2018, was signed into law to reauthorize the ADUFA and AGDUFA programs administered by FDA.

Sponsors of new animal drug applications prepare and submit user fee cover sheets. The Animal Drug User Fee cover sheet (Form FDA 3546) is designed to collect the minimum necessary information to determine whether a fee is required for the review of an application or supplement or whether an application fee waiver was granted, to determine the amount of the fee required, and to ensure that each animal drug user fee payment is appropriately linked to the animal drug application for which payment is made. The form, when completed electronically, results in the generation of a unique payment identification number used by FDA to track the payment. The information collected is used by FDA's Center for Veterinary Medicine (CVM) to initiate the administrative screening of new animal drug applications and supplements. The information collection associated with the Animal Drug User Fee cover sheet currently is approved under OMB control number 0910–0539.

Sponsors of abbreviated new animal drug applications also prepare and submit user fee cover sheets. The Animal Generic Drug User Fee cover sheet (Form FDA 3728) similarly is designed to collect the minimum necessary information to determine whether a fee is required for review of an application, to determine the amount of the fee required, and to ensure that each animal generic drug user fee payment is appropriately linked to the abbreviated new animal drug application for which payment is made. The form, when completed electronically, results in the generation of a unique payment identification number used by FDA to track the payment. The information collected is used by CVM to initiate the administrative screening of abbreviated new animal drug applications. The information collection associated with the Animal Generic Drug User Fee cover sheet currently is approved under OMB control number 0910–0632.

FDA has also developed a guidance for industry (GFI) #170 entitled ''Animal Drug User Fees and Fee Waivers and Reductions.'' This guidance provides guidance on the types of fees FDA is authorized to collect under section 740 of the FD&C Act, and how to request waivers and reductions from these fees. Further, this guidance also describes what information FDA recommends be submitted in support of a request for a fee waiver or reduction; how to submit such a request; and FDA's process for reviewing requests. FDA uses the information submitted by respondents to determine whether to grant the requested fee waiver or reduction. The information collection associated with GFI #170 currently is approved under OMB control number 0910–0540.

The information collection provisions approved under OMB control numbers 0910–0539, 0910–0540, and 0910–0632 are similar in that they support FDA's animal drug and animal generic drug user fee programs. Thus, with this notice, FDA proposes to consolidate these collections of information into one OMB control number for government efficiency and to allow the public to look to one OMB control number for all reporting associated with FDA's animal drug and animal generic drug user fee programs. Because we are proposing to combine all reporting associated with FDA's animal drug user fees into one collection, we are consolidating the burden under OMB control number 0910–0540 and discontinuing OMB control numbers 0910–0539 and 0910–0632.

Description of Respondents: Respondents to this collection of information are new animal drug applicants and abbreviated new animal drug applicants. In addition, requests for waivers or reductions of user fees may be submitted by a person responsible for paying or potentially responsible for paying any of the animal drug user fees assessed, including application fees, product fees, establishment fees, or sponsor fees.

In the **Federal Register** of January 23, 2020 (85 FR 3929), we published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

FD&C act section; activity	FDA form No.	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
User Fee Cover Sheets, by Type						
740(a)(1); Animal Drug User Fee Cover Sheet	FDA 3546	21	1	21	1	21
741; Animal Generic Drug User Fee Cover Sheet	FDA 3728	20	2	40	0.08 (5 minutes)	3
Waivers and Other Requests, by Type						
740(d)(1)(A); significant barrier to innovation	N/A	55	1	55	2	110
740(d)(1)(B); fees exceed cost	N/A	8	3.75	30	0.5 (30 minutes)	15
740(d)(1)(C); free-choice feeds	N/A	5	1	5	2	10
740(d)(1)(D); minor use or minor species	N/A	69	1	69	2	138
740(d)(1)(E); small business	N/A	1	1	1	2	2
Request for reconsideration of a decision	N/A	1	1	1	2	2
Request for review (user fee appeal officer)	N/A	1	1	1	2	2
Total						303

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

For the purpose of this consolidation, we rely on our previous estimates of the number of user fee cover sheet and waiver and other request submissions. We estimate 21 respondents will each submit 1 Animal Drug User Fee cover sheet (Form FDA 3546) for a total of 21 responses. We estimate 20 respondents will each submit 2 Animal Generic Drug User Fee cover sheets (Form FDA 3728) for a total of 40 responses. Our estimate of the number of waiver and other request submissions is detailed in table 1. These estimates are consistent with our previous estimates except for the row labeled, Request for review (user fee appeal officer), for which we have increased the estimated number of respondents from zero to one and the average burden per response from 0 to 2 hours to correct the error in our previous submission. We base our estimates of the average burden per response on our experience with the submission of similar cover sheets and waiver and other requests.

The information collection reflects an increase in burden by an additional 26 hours and 62 responses due to the consolidation of the information collections covered by OMB control numbers 0910–0539, ''Animal Drug User Fee Cover Sheet,'' and 0910–0632, ''Animal Generic Drug User Fee Cover Sheet'' and the correction of the error in our previous submission.

Dated: June 24, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–14263 Filed 7–1–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2020–P–1072]

Determination That ZOVIRAX (Acyclovir) Oral Capsules, 200 Milligrams, Was Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) has determined that ZOVIRAX (acyclovir) oral capsules, 200 milligrams (mg), was not withdrawn from sale for reasons of safety or effectiveness. This determination means that FDA will not begin procedures to withdraw approval of abbreviated new drug applications (ANDAs) that refer to this drug product, and it will also allow FDA to continue to approve ANDAs that refer to the product as long as they meet relevant legal and regulatory requirements.

FOR FURTHER INFORMATION CONTACT: Jessica Tierney, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6213, Silver Spring, MD 20993–0002, 301–796–9120, *Jessica.Tierney@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products under an ANDA procedure. ANDA applicants must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the ''listed drug,'' which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is known generally as the ''Orange Book.'' Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

ZOVIRAX (acyclovir) oral capsules, 200 mg, is the subject of NDA 018828, held by Mylan Pharmaceuticals Inc., and initially approved on January 25, 1985. ZOVIRAX is indicated for the acute treatment of herpes zoster (shingles), the treatment of initial episodes and the management of recurrent episodes of genital herpes, and the treatment of chickenpox (varicella).

ZOVIRAX (acyclovir) oral capsules, 200 mg, is currently listed in the ''Discontinued Drug Product List'' section of the Orange Book. Yiling Pharmaceuticals Ltd. submitted a citizen petition dated March 10, 2020 (Docket No. FDA–2020–P–1072), under 21 CFR 10.30, requesting that the Agency determine whether ZOVIRAX (acyclovir) oral capsules, 200 mg, was withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen petition and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that ZOVIRAX (acyclovir) oral capsules, 200 mg, was not withdrawn for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that ZOVIRAX (acyclovir) oral capsules, 200 mg, was withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of ZOVIRAX (acyclovir) oral capsules, 200 mg, from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events. We have reviewed the available evidence and determined that this drug product was not withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list ZOVIRAX (acyclovir) oral capsules, 200 mg, in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. FDA will not begin procedures to withdraw approval of approved ANDAs that refer to this drug product. Additional ANDAs for this drug may also be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for this drug product should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: June 23, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–14269 Filed 7–1–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Promoting the Rule of Law Through Improved Agency Guidance Documents

AGENCY: Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: On October 9, 2019, the President issued Executive Order (E.O.) 13891: *Promoting the Rule of Law Through Improved Agency Guidance Documents.* This E.O. requires all Federal agencies to establish an on-line guidance portal and to rescind any guidance documents that are no longer active or valid.

FOR FURTHER INFORMATION CONTACT: Samuel Shipley, Executive Secretariat, at *Guidance@hhs.gov* or (202) 690–5627.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) granted the Department of Health and Human Services (HHS) an extension on February 27, 2020, allowing HHS until August 31, 2020, to establish its guidance portal. This extension request can be found at: *https://www.hhs.gov/sites/default/files/eo-13891-extension-request-2-27-20r.pdf.*

Consistent with the E.O. and subsequent extension, this document advises the public that HHS has comprehensively reviewed its guidance documents, determined which have continued effect, and is making them available on *https://www.hhs.gov/guidance.*

This guidance portal includes all active guidance documents from across the HHS's 27 Operating and Staff Divisions. Please note: While many of the Centers for Medicare & Medicaid Services' (CMS) active guidance documents are included here, this does not reflect CMS's full inventory. OMB granted CMS an extension until July 31, 2020, to fully populate the database.

Dated: June 29, 2020.

Wilma M. Robinson,

Deputy Executive Secretary, Department of Health and Human Services.

[FR Doc. 2020–14433 Filed 7–1–20; 8:45 am]

BILLING CODE 4150–03–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2020–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: Each LOMR was finalized as in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *https://msc.fema.gov.*

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;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs

for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov.*

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Alaska: Juneau (FEMA Docket No.: B–2021).	City and Borough of Juneau (19–10–1198P).	The Honorable Beth Weldon, Mayor, City and Borough of Juneau, 155 South Seward Street, Juneau, AK 99801.	Community Development Department, 155 South Seward Street, Juneau, AK 99801.	May 26, 2020	020009
Colorado:					
Arapahoe (FEMA Docket No.: B–2008).	City of Aurora (19–08–0618P).	The Honorable Bob LeGare, Mayor, City of Aurora, 15151 East Alameda Parkway, Aurora, CO 80012.	Engineering Department, 15151 East Alameda Parkway, Aurora, CO 80012.	May 15, 2020	080002
Arapahoe (FEMA Docket No.: B–2008).	City of Centennial (19–08–0618P).	The Honorable Stephanie Piko, Mayor, City of Centennial, 13133 East Arapahoe Road, Centennial, CO 80112.	Southeast Metro Stormwater Authority, 76 Inverness Drive East, Suite A, Englewood, CO 80112.	May 15, 2020	080315
Arapahoe (FEMA Docket No.: B–2008).	Unincorporated areas of Arapahoe County (19–08–0618P).	The Honorable Jeff Baker, Chairman, Arapahoe County Board of Commissioners, 5334 South Prince Street, Littleton, CO 80120.	Arapahoe County Public Works and Development Department, 6924 South Lima Street, Centennial, CO 80112.	May 15, 2020	080011
Broomfield (FEMA Docket No.: B–2016).	City and County of Broomfield (19–08–0385P).	The Honorable Patrick Quinn, Mayor, City and County of Broomfield, 1 DesCombes Drive, Broomfield, CO 80020.	Engineering Department, 1 DesCombes Drive, Broomfield, CO 80020.	May 29, 2020	085073
Broomfield (FEMA Docket No.: B–2016).	City and County of Broomfield (19–08–0494P).	The Honorable Patrick Quinn, Mayor, City and County of Broomfield, 1 DesCombes Drive, Broomfield, CO 80020.	Engineering Department, 1 DesCombes Drive, Broomfield, CO 80020.	May 22, 2020	085073
Jefferson (FEMA Docket No.: B–2016).	City of Westminster (19–08–0494P).	The Honorable Herb Atchison, Mayor, City of Westminster, 4800 West 92nd Avenue, Westminster, CO 80031.	City Hall, 4800 West 92nd Avenue, Westminster, CO 80031.	May 22, 2020	080008
Douglas (FEMA Docket No.: B–2008).	Unincorporated areas of Douglas County (19–08–0888P).	The Honorable Roger A. Partridge, Chairman, Douglas County Board of Commissioners, 100 3rd Street, Castle Rock, CO 80104.	Public Works Engineering Division, 100 3rd Street, Castle Rock, CO 80104.	May 15, 2020	080049
Connecticut:					
Fairfield (FEMA Docket No.: B–2021).	Town of Greenwich (19–01–1421P).	The Honorable Peter J. Tesei, First Selectman, Town of Greenwich Board of Selectmen, 101 Field Point Road, Greenwich, CT 06830.	Planning and Zoning Department, 101 Field Point Road, Greenwich, CT 06830.	May 26, 2020	090008
New Haven (FEMA Docket No.: B–2016).	Town of Cheshire (20–01–0003P).	The Honorable Rob Oris, Jr., Chairman, Town of Cheshire Council, 84 South Main Street, Cheshire, CT 06410.	Town Hall, 84 South Main Street, Cheshire, CT 06410.	May 15, 2020	090074
Florida:					
Collier (FEMA Docket No.: B–2021).	City of Marco Island (20–04–0464P).	Mr. Michael T. McNees, City of Marco Island Manager, 50 Bald Eagle Drive, Marco Island, FL 34145.	Building Services Department, 50 Bald Eagle Drive, Marco Island, FL 34145.	May 29, 2020	120426
Hillsborough (FEMA Docket No.: B–2008).	City of Tampa (19–04–6204P).	The Honorable Jane Castor, Mayor, City of Tampa, 306 East Jackson Street, Tampa, FL 33602.	Development Services Department, 1400 North Boulevard, Tampa, FL 33607.	May 18, 2020	120114
Monroe (FEMA Docket No.: B–2021).	Village of Islamorada (20–04–0305P).	The Honorable Mike Forster, Mayor, Village of Islamorada, 86800 Overseas Highway, Islamorada, FL 33036.	Building Department, 86800 Overseas Highway, Islamorada, FL 33036.	May 28, 2020	120424
Wakulla (FEMA Docket No.: B–2016).	Unincorporated areas of Wakulla County (19–04–3034P).	The Honorable Mike Stewart, Chairman, Wakulla County Board of Commissioners, 3093 Crawfordville Highway, Crawfordville, FL 32327.	Wakulla County Planning and Community Development Department, 3093 Crawfordville Highway, Crawfordville, FL 32327.	Jun. 5, 2020	120315

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Georgia: Cherokee (FEMA Docket No.: B–2016).	Unincorporated areas of Cherokee County (19–04–4793P).	The Honorable Harry Johnston, Chairman, Cherokee County Board of Commissioners, 1130 Bluffs Parkway, Canton, GA 30114.	Cherokee County Engineering Department, 1130 Bluffs Parkway, Canton, GA 30114.	May 15, 2020	130424
Massachusetts: Essex (FEMA Docket No.: B–2016).	Town of Nahant (19–01–1429P).	The Honorable Richard Lombard, Chairman, Town of Nahant Board of Selectmen, 334 Nahant Road, Nahant, MA 01908.	Public Works Department, 334 Nahant Road, Nahant, MA 01908.	May 12, 2020	250095
Michigan: Washtenaw (FEMA Docket No.: B–2016).	City of Ann Arbor (19–05–2230P).	The Honorable Christopher Taylor, Mayor, City of Ann Arbor, 301 East Huron Street, Ann Arbor, MI 48107.	City Hall, 301 East Huron Street, Ann Arbor, MI 48107.	May 22, 2020	260213
New Mexico: Santa Fe (FEMA Docket No.: B–2016).	City of Santa Fe (19–06–2643P).	The Honorable Alan Webber, Mayor, City of Santa Fe, 200 Lincoln Avenue, Santa Fe, NM 87504.	Building Permits Department, 200 Lincoln Avenue, Santa Fe, NM 87504.	May 20, 2020	350070
North Carolina: Martin (FEMA Docket No.: B–2016).	Town of Williamston (19–04–2709P).	The Honorable Joyce Whichard-Brown, Mayor, Town of Williamston, P.O. Box 506, Williamston, NC 27892.	Planning and Zoning Department, 102 East Main Street, Williamston, NC 27892.	May 14, 2020	370157
Oklahoma: Canadian (FEMA Docket No.: B–2016).	City of El Reno (19–06–2199P).	The Honorable Matt White, Mayor, City of El Reno, P.O. Drawer 700, El Reno, OK 73036.	City Hall, 101 North Choctaw Avenue, El Reno, OK 73036.	May 14, 2020	405377
Pennsylvania: Chester (FEMA Docket No.: B–2016).	Township of West Goshen (19–03–1653P).	Mr. Casey LaLonde, Township of West Goshen Manager, 1025 Paoli Pike, West Chester, PA 19380.	Township Hall, 1025 Paoli Pike, West Chester, PA 19380.	Jun. 8, 2020	420293
South Carolina: Georgetown (FEMA Docket No.: B–2016).	Unincorporated areas of Georgetown County (19–04–6326P).	Mr. Sel Hemingway, Georgetown County Administrator, 716 Prince Street, Georgetown, SC 29440.	Georgetown County Building Department, 129 Screven Street, Georgetown, SC 29440.	Jun. 4, 2020	450085
Texas:					
Bexar (FEMA Docket No.: B–2021).	City of San Antonio (19–06–1791P).	The Honorable Ron Nirenberg, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Transportation and Capitol Improvements Department, Storm Water Division, 114 West Commerce Street, 7th Floor, San Antonio, TX 78204.	May 18, 2020	480045
Bexar (FEMA Docket No.: B–2021).	Unincorporated areas of Bexar County (19–06–1791P).	The Honorable Nelson W. Wolff, Bexar County Judge, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Bexar County Public Works Department, 1948 Probandt Street, San Antonio, TX 78214.	May 18, 2020	480035
Collin (FEMA Docket No.: B–2008).	City of Celina (19–06–2325P).	The Honorable Sean Terry, Mayor, City of Celina, 142 North Ohio Street, Celina, TX 75009.	City Hall, 142 North Ohio Street, Celina, TX 75009.	May 18, 2020	480133
Collin (FEMA Docket No.: B–2008).	Unincorporated areas of Collin County (19–06–2325P).	The Honorable Chris Hill, Collin County Judge, 2300 Bloomdale Road, Suite 4192, McKinney, TX 75071.	Collin County Engineering Department, 4690 Community Avenue, Suite 200, McKinney, TX 75071.	May 18, 2020	480130
McLennan (FEMA Docket No.: B–2016).	City of McGregor (19–06–1286P).	The Honorable James S. Hering, Mayor, City of McGregor, 302 South Madison Avenue, McGregor, TX 76657.	City Hall, 302 South Madison Avenue, McGregor, TX 76657.	May 19, 2020	480459
McLennan (FEMA Docket No.: B–2016).	Unincorporated areas of McLennan County (19–06–1286P).	The Honorable Scott M. Felton, McLennan County Judge, 501 Washington Avenue, Suite 214, Waco, TX 76701.	McLennan County Engineering and Mapping Department, 215 North 5th Street, Suite 130, Waco, TX 76701.	May 19, 2020	480456
Tarrant (FEMA Docket No.: B–2016).	City of Fort Worth (19–06–2910P).	The Honorable Betsy Price, Mayor, City of Fort Worth, 200 Texas Street, Fort Worth, TX 76102.	Transportation and Public Works Department, 200 Texas Street, Fort Worth, TX 76102.	May 18, 2020	480596
Travis (FEMA Docket No.: B–2016).	City of Manor (19–06–2660P).	The Honorable Larry Wallace, Jr., Mayor, City of Manor, P.O. Box 387, Manor, TX 78653.	City Hall, 105 East Eggleston Street, Manor, TX 78653.	Jun. 1, 2020	481027
Travis (FEMA Docket No.: B–2016).	Unincorporated areas of Travis County (19–06–2660P).	The Honorable Sarah Eckhardt, Travis County Judge, P.O. Box 1748, Austin, TX 78767.	Travis County Transportation and Natural Resources Department, 700 Lavaca Street, 5th Floor, Austin, TX 78701.	Jun. 1, 2020	481026
Utah:					
Wasatch (FEMA Docket No.: B–2016).	Town of Wallsburg (19–08–0779P).	The Honorable Celeni Richins, Mayor, Town of Wallsburg, 70 West Main Street, Wallsburg, UT 84082.	Town Hall, 70 West Main Street, Wallsburg, UT 84082.	May 28, 2020	490168
Wasatch (FEMA Docket No.: B–2016).	Unincorporated areas of Wasatch County (19–08–0779P).	Mr. Mike Davis, Wasatch County Manager, 25 North Main Street, Heber City, UT 84032.	Wasatch County Community Services Department, 55 South 500 East, Heber City, UT 84032.	May 28, 2020	490164

[FR Doc. 2020–14314 Filed 7–1–20; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

[Docket ID FEMA–2014–0022]

Technical Mapping Advisory Council; Meeting

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Committee Management; Notice of Federal Advisory Committee Meeting.

SUMMARY: The Federal Emergency Management Agency (FEMA) Technical Mapping Advisory Council (TMAC) will hold a virtual meeting on Monday July 27th, 2020 and Tuesday July 28th, 2020. The meeting will be open to the public via a Zoom Video Communications link and conference line.

DATES: The TMAC will meet on Monday July 27th, 2020 and Tuesday July 28th, 2020 from 10:00 a.m. to 4:00 p.m. Eastern Time (ET). Please note that the meeting will close early if the TMAC has completed its business.

ADDRESSES: The meeting will be held virtually using Zoom Video Communications, Meeting Identification (ID) 16195624614 (*https://fema.zoomgov.com/j/16195624614*) to share meeting visuals and audio. Members of the public who wish to attend the virtual meeting must register in advance by sending an email to *FEMA-TMAC@fema.dhs.gov* (Attention: Michael Nakagaki) by 5:00 p.m. ET on Friday July 24th, 2020. For information on services for individuals with disabilities or to request special assistance at the meeting, contact the person listed below as soon as possible.

To facilitate public participation, members of the public are invited to provide written comments on the issues to be considered by the TMAC, as listed in the **SUPPLEMENTARY INFORMATION** section below. Associated meeting materials will be available at *www.fema.gov/TMAC* for review by Friday July 24th, 2020. Written comments to be considered by the committee at the time of the meeting must be submitted and received by Friday July 24th, 2020, identified by Docket ID FEMA–2014–0022, and submitted by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email:* Address the email TO: *FEMA-RULES@fema.dhs.gov* and CC: *FEMA-TMAC@fema.dhs.gov.* Include the docket number in the subject line of the message. Include name and contact information in the body of the email.
- *Mail:* Regulatory Affairs Division, Office of Chief Counsel, FEMA, 500 C Street SW, Room 8NE, Washington, DC 20472–3100.

Instructions: All submissions received must include the words ''Federal Emergency Management Agency'' and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

Docket: For docket access to read background documents or comments received by the TMAC, go to *http://www.regulations.gov* and search for the Docket ID FEMA–2014–0022.

A public comment period will be held on Monday July 27th, 2020 from 12:00 p.m. to 12:30 p.m. ET and Tuesday July 28th, 2020 from 12:00 p.m. to 12:30 p.m. ET. Speakers have been asked to provide comment on topics related to the 2020 Tasking Memo that was presented to the TMAC by FEMA. In 2020 FEMA has tasked the TMAC to work with stakeholders to identify best practices that can be incorporated into a future flood hazard and flood risk identification program and to provide a framework for FEMA to transition to the envisioned flood hazard and flood risk identification program. Speakers are requested to limit their comments to no more than three minutes. The public comment period will not exceed 30 minutes. Please note that the public comment period may end before the time indicated, following the last call for comments. Contact the individual listed below to register as a speaker by close of business on Friday July 24th, 2020.

FOR FURTHER INFORMATION CONTACT: Michael Nakagaki, Designated Federal Officer for the TMAC, FEMA, 400 C Street SW, Washington, DC 20024, telephone (202) 212–2148, and email *michael.nakagaki@fema.dhs.gov.* The TMAC website is: *http://www.fema.gov/TMAC.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the *Federal Advisory Committee Act,* 5 U.S.C. App.

In accordance with the *Biggert-Waters Flood Insurance Reform Act of 2012,* the TMAC makes recommendations to the FEMA Administrator on: (1) How to improve, in a cost-effective manner, the (a) accuracy, general quality, ease of use, and distribution and dissemination of flood insurance rate maps and risk data; and (b) performance metrics and milestones required to effectively and efficiently map flood risk areas in the United States; (2) mapping standards and guidelines for (a) flood insurance rate maps, and (b) data accuracy, data quality, data currency, and data eligibility; (3) how to maintain, on an ongoing basis, flood insurance rate maps and flood risk identification; (4) procedures for delegating mapping activities to State and local mapping partners; and (5) (a) methods for improving interagency and intergovernmental coordination on flood mapping and flood risk determination, and (b) a funding strategy to leverage and coordinate budgets and expenditures across Federal agencies. Furthermore, the TMAC is required to submit an annual report to the FEMA Administrator that contains: (1) A description of the activities of the Council; (2) an evaluation of the status and performance of flood insurance rate maps and mapping activities to revise and update Flood Insurance Rate Maps; and (3) a summary of recommendations made by the Council to the FEMA Administrator.

Agenda: The purpose of this meeting is for the TMAC members to provide briefings on the work of the TMAC subcommittees, review written sections of the report, discuss and vote on a proposed vision statement for the mapping program, and receive presentations from subject matter experts. Any related materials will be posted to the FEMA TMAC site prior to the meeting to provide the public an opportunity to review the materials. The full agenda and related meeting materials will be posted for review by Friday July 24th, 2020 at *http://www.fema.gov/TMAC.*

Michael M. Grimm,

Assistant Administrator for Risk Management, Federal Emergency Management Agency.

[FR Doc. 2020–14311 Filed 7–1–20; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2020–0002; Internal Agency Docket No. FEMA–B–2039]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or

modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before September 30, 2020.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location *https://www.fema.gov/preliminaryfloodhazarddata* and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–2039, to 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.*

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;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *https://www.floodsrp.org/pdfs/srp_overview.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location *https://www.fema.gov/preliminaryfloodhazarddata* and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Adams County, Colorado and Incorporated Areas **Project: 19–08–0023S Preliminary Date: February 28, 2020**	
City of Northglenn	City Hall, 11701 Community Center Drive, Northglenn, CO 80233.
City of Thornton	Infrastructure Department, 12450 Washington Street, Thornton, CO 80241.
Unincorporated Areas of Adams County	Adams County Government Center, 4430 South Adams County Parkway, Brighton, CO 80601.
Arapahoe County, Colorado and Incorporated Areas **Project: 19–08–0022S Preliminary Date: February 28, 2020**	
City of Centennial	Southeast Metro Stormwater Authority, 7437 South Fairplay Street, Centennial, CO 80112.
City of Englewood	Civic Center, 1000 Englewood Parkway, Englewood, CO 80110.
City of Greenwood Village	City Hall, 6060 South Quebec Street, Greenwood Village, CO 80111.
City of Littleton	Public Works Department, 2255 West Berry Avenue, Littleton, CO 80120.

Community	Community map repository address
Unincorporated Areas of Arapahoe County	Arapahoe County Public Works and Development Department, 6924 South Lima Street, Centennial, CO 80112.
Douglas County, Colorado and Incorporated Areas Project: 19–08–0024S Preliminary Date: February 28, 2020	
Town of Parker	Town Hall, 20120 East Mainstreet, Parker, CO 80138.
Unincorporated Areas of Douglas County	Douglas County Department of Public Works Engineering, 100 Third Street, Castle Rock, CO 80104.

[FR Doc. 2020–14316 Filed 7–1–20; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2020–0002]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

DATES: The date of December 3, 2020 has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *https://msc.fema.gov* by the date indicated above.

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;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov.*

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Inyo County, California and Incorporated Areas Docket No.: FEMA–B–1969	
City of Bishop	City Hall, 377 West Line Street, Bishop, CA 93514.
Unincorporated Areas of Inyo County	Inyo County Courthouse, 168 North Edwards Street, Number 3, Independence, CA 93526.

[FR Doc. 2020–14317 Filed 7–1–20; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2020–0002; Internal Agency Docket No. FEMA–B–2038]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before September 30, 2020.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location *https://www.fema.gov/preliminary floodhazarddata* and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–2038, to 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.*

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;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *https://www.floodsrp.org/pdfs/srp_overview.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location *https://www.fema.gov/preliminaryfloodhazard data* and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Kern County, California and Incorporated Areas	
Project: 14–09–3094S Preliminary Date: November 15, 2019	
City of Bakersfield	Development Services, 1715 Chester Avenue, Bakersfield, CA 93301.
Unincorporated Areas of Kern County	Public Works Department, 2700 M Street, Suite 500, Bakersfield, CA 93301.

Community	Community map repository address
Herkimer County, New York (All Jurisdictions)	
Project: 17–02–0791S Preliminary Dates: August 3, 2018 and December 13, 2019	
City of Little Falls	Little Falls City Hall, 659 East Main Street, Little Falls, NY 13365.
Town of Columbia	Columbia Town Hall, 147 Columbia Center Road, Ilion, NY 13357.
Town of Danube	Danube Town Hall, 438 Creek Road, Little Falls, NY 13365.
Town of Fairfield	Fairfield Town Hall, 439 Kelly Road, Little Falls, NY 13365.
Town of Frankfort	Frankfort Town Hall, 201 3rd Avenue, Frankfort, NY 13340.
Town of German Flatts	German Flatts Town Hall, 66 East Main Street, Mohawk, NY 13407.
Town of Herkimer	Herkimer Town Hall, 114 North Prospect Street, Herkimer, NY 13350.
Town of Litchfield	Litchfield Town Hall, 804 Cedarville Road, Ilion, NY 13357.
Town of Little Falls	Little Falls Town Hall, 478 Flint Avenue Extension, Little Falls, NY 13365.
Town of Manheim	Manheim Town Hall, 6356 State Route 167, Dolgeville, NY 13329.
Town of Newport	Newport Town Hall, 2788 Newport Road, Newport, NY 13416.
Town of Norway	Norway Town Office, 3013 Military Road, Newport, NY 13416.
Town of Ohio	Ohio Town Hall, 234 Nellis Road, Ohio, NY 13324.
Town of Russia	Russia Town Hall, 8916 North Main Street, Poland, NY 13431.
Town of Salisbury	Salisbury Town Hall, 126 State Route 29A, Salisbury Center, NY 13454.
Town of Schuyler	Schuyler Town Hall, 2090 State Route 5, Utica, NY 13502.
Town of Stark	Stark Town Hall, 703 Elwood Road, Fort Plain, NY 13339.
Town of Warren	Warren Town Hall, 383 Hogsback Road, Richfield Springs, NY 13439.
Town of Webb	Webb Town Hall, 183 Park Avenue, Old Forge, NY 13420.
Town of Winfield	Winfield Town Hall, 306 Stone Road, West Winfield, NY 13491.
Village of Cold Brook	Russia Town Hall, 8916 North Main Street, Poland, NY 13431.
Village of Dolgeville	Dolgeville Village Hall, 41 North Main Street, Dolgeville, NY 13329.
Village of Frankfort	Frankfort Village Hall, 110 Railroad Street, Suite 1, Frankfort, NY 13340.
Village of Herkimer	Herkimer Village Hall, 120 Green Street, Herkimer, NY 13350.
Village of Ilion	Ilion Village Hall, 49 Morgan Street, Ilion, NY 13357.
Village of Middleville	Corey Hall, 3 South Main Street, Middleville, NY 13406.
Village of Mohawk	Mohawk Village Hall, 28 Columbia Street, Mohawk, NY 13407.
Village of Newport	Newport Village Hall, 4 Coventry Avenue, Yorkville, NY 13495.
Village of Poland	Poland Village Hall, 9 Case Street, Poland, NY 13431.
Village of West Winfield	Bisby Hall, 179 South Street, West Winfield, NY 13491.

[FR Doc. 2020–14315 Filed 7–1–20; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2020–0030]

DHS Data Privacy and Integrity Advisory Committee

AGENCY: Privacy Office, Department of Homeland Security (DHS).

ACTION: Committee management; withdrawal of notice of committee charter renewal; notice of committee reestablishment.

SUMMARY: A notice of committee charter renewal for the Data Privacy and Integrity Advisory Committee, which was published in the **Federal Register** on June 18, 2020, is hereby withdrawn. In this document, the Acting Secretary of Homeland Security also announces the determination that the reestablishment of the Data Privacy and Integrity Advisory Committee is necessary and in the public interest in connection with the Department of Homeland Security's performance of its duties.

DATES: The notice of committee charter renewal published on June 18, 2020, at 85 FR 36873, is withdrawn as of July 2, 2020.

FOR FURTHER INFORMATION CONTACT: Nicole Sanchez, Designated Federal Officer, DHS Data Privacy and Integrity Advisory Committee, Department of Homeland Security, Privacy Office, Mail Stop 0655, 2707 Martin Luther King Jr. Ave SE, Washington, DC 20528–0655, by telephone (202) 343–1717, by fax (202) 343–4010, or by email to *privacycommittee@hq.dhs.gov.*

SUPPLEMENTARY INFORMATION:

Background: Under the authority of 6 U.S.C. 451, this charter reestablishes the Data Privacy and Integrity Advisory Committee (DPIAC) as a discretionary committee, which shall operate in accordance with the provisions of the *Federal Advisory Committee Act* (FACA), 5 U.S.C. Appendix. The Committee provides advice at the request of the Secretary and the Chief Privacy Officer of the Department of Homeland Security (DHS) (hereinafter ''the Chief Privacy Officer'') on programmatic, policy, operational, security, administrative, and technological issues within DHS that relate to personally identifiable information (PII), as well as data integrity, transparency, and other privacy-related matters.

Good Cause for Late Notice: This Notice of Committee reestablishment is published less than 15 days before Notice of Charter reestablishment. Pursuant to 41 CFR 102–3.65, notices of establishment and reestablishment of advisory committees must appear at least 15 calendar days before the charter is filed. However, the General Services Administration (GSA) may approve less than 15 calendar days when requested by the agency for good cause. 41 CFR 102–3.65(b). In this case, GSA has approved less than 15 calendar days for good cause. Due to extenuating circumstances, including significant changes to the Privacy Office staffing, the need to prioritize work on issues related to COVID–19, and clearance requirements within DHS, DHS was

unable to submit to GSA the necessary documentation in time to renew the DPIAC Charter before it expired on June 4, 2020.

Withdrawal of previously published notice: A notice of committee charter renewal was prematurely published on June 18, 2020, at 85 FR 36873 and is hereby withdrawn.

Dated: June 27, 2020.

Constantina Kozanas,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2020–14296 Filed 7–1–20; 8:45 am]

BILLING CODE 9110–9L–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

[Docket No. TSA–2006–24191]

Intent To Request Extension From OMB of One Current Public Collection of Information: Transportation Worker Identification Credential (TWIC®) Program

AGENCY: Transportation Security Administration, DHS.

ACTION: 60-Day notice.

SUMMARY: The Transportation Security Administration (TSA) invites public comment on one currently approved Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0047, abstracted below that we will submit to OMB for an extension, in compliance with the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. The collection involves the submission of biographic and biometric information that TSA uses to verify identity and conduct a security threat assessment (STA) for the TWIC® Program, and a customer satisfaction survey.

DATES: Send your comments by August 31, 2020.

ADDRESSES: Comments may be emailed to *TSAPRA@tsa.dhs.gov* or delivered to the TSA PRA Officer, Information Technology (IT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011.

FOR FURTHER INFORMATION CONTACT: Christina A. Walsh at the above address, or by telephone (571) 227–2062.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation will be available at *http://www.reginfo.gov* upon its submission to OMB. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Consistent with the requirements of Executive Order (E.O.) 13771, Reducing Regulation and Controlling Regulatory Costs, and E.O. 13777, Enforcing the Regulatory Reform Agenda, TSA is also requesting comments on the extent to which this request for information could be modified to reduce the burden on respondents.

Information Collection Requirement

OMB Control Number 1652–0047; Transportation Worker Identification Credential (TWIC®) Program. The Transportation Worker Identification Credential (TWIC®) program is a DHS program administered jointly by TSA and the U.S. Coast Guard (USCG) to mitigate threats and vulnerabilities in the national maritime transportation system. The program implements authorities set forth in the Aviation and Transportation Security Act (ATSA) (Pub. L. 107–71; Nov. 19, 2002; sec. 106), the Maritime Transportation Security Act of 2002 (MTSA) (Pub. L. 107–295; Nov. 25, 2002; sec. 102), and the Safe, Accountable, Flexible, Efficient Transportation Equity Act—A Legacy for Users (SAFETEA–LU) (Pub. L. 109–59; Aug. 10, 2005; sec. 7105), codified at 49 U.S.C. 5103a(g). TSA and the USCG implemented these requirements through a rulemaking codified at 33 CFR parts 105 and 106, and 49 CFR part 1572.

TWIC® is a common credential for all personnel requiring unescorted access to secure areas of facilities and vessels regulated pursuant to requirements in the Maritime Transportation Security Act (MTSA) and certain mariners holding USCG credentials. Individuals in the field of transportation who are required to undergo an STA in certain other programs, such as the Chemical Facility Anti-Terrorism (CFATS) program, may also apply for a TWIC® and the associated security threat assessment to satisfy CFATS requirements.

Before issuing an individual a TWIC®, TSA performs an STA that includes checks of criminal history, immigration, and terrorism records. To conduct the STA, TSA must collect the following:

- Certain biographic information, including name, address, date of birth and other information;
- Fingerprints and photographs of applicants; and
- A $125.25 fee from applicants to cover the cost of the STA, as required by law (*see* 6 U.S.C. 469).

TSA collects this information from applicants during an optional pre-enrollment step or during the enrollment session at an enrollment center.

If TSA determines that the applicant is eligible to receive a TWIC® as a result of the STA, TSA issues and sends an activated TWIC® card to the address provided by the applicant or notifies the applicant that their TWIC® is ready for pick up and activation at an enrollment center. Once activated, this credential can be used for facility and vessel access control requirements to include card authentication, card validation, and identity verification. In the event of a lost, damaged or stolen credential, the cardholder must notify TSA immediately and may request a replacement card online, via telephone or, from an enrollment center for a $60.00 fee.

TSA may also use the information to determine a TWIC® holder's eligibility to participate in TSA's expedited screening program for air travel, TSA PreCheck™ Application Program. Beginning April 2020, active (unexpired) TWIC® holders who meet the eligibility requirements for TSA PreCheck may use their TWIC® card's Credential Identification Number in the appropriate known traveler number field of an airline reservation to obtain expedited screening eligibility.

TSA invites all TWIC® applicants to complete an optional survey to gather information on the applicants' overall customer satisfaction with the enrollment process. This optional survey is administered by a Trusted Agent (a representative of the TWIC® enrollment service provider, who performs enrollment functions) during the process to activate the TWIC®.

These surveys are collected at each enrollment center and compiled to produce reports that are reviewed by the contractor and TSA.

TSA estimates that there will be approximately 541,514 respondents to this TWIC® information collection. The current estimated annualized hour burden is 681,785 hours.

Dated: June 25, 2020.

Christina A. Walsh,

TSA Paperwork Reduction Act Officer, Information Technology.

[FR Doc. 2020–14226 Filed 7–1–20; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7027–N–22; OMB Control Number: 2502–0541]

60-Day Notice of Proposed Information Collection: Lender Qualifications for Multifamily Accelerated Processing (MAP) Guide (MAP Guide, 4430.G); OMB Control Number: 2502–0541

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60-days of public comment.

DATES: *Comments Due Date:* August 31, 2020.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette Pollard at *Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Multifamily Accelerated Processing (MAP) Guide.

OMB Approval Number: 2502–0541.

OMB Expiration Date: December 31, 2020.

Type of Request: Revision.

Form Number: Guidebook 4430.G.

Description of the need for the information and proposed use: Multifamily Accelerated Processing (MAP) is designed to establish uniform national standards for Federal Housing Administration (FHA) approved lenders to prepare, process and submit loan applications for FHA multifamily mortgage insurance. The MAP Guide provides—in one volume with appendices—guidance for HUD staff, lenders, third party consultants, borrowers, and other industry participants. Topics include mortgage insurance program descriptions, borrower and lender eligibility requirements, application requirements, underwriting standards for all technical disciplines and construction loan administration requirements. The MAP Guide applies only to FHA multifamily mortgage insurance programs. Except to the extent lender monitoring or enforcement activities overlap, Section 232 and other programs administered by the Office of Healthcare Programs are not addressed by the MAP Guide.

The Guide has been updated to reflect various organizational, policy and processing changes implemented since the last edition was published in 2016. Examples include electronic submission of data in a standardized format, the consolidation of HUD Field Offices to Regional Centers and Satellite Offices, workload sharing, and a ''risk-based'' underwriting approach. The goal of MAP is to provide a consistent, expedited mortgage insurance application process at each HUD Multifamily Regional Center or Satellite Office. All MAP eligible projects must be submitted using MAP processing unless a waiver is granted to process under Traditional Application Processing (TAP). Such waiver approval authority is retained by HUD Headquarters' Director of Multifamily Production. Additionally, two new chapters were added to this edition of the Guide: The ''*Water and Energy Conservation*'' chapter and the ''*Closing Guide*''.

Respondents (*i.e.,* affected public): FHA Approved MAP Lenders.

Estimated Number of Respondents: 86.

Estimated Number of Responses: 344.

Frequency of Response: 1.

Average Hours per Response: 30 hours [121 hrs/4 = 30.25 hrs].

Total Estimated Burden: 10,406.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(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;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

The Acting Assistant Secretary for Housing-Federal Commissioner, Len Wolfson, having reviewed and approved this document, is delegating the authority to electronically sign this document to submitter, Nacheshia Foxx, who is the Federal Register Liaison for HUD, for purposes of publication in the **Federal Register**.

Dated: June 29, 2020.

Nacheshia Foxx,

Federal Liaison for the Department, of Housing and Urban Development.

The General Deputy Assistant Secretary for Housing, John L. Garvin, having reviewed and approved this

document, is delegating the authority to electronically sign this document to submitter, Nacheshia Foxx, who is the Federal Register Liaison for HUD, for purposes of publication in the **Federal Register**.

[FR Doc. 2020–14273 Filed 7–1–20; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7027–N–23]

60-Day Notice of Proposed Information Collection: Rehabilitation Mortgage Insurance Underwriting Program Section 203(k); OMB Control No.: 2502–0527

AGENCY: Office of the Assistant Secretary for Housing- Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* August 31, 2020.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400 (this is not a toll-free number) . Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Rehabilitation Mortgage Insurance Underwriting Program Section 203(k).

OMB Approval Number: 2502–0527.

Type of Request: Extension.

Form Number: HUD–92700–A, HUD–9746–A.

Description of the need for the information and proposed use: This request for OMB review involves an extension request for information collected under OMB Approval Number 2502–0527 for lenders that originate and service Section 203(k) mortgages.

The Section 203(k) program requires mortgagees to collect information about the scope of repair and improvement work, its cost, and control of escrow funds to pay for the improvements as they are completed. This program operates in conjunction with FHA's underwriting standards and systems for all Section 203(b) loans as documented in OMB Control Numbers 2502–0059 & 2502–0556. Per the existing collection, there are 1,312 respondents made up of participating lenders and 203(k) Consultants.

Respondents (*i.e.,* affected public): Business or other for-profit.

Estimated Number of Respondents: 1,312.

Estimated Number of Responses: 211,667.

Frequency of Response: On occasion (Once per loan).

Average Hours per Response: 0.85.

Total Estimated Burdens: 188,516.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(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; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comments in response to these questions.

C. Authority

Section 2 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507.

Dated: June 29, 2020.

Nacheshia Foxx,

Federal Liaison for the Department of Housing and Urban Development.

[FR Doc. 2020–14289 Filed 7–1–20; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R8–ES–2020–0049; FF08ESMF00–FXES11140800000–201]

Endangered and Threatened Wildlife and Plants; Central 40 Solar Project, Stanislaus County, California; Categorical Exclusion and Draft Habitat Conservation Plan

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of permit application; request for comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the availability of a draft categorical exclusion under the National Environmental Policy Act. We also announce receipt of an application for an incidental take permit under the Endangered Species Act (ESA), and receipt of a draft habitat conservation plan. Central 40, LLC has applied for an incidental take permit under the ESA for the Central 40 Solar Project in Stanislaus County, California. The permit would authorize the take of two species incidental to the development, construction, operation and maintenance, and decommissioning of the project. We invite the public and local, State, Tribal, and Federal agencies to comment on the 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 August 3, 2020.

ADDRESSES: *Obtaining Documents:* The incidental take permit (ITP) application, draft categorical exclusion (draft CatEx), draft habitat conservation plan (draft HCP), and any comments and other materials that we receive are available for public inspection at *http://*

www.regulations.gov in Docket No. FWS–HQ–ES–2020–0049.

Submitting Comments: To send written comments, please use one of the following methods, and note that your information request or comments are in reference to the draft CatEx, draft HCP, or both.

• *Internet:* Submit comments at *http://www.regulations.gov* under Docket No. FWS–R8–ES–2020–0049.

• *U.S. Mail:* Public Comments Processing, Attn: Docket No. FWS–R8–ES–2020–0049; U.S. Fish and Wildlife Service Headquarters, MS: PRB/3W; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

For more information, see Public Comments and Public Availability of Comments under **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Timothy Ludwick, Senior Wildlife Biologist, or Patricia Cole, Chief, San Joaquin Valley Division, Sacramento Fish and Wildlife Office, by phone at 916–414–6600 or via the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a draft categorical exclusion (draft CatEx), prepared pursuant to the National Environmental Policy Act of 1969, as amended (NEPA; 42 U.S.C. 4321 *et seq.*), and its implementing regulations in the Code of Federal Regulations (CFR) at 40 CFR 1506.6. This notice also announces the receipt of an application from Central 40, LLC (applicant), for a 35-year incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). Application for the permit requires the preparation of a habitat conservation plan (HCP) with measures to avoid, minimize, and mitigate the impacts of incidental take to the maximum extent practicable. The applicant prepared the draft Central 40 Solar Project HCP pursuant to section 10(a)(1)(B) of the ESA. The purpose of the CatEx is to assess the effects of issuing the permit and implementing the draft HCP on the natural and human environment.

Background

Section 9 of the ESA (16 U.S.C. 1531–1544 *et seq.*) prohibits the taking of fish and wildlife species listed as endangered under section 4 of the ESA; by regulation, take of certain species listed as threatened is also prohibited. (16 U.S.C. 1533(d); 50 CFR 17.31). Regulations governing permits for endangered and threatened species are at 50 CFR 17.22 and 17.32. For more about the Federal habitat conservation plan (HCP) program, go to *http://www.fws.gov/endangered/esa-library/pdf/hcp.pdf.*

National Environmental Policy Act Compliance

The proposed permit issuance triggers the need for compliance with the National Environmental Policy Act of 1969, as amended (NEPA; 42 U.S.C. 4321 *et seq.*). The draft CatEx was prepared to analyze the impacts of issuing an ITP based on the draft HCP and to inform the public of the proposed action, any alternatives, and associated impacts, and to disclose any irreversible commitments of resources.

Proposed Action Alternative

Under the Proposed Action Alternative, the Service would issue an ITP to the applicant for a period of 35 years for certain covered activities (described below). The applicant has requested an ITP for two covered species (described below), which are listed as endangered or threatened under the ESA.

Habitat Conservation Plan Area

The geographic scope of the draft HCP encompasses 3,474 acres (ac) in western Stanislaus and Merced Counties where the development will occur, including the 1,044-ac parcel in Stanislaus County where development will occur and the 2,422-ac Piedra Azul Conservation Bank in Merced County, portions of which are being used to mitigate impacts from this development.

Covered Activities

The proposed section 10 ITP would allow incidental take of two covered species from covered activities in the proposed HCP area. The applicant is requesting incidental take authorization for covered activities, including site preparation, infrastructure development, construction, decommissioning, and management of the conservation easement area. The applicant is proposing to implement a number of project design features, including best management practices, as well as general and species-specific avoidance and minimization measures to minimize the impacts of the take from the covered activities.

Covered Species

The following two federally listed species are proposed to be included as covered species in the proposed HCP:

• San Joaquin kit fox (*Vulpes macrotis mutica*) (Federally listed as endangered).

• California tiger salamander—Central Valley Distinct Population Segment (*Ambystoma californiense*) (Federally listed as threatened and subject to a section 4(d) rule that prohibits take, with the exception of incidental take resulting from routine ranching activities located on private or Tribal lands, as defined in the regulation. 50 CFR 17.43(c)).

No-Action Alternative

Under the No-Action Alternative, the Service would not issue an ITP to the applicant, and the draft HCP would not be implemented. Under this alternative, the applicant may choose not to construct the facility or would do so in a manner presumed not to result in the take of ESA-listed species.

Public Comments

We request data, comments, new information, or suggestions from the public, other concerned governmental agencies, the scientific community, Tribes, industry, or any other interested party on this notice, the draft CatEx, and the draft HCP. We particularly seek comments on the following:

1. Biological information concerning the species;
2. Relevant data concerning the species;
3. Additional information concerning the range, distribution, population size, and population trends of the species;
4. Current or planned activities in the area and their possible impacts on the species;
5. The presence of archeological sites, buildings and structures, historic events, sacred and traditional areas, and other historic preservation concerns, which are required to be considered in project planning by the National Historic Preservation Act; and
6. Any other environmental issues that should be considered with regard to the proposed development and permit action.

Public Availability of Comments

Before including your address, phone number, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—might be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Next Steps

Issuance of an incidental take permit is a Federal proposed action subject to

compliance with NEPA and section 7 of the ESA. We will evaluate the application, associated documents, and any public comments we receive as part of our NEPA compliance process to determine whether the application meets the requirements of section 10(a) of the ESA. If we determine that those requirements are met, we will conduct an intra-Service consultation under section 7 of the ESA for the Federal action for the potential issuance of an ITP. If the intra-Service consultation confirms that issuance of the ITP will not jeopardize the continued existence of any endangered or threatened species, or destroy or adversely modify critical habitat, we will issue a permit to the applicant for the incidental take of the covered species.

Authority

We publish this notice under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321–4347 *et seq.*), and its implementing regulations at 40 CFR 1500–1508, as well as in compliance with section 10(c) of the Endangered Species Act (16 U.S.C. 1531–1544 *et seq.*) and its implementing regulations at 50 CFR 17.22 and 17.32.

Michael Fris,

Acting Field Supervisor, Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service, Sacramento, California.

[FR Doc. 2020–14327 Filed 7–1–20; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAK940000.L14100000. BX0000.20X.LXSS001L0100]

Filing of Plats of Survey: Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Official Filing.

SUMMARY: The plats of survey of lands described in this notice are scheduled to be officially filed in the Bureau of Land Management (BLM), Alaska State Office, Anchorage, Alaska. The surveys, which were executed at the request of Ahtna, Incorporated, the Bureau of Indian Affairs and BLM, are necessary for the management of these lands.

DATES: The BLM must receive protests by August 3, 2020.

ADDRESSES: You may buy a copy of the plats from the BLM Alaska Public Information Center, 222 W. 7th Avenue, Mailstop 13, Anchorage, AK 99513. Please use this address when filing written protests. You may also view the plats at the BLM Alaska Public Information Center, Fitzgerald Federal Building, 222 W. 8th Avenue, Anchorage, Alaska, at no cost.

FOR FURTHER INFORMATION CONTACT: Douglas N. Haywood, Chief, Branch of Cadastral Survey, Alaska State Office, Bureau of Land Management, 222 W. 7th Avenue, Anchorage, AK 99513; 907–271–5481; *dhaywood@blm.gov.* People who use a telecommunications device for the deaf may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the BLM during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The lands surveyed are:

Copper River Meridian, Alaska

T. 9 N., R. 1 E., accepted May 18, 2020
T. 10 N., R. 1 E., accepted May 15, 2020
T. 11 N., R. 1 E., accepted May 22, 2020
T. 12 N., R. 1 E., accepted May 15, 2020
T. 9 N., R. 1 W., accepted May 15, 2020
T. 10 N., R. 1 W., accepted May 18, 2020
T. 11 N., R. 1 W., accepted May 15, 2020
T. 12 N., R. 1 W., accepted May 18, 2020
T. 13 N., R. 1 W., accepted May 18, 2020
T. 14 N., R. 1 W., accepted May 18, 2020
U.S. Survey No. 14469, accepted June 6, 2020, situated in T. 10 N., R. 9 W.

Fairbanks Meridian, Alaska

U.S. Survey No. 14487, accepted June 9, 2020, situated in T. 2 N., R. 16 W.
T. 17 S., R. 7 W., accepted May 14, 2020

Kateel River Meridian, Alaska

T. 7 N., R. 22 E., accepted June 9, 2020
T. 8 N., R. 25 E., accepted June 9, 2020
T. 20 S., R. 3 W., accepted May 18, 2020

Seward Mieridian, Alaska

U. S. Survey No. 14468, accepted June 6, 2020, situated in T. 30 N., R. 12 E.
T. 1 N., R. 11 W., accepted May 18, 2020
T. 2 N., R. 11 W., accepted May 18, 2020
U. S. Survey No. 3230, accepted May 11, 2020, situated in T. 8 N., R. 71 W.
U.S. Survey No. 8667, accepted June 22, 2020, situated in T. 4 S., R. 29 W.
U. S. Survey No. 14470, accepted June 6, 2020, situated in T. 13 S., R. 55 W.

A person or party who wishes to protest one or more plats of survey identified above must file a written notice of protest with the State Director for the BLM in Alaska. The notice of protest must identify the plat(s) of survey that the person or party wishes to protest. You must file the notice of protest before the scheduled date of official filing for the plat(s) of survey being protested. The BLM will not consider any notice of protest filed after the scheduled date of official filing. A notice of protest is considered filed on the date it is received by the State Director for the BLM in Alaska during regular business hours; if received after regular business hours, a notice of protest will be considered filed the next business day. A written statement of reasons in support of a protest, if not filed with the notice of protest, must be filed with the State Director for the BLM in Alaska within 30 calendar days after the notice of protest is filed.

If a notice of protest against a plat of survey is received prior to the scheduled date of official filing, the official filing of the plat of survey identified in the notice of protest will be stayed pending consideration of the protest. A plat of survey will not be officially filed until the dismissal or resolution of all protests of the plat.

Before including your address, phone number, email address, or other personally identifiable information in a notice of protest or statement of reasons, you should be aware that the documents you submit, including your personally identifiable information, may be made publicly available in their entirety at any time. While you can ask the BLM to withhold your personally identifiable information from public review, we cannot guarantee that we will be able to do so.

Authority: 43 U.S.C. Chap. 3.

Douglas N. Haywood,

Chief Cadastral Surveyor, Alaska.

[FR Doc. 2020–14243 Filed 7–1–20; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#–30459; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before June 13, 2020, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by July 17, 2020.

ADDRESSES: Comments are encouraged to be submitted electronically to *National_Register_Submissions@nps.gov* with the subject line ''Public Comment on <property or proposed district name, (County) State>.'' If you have no access to email you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their

consideration were received by the National Park Service before June 13, 2020. Pursuant to Section 60.13 of 36 CFR part 60, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State or Tribal Historic Preservation Officers:

ALABAMA

Monroe County

Vanity Fair Park, 271 Park Dr., Monroeville, SG100005354

Montgomery County

Bricklayers Hall, 530 South Union St., Montgomery, SG100005355

Tuscaloosa County

Alabama Book Store, The, 1015 University Blvd., Tuscaloosa, SG100005356

COLORADO

Denver County

Fountain Inn (Commercial Resources of the East Colfax Avenue Corridor MPS), 3015 East Colfax Ave., Denver, MP100005378

Jefferson County

Fort, The (Boundary Increase), 19192 CO 8, Morrison vicinity, BC100005379

Montrose County

Montrose Fruit & Produce Association Building, 39 West Main St., Montrose, SG100005380

FLORIDA

Clay County

Gold Head Branch State Park (Florida's New Deal Resources MPS), 6239 FL 21, Keystone Heights vicinity, MP100005381

Flagler County

Espanola Schoolhouse (Florida's Historic Black Public Schools MPS), 98 Knox Jones Ave., Bunnell, MP100005382

Leon County

Camp House, 2307 Ellicott Dr., Tallahassee, SG100005383

IDAHO

Ada County

Robbins, Corilla J. and Orlando, House, 512 West Idaho St., Boise, SG100005362

Bingham County

Just, Nels and Emma, House, 995 Reid Rd., Firth, SG100005363

Jerome County

Greenwood School (Public School Buildings in Idaho MPS), 2398 East 990 South, Hazelton, MP100005364

MINNESOTA

Ramsey County

United States Bedding Company, 550 Vandalia St., St. Paul, SG100005358

Winona County

Winona Athletic Club, 773 East 5th St., Winona, SG100005359

OHIO

Greene County

Tawawa Chimney Corner, 1198 Brush Row Rd., Wilberforce, SG100005361

PENNSYLVANIA

Allegheny County

Crawford Grill No. 2, 2141 Wylie Ave., Pittsburgh, SG100005373

Cumberland County

Mount Tabor AME Zion Church and Cemetery, (African American Churches and Cemeteries in Pennsylvania, c. 1644–c. 1970 MPS), Cedar St., Mount Holly Springs, MP100005377

Northampton County

Wagner, John and Family Farmstead (Agricultural Resources of Pennsylvania, c. 1700–1960 MPS), 1789 Meadows Rd., Lower Saucon Township, MP100005357

TENNESSEE

Hamilton County

Dixie Mercerizing Company, 951 South Watkins St., Chattanooga, SG100005374

Hardin County

Arch Bridge, Arch Loop, Olive Hill, SG100005375

Montgomery County

Sulphur Fork Bridge, 3300 Old Clarksville Hwy. over the Sulphur Fork of the Red River. Adams vicinity, SG100005366

Robertson County

Sulphur Fork Bridge, 3300 Old Clarksville Hwy. over the Sulphur Fork of the Red River. Adams vicinity, SG100005366

Trousdale County

Ward School, 113 Hall St., Hartsville, SG100005367

Van Buren County

Higginbotham Turnpike, Pleasant Hill Cemetery Rd., Spencer vicinity, SG100005368

Warren County

Higginbotham Turnpike, Pleasant Hill Cemetery Rd., Spencer vicinity, SG100005368

Wayne County

Wayne County Courthouse, 100 Court Cir., Waynesboro, SG100005369

TEXAS

Tarrant County

Fair Building, 307 West 7th St., Fort Worth, SG100005350

WISCONSIN

Bayfield County

Shaw Point Historic District, Sand Island, Apostle Islands NL, Bayfield vicinity, SG100005371

A request for removal has been made for the following resource:

TENNESSEE

Williamson County

Morton, George W., House, (Williamson County MRA), U.S. Alt. 41½ mi. North of Sunset Rd., Nolensville vicinity, OT88000337

Additional documentation has been received for the following resource:

VIRGINIA

Richmond Independent City, Scott House (Additional Documentation), 909 West Franklin St., Richmond, AD05001545

Nominations submitted by Federal Preservation Officers:

The State Historic Preservation Officer reviewed the following nominations and responded to the Federal Preservation Officer within 45 days of receipt of the nominations and supports listing the properties in the National Register of Historic Places.

GEORGIA

Glynn County

Fort Frederica National Monument (Boundary Increase), Address Restricted, St. Simons Island vicinity, BC100005351

Fort Frederica National Monument (Additional Documentation), 12 mi, North of Brunswick, Brunswick vicinity, AD66000065

Authority: Section 60.13 of 36 CFR part 60.

Dated: June 16, 2020.

Sherry A. Frear,

Chief, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2020–14256 Filed 7–1–20; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 701–TA–630 (Final)]

Glass Containers From China

Determination

On the basis of the record [1] developed in the subject investigation, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that an industry in the United States is

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

not materially injured or threatened with material injury by reason of imports of glass containers from China, provided for in subheading 7010.90.50 of the Harmonized Tariff Schedule of the United States, that have been found by the U.S. Department of Commerce (''Commerce'') to be subsidized by the government of China.[2]

Background

The Commission instituted this investigation effective September 25, 2019, following receipt of antidumping and countervailing duty petitions filed with the Commission and Commerce by the American Glass Packaging Coalition, Tampa, Florida, and Chicago, Illinois. The Commission scheduled the final phase of the investigation following notification of a preliminary determination by Commerce that imports of glass containers from China were being subsidized within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)). Notice of the scheduling of the final phase of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of March 6, 2020 (85 FR 13183). In light of the restrictions on access to the Commission building due to the COVID–19 pandemic, and in accordance with 19 U.S.C. 1677c(a)(1), the Commission did not conduct an in-person hearing scheduled for May 6, 2020. Instead, the Commission conducted its hearing through a series of written questions, submissions of written testimony, written responses to questions, Commissioner questions and answers along with closing arguments and rebuttal remarks via video conference, and posthearing briefs; all persons who requested the opportunity were permitted to participate.

The Commission made this determination pursuant to section 705(b) of the Act (19 U.S.C. 1671d(b)). It completed and filed its determination in this investigation on June 26, 2020. The views of the Commission are contained in USITC Publication 5068 (June 2020), entitled *Glass Containers from China: Investigation No. 701–TA–630 (Final).*

By order of the Commission.

Dated: June 26, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–14240 Filed 7–1–20; 8:45 am]

BILLING CODE 7020–02–P

[2] 85 FR 31141 (May 22, 2020).

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–649 and 731–TA–1523 (Preliminary)]

Twist Ties From China; Institution of Anti-Dumping and Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping and countervailing duty investigation Nos. 701–TA–649 and 731–TA–1523 (Preliminary) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of twist ties from China, provided for in subheadings 8309.90.00, 5609.00.30, 3906.90.20, 3920.51.50, 3923.90.00, 3926.90.99, 4811.59.60, 4821.10.40, 4821.90.20, and 4823.90.86 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value and alleged to be subsidized by the Government of China. Unless the Department of Commerce (''Commerce'') extends the time for initiation, the Commission must reach a preliminary determination in antidumping and countervailing duty investigations in 45 days, or in this case by August 10, 2020. The Commission's views must be transmitted to Commerce within five business days thereafter, or by August 17, 2020.

DATES: June 26, 2020.

FOR FURTHER INFORMATION CONTACT: Andres Andrade (202) 205–2078, Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)), in response to a petition filed on June 26, 2020 by Bedford Industries Inc., Worthington, Minnesota.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

Participation in the investigations and public service list.—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping duty and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—In light of the restrictions on access to the Commission building due to the COVID–19 pandemic, the Commission is

conducting its Title VII (antidumping and countervailing duty) preliminary phase staff conferences through submissions of written opening remarks and written testimony, staff questions and written responses to those questions, and postconference briefs. Requests to participate in these written proceedings should be emailed to *preliminaryconferences@usitc.gov* (DO NOT FILE ON EDIS) on or before July 15, 2020. A nonparty who has testimony that may aid the Commission's deliberations may request permission to participate by submitting a short statement. Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov*). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before July 22, 2020, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written opening remarks and testimony to the Commission on or before July 15, 2020. Staff questions will be provided to the parties on July 17, 2020, and written responses should be submitted to the Commission on or before July 22, 2020. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these investigations must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that any information that it submits to the Commission during these investigations may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of these or related investigations or reviews, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

(Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.)

By order of the Commission.

Issued: June 29, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–14297 Filed 7–1–20; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On May 29, 2020, the Department of Justice lodged a proposed consent decree with the United States District Court for the District of Massachusetts, in the lawsuit entitled *United States and Commonwealth of Massachusetts* v. *Sprague Resources LP and Sprague Operating Resources, LLC,* Civil Action No. 1:20–cv–11026.

The United States filed this lawsuit under Section 113(a)(1) of the Clean Air Act, 42 U.S.C. 7413(a)(1), and the Massachusetts, Maine, New Hampshire, and Rhode Island state implementation plans. The Commonwealth of Massachusetts is a co-plaintiff and brings claims arising under the Massachusetts Clean Air Act and Massachusetts air pollution control regulations. The complaint seeks civil penalties and injunctive relief arising from alleged emissions of volatile organic compounds (VOC) without required permits at the defendants' heated petroleum (asphalt and #6 oil) storage and distribution facilities in Everett and Quincy, Massachusetts; Searsport and South Portland, Maine; Newington (River Road), New Hampshire; and Providence, Rhode Island.

The consent decree requires the defendants to pay civil penalties of $350,000, including $205,000, plus interest, to the United States and $145,000 to the Commonwealth of Massachusetts; and to perform certain measures at the facilities to limit future VOC emissions.

On June 4, 2020, the Department of Justice published a notice in the **Federal Register** opening a period of public comment on the consent decree for a period of thirty (30) days through July 6, 2020. By this notice, the Department of Justice is extending the public comment period through August 5, 2020. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States, et al.* v. *Sprague Resources LP, et al.,* D.J. Ref. No. 90–5–2–1–11436. All comments must be submitted no later than August 5, 2020. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By e-mail	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* Paper copies of the consent decree are available upon written request and payment of reproduction costs. Such requests and payments should be addressed to:

Consent Decree Library,

U.S. DOJ—ENRD,

P.O. Box 7611,

Washington, DC 20044–7611.

With each such request, please enclose a check or money order for $14.75 (25 cents per page reproduction cost) per paper copy, payable to the United States Treasury.

Henry S. Friedman,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2020–14310 Filed 7–1–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

[OMB Number 1121–0314]

Agency Information Collection Activities: Proposed Collection; Comments Requested; Extension, With Change, of a Previously Approved Collection: Firearm Inquiry Statistics (FIST) Program

AGENCY: Bureau of Justice Statistics, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection was previously published in the **Federal Register** allowing a 60-day comment period. BJS received one comment in response. The comment supported expanding the collection to a census of all agencies rather than a sample, changes to the questions from previous versions of the survey, and requested expansion of the data collection to include information on prosecutions of firearm dealers and timelier reporting. BJS retained the changes to the questions. In reviewing the methodology, BJS decided to continue using a sample rather than a census of checking agencies to keep a lower total burden. The FIST program is not able to capture the information required to report on prosecutions of firearm dealers.

DATES: Comments are encouraged and will be accepted for 30 days until August 3, 2020.

FOR FURTHER INFORMATION CONTACT: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *The Title of the Form/Collection:* 2019–2021 Firearm Inquiry Statistics Program.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is FIST–1. The applicable component within the Department of Justice is the Bureau of Justice Statistics, Office of Justice Programs.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Through the Firearm Inquiry Statistics (FIST) Program, the Bureau of Justice Statistics (BJS) obtains information from state and local checking agencies responsible for maintaining records on the number of background checks for firearm transfers or permits that were issued, processed, tracked, or conducted during the calendar year. Specifically, state and local checking agencies are asked to provide information on the number of applications and denials for firearm transfers received or tracked by the agency and reasons why applications were denied. BJS combines these data with the Federal Bureau of Investigation's (FBI) National Instant Criminal Background Check System (NICS) transaction data to produce comprehensive national statistics on firearm applications and denials resulting from the Brady Handgun Violence Prevention Act of 1993 and similar state laws governing background checks and firearm transfers. BJS also plans to collect information from the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) on denials screened and referred to ATF field offices for investigation and possible prosecution. BJS publishes FIST data on the BJS website in statistical tables and uses the information to respond to inquiries from Congress, federal, state, and local government officials, researchers, students, the media, and other members of the general public interested in criminal justice statistics.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* A projected 1,105 respondents will take part in the FIST data collection with an average of 25 minutes for each to complete the FIST survey form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated public burden hours associated with this collection is 460 hours annually.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: June 26, 2020.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2020–14245 Filed 7–1–20; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

200th Meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans; Notice of Teleconference Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the 200th open meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans (also known as the ERISA Advisory Council) will be held via a teleconference on Thursday, July 30, 2020.

The meeting will occur from 1:00 p.m. to approximately 5:00 p.m. (ET). The purpose of the open meeting is to set the topics to be addressed by the Council in 2020. Also, the ERISA Advisory Council members will receive an update from leadership of the Employee Benefits Security Administration (EBSA).

Instructions for the public to attend the teleconference will be posted on the ERISA Advisory Council's web page at *https://www.dol.gov/agencies/ebsa/*

about-ebsa/about-us/erisa-advisory-council prior to the meeting.

Organizations or members of the public wishing to submit a written statement may do so on or before Thursday, July 23, 2020, to Christine Donahue, Executive Secretary, ERISA Advisory Council. Statements should be transmitted electronically as an email attachment in text or pdf format to *donahue.christine@dol.gov.* Statements transmitted electronically that are included in the body of the email will not be accepted. Relevant statements received on or before Thursday, July 23, 2020, will be included in the record of the meeting. No deletions, modifications, or redactions will be made to the statements received, as they are public records.

Individuals or representatives of organizations wishing to address the ERISA Advisory Council should forward their requests to the Executive Secretary no later than Thursday, July 23, 2020, via email to *donahue.christine@dol.gov* or by telephoning (202) 693–8641. Oral presentations will be limited to ten minutes, time permitting, but an extended statement may be submitted for the record.

Individuals with disabilities who need special accommodations, or others who need special accommodations, should contact the Executive Secretary no later than Thursday, July 23, 2020, via email to *donahue.christine@dol.gov* or by telephoning (202) 693–8641.

For more information about the meeting, contact the Executive Secretary via email to *donahue.christine@dol.gov* or by telephoning (202) 693–8641.

Signed at Washington, DC this 26th day of June, 2020.

Jeanne Klinefelter Wilson,

Acting Assistant Secretary, Employee Benefits Security Administration.

[FR Doc. 2020–14228 Filed 7–1–20; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL COUNCIL ON DISABILITY

Sunshine Act Meetings

TIME AND DATE: The Members of the National Council on Disability (NCD) will meet via conference call Friday, July 24, 2020, 10:00 a.m.–12:00 p.m., EDT. Interested parties may join the meeting in listen-only capacity. Call-In Number: 866–248–8441; Passcode: 6077610, Host Name: Neil Romano.

MATTERS TO BE CONSIDERED: The Council will conduct a business meeting, to include release of the 2020 Progress Report.

Agenda: The times provided below are approximations for when each agenda item is anticipated to be discussed (all times Eastern Daylight Time):

Friday, July 24, 2020

10:00 a.m.—10:10 a.m. Welcome and Call to Order, Chairman Neil Romano
Roll Call: Council Members
Roll Call: Staff
Call for Vote on Acceptance of Agenda
Call for Vote of May 2020 Council Meeting Minutes
10:10 a.m.–11:30 a.m. Executive Reports
Chairman's Report, Neil Romano
Executive Report, Lisa Grubb
Financial Report, Wendy S. Harbour and Keith Woods
Governance Report, Billy Altom and Lisa Grubb Legislative Affairs Report, Anne Sommers Policy Report, Joan Durocher
11:30 a.m.—12:00 p.m. Release of 2020 Progress Report
12:00 p.m. Call for Motion to Adjourn

Public Comment: Public comments are important in bringing attention to disability issues. Please submit your written comments to *PublicComment@ncd.gov.* Your comments will be shared with council members following the meeting. To ensure your comments are accurately reflected, please include your name, email, and location of business, if applicable.

CONTACT PERSON FOR MORE INFORMATION: Anne Sommers, NCD, 1331 F Street NW, Suite 850, Washington, DC 20004; 202–272–2004 (V), 202–272–2022 (Fax). Accommodations: A CART streamtext link has been arranged for this meeting. The web link to access CART on Friday, July 24, 2020 is: *https://www.streamtext.net/player?event=NCD-QUARTERLY*

Dated: June 30, 2020.

Sharon M. Lisa Grubb,

Executive Director.

[FR Doc. 2020–14482 Filed 6–30–20; 4:15 pm]

BILLING CODE 8421–02–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meeting; National Science Board

The National Science Board's Awards and Facilities Committee, pursuant to NSF regulations (45 CFR part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n–5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice of the scheduling of a teleconference for the transaction of National Science Board business, as follows:

TIME & DATE: Monday, July 6, 2020 from 1:00–2:00 p.m. EDT.

PLACE: This meeting will be held by teleconference through the National Science Foundation.

STATUS: Closed

MATTERS TO BE CONSIDERED: The agenda of the teleconference is: Committee Chair's Opening Remarks; Discussion of the NOIRLab context item.

CONTACT PERSON FOR MORE INFORMATION: Point of contact for this meeting is: Elise Lipkowitz,*elipkowi@nsf.gov,* telephone: (703) 292–7000. Meeting information and updates may be found at *http://www.nsf.gov/nsb/meetings/notices.jsp#sunshine.* Please refer to the National Science Board website*www.nsf.gov/nsb* for general information.

Chris Blair,

Executive Assistant to the National Science Board Office.

[FR Doc. 2020–14356 Filed 6–30–20; 11:15 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2018–0155]

Instructions for Completing NRC's Uniform Low-Level Radioactive Waste Manifest

AGENCY: Nuclear Regulatory Commission.

ACTION: NUREG; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has issued NUREG/BR–0204, Revision 3, ''Instructions for Completing NRC's Uniform Low-Level Radioactive Waste Manifest.'' This document provides instructions to prepare NRC Form 540 (Uniform Low-Level Radioactive Waste Manifest (Shipping Paper)), NRC Form 541 (Uniform Low-Level Radioactive Waste Manifest (Container and Waste Description)), and NRC Form 542 (Uniform Low-Level Radioactive Waste Manifest (Manifest Index and Regional Compact Tabulation)), which have also been revised.

DATES: NUREG/BR–0204, Revision 3 and its forms became effective on July 2, 2020. Use of the NUREG/BR–0204, Revision 2 forms should be discontinued on or before September 30, 2020.

ADDRESSES: Please refer to Docket ID NRC–2018–0155 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 Web site:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2018–0155. Address questions about NRC dockets IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The 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.

• *NRC's Form Library:* NRC Forms 540, 541, and 542 can be accessed on the NRC Form Library at *https://www.nrc.gov/reading-rm/doc-collections/forms/.*

FOR FURTHER INFORMATION CONTACT: Robert Gladney, telephone: 301–415–1022, email: *Robert.Gladney@nrc.gov* and Karen Pinkston, telephone: 301–415–3650, email: *Karen.Pinkston@nrc.gov.* Both are staff of the Office of Nuclear Material Safety and Safeguards at the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Discussion

NUREG/BR–0204, Rev. 3, ''Instructions for Completing the NRC's Uniform Low-Level Radioactive Waste Manifest,'' provides guidance on completing NRC Forms 540, 541, and 542 (*i.e.,* the NRC's Uniform Low-Level Waste Manifest). The NRC has revised NUREG/BR–0204 and NRC Forms 540, 541, and 542 to address stakeholder feedback since the publication of Revision 2 of the NUREG/BR (ADAMS Accession No. ML071870172). A request for comments on Draft NUREG/BR–0204, Rev. 3 (ADAMS Accession No. ML18261A002) and its forms was published in the **Federal Register** on October 30, 2018 (83 FR 54620), with a 60-day comment period ending on December 31, 2018. An extension of the comment period until January 31, 2019, was subsequently published on December 21, 2018 (83 FR 65759). Comments received on NUREG/BR–0204, Rev. 3 and the forms can be found on the Federal Rulemaking website (*https://www.regulations.gov*) under Docket ID NRC–2018–0155. The final NUREG/BR–0204, Rev. 3 and the NRC's comment resolutions are available in ADAMS under Accession Nos. ML20178A433 and ML19214A186, respectively.

II. Congressional Review Act

This document is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act. The revision to the guidance is available in ADAMS under Accession No. ML20178A433 and is available for immediate use by all stakeholders.

Dated: June 29, 2020.

For the Nuclear Regulatory Commission.

Patricia K. Holahan,

Director, Division of Decommissioning, Uranium Recovery, and Waste Programs, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2020–14265 Filed 7–1–20; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–01; NRC–2020–0158]

GE Hitachi Nuclear Energy, LLC

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) issued an exemption in response to a request from GE Hitachi Nuclear Energy, LLC (GEH) related to the COVID–19 public health emergency (PHE). The exemption allows GEH to submit a renewal application for the Morris Operation Independent Spent Fuel Storage Installation (ISFSI) license, Special Nuclear Materials (SNM) License No. SNM–2500, after the timely renewal due date, while continuing to be afforded protection of the timely renewal provision contained in NRC regulations.

DATES: The exemption was issued on May 13, 2020.

ADDRESSES: Please refer to Docket ID NRC–2020–0158 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–2020–0158. 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 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: John McKirgan, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–5722, email: *John.McKirgan@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC issued an exemption in response to a request from GEH, dated April 30, 2020. The exemption allows GEH to submit a renewal application for the Morris Operation ISFSI license, SNM–2500, after the timely renewal due date of May 31, 2020, while continuing to be afforded protection of the timely renewal provision contained in § 72.42(c) of title 10 of the *Code of Federal Regulations* (10 CFR). GEH requested an extension of the date to submit the license renewal application to on or before July 31, 2020, as state restrictions on business activities as a result of the COVID–19 PHE have caused reduced staffing, impacted work schedules, and limited facility and information access necessary for GEH to prepare its license renewal application by the timely renewal due date. The extension will allow GEH to provide a complete license renewal application for NRC to review.

The NRC publishes a list of approved licensing actions related to the COVID–19 PHE on its public website at *https://www.nrc.gov/about-nrc/covid-19/materials/storage.html.*

II. Availability of Documents

The table below provides the ADAMS Accession Numbers for the exemption issued. For additional directions on accessing information in ADAMS, see the **ADDRESSES** section of this document.

Document title	ADAMS Accession No.
Request to Extend the Due Date for Submitting the GEH Morris Operation License Renewal Application	ML20121A272
Issuance of Exemption from 10 CFR 72.42(c) for GEH Morris Operation ISFSI	ML20134H886

The NRC may post additional materials to the Federal Rulemaking website at *https://www.regulations.gov,* under Docket ID NRC–2020–0158. The Federal Rulemaking website allows you to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) Navigate to the docket folder (NRC–2020–0158); (2) click the ''Sign up for Email Alerts'' link; and (3) enter your email address and select how frequently you would like to receive emails (daily, weekly, or monthly).

Dated: June 29, 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. 2020–14303 Filed 7–1–20; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2020–0160]

Changes to Subsequent License Renewal Guidance Documents

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft interim staff guidance; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for use and to solicit public comment, three draft interim staff guidance documents (ISGs) that propose changes to the NRC's subsequent license renewal guidance documents. Specifically, the ISGs revise guidance contained in NUREG–2191, ''Generic Aging Lessons Learned for Subsequent License Renewal (GALL–SLR) Report,'' and NUREG–2192, ''Standard Review Plan for Review of Subsequent License Renewal Applications for Nuclear Power Plants.'' NUREG–2191 and NUREG–2192 were published in July 2017 and are not scheduled to be updated for several years. The proposed changes to these documents are contained in the three draft ISGs that update aging management criteria for mechanical, structural, and electrical structures and components.

DATES: Submit comments by August 3, 2020. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

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

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0160. Address questions about NRC dockets 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.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: William (Butch) Burton, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6332; email: *William.Burton@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2020–0160 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0160.
- *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.
- *NRC's License Renewal Interim Staff Guidance Website:* SLR–ISG documents are available online at *https://www.nrc.gov/reading-rm/doc-collections/isg/license-renewal.html.*

B. Submitting Comments

Please include Docket ID NRC–2020–0160 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

The NRC staff has completed its safety reviews of the first three Subsequent License Renewal Applications (SLRAs) for Turkey Point Nuclear Generating Units 3 and 4, Peach Bottom Atomic Power Station, Units 2 and 3, and Surry Power Station, Units 1 and 2. The NRC staff used the guidance contained in NUREG–2191, ''Generic Aging Lessons

Learned for Subsequent License Renewal (GALL–SLR) Report,'' and NUREG–2192, ''Standard Review Plan for Review of Subsequent License Renewal Applications for Nuclear Power Plants'' to conduct its SLRA safety reviews for those SLRAs. Since March 2019, the NRC staff held several public meetings to consider lessons learned from these safety reviews and identify areas where the technical guidance in NUREG–2191 and NUREG–2192 could be improved or clarified and where new technical guidance was warranted. The meetings summaries and respective ADAMS Accession Numbers are listed under the ''Availability of Documents'' section of this document.

III. Specific Request for Comments

The NRC is issuing for use and to solicit public comment, three draft ISGs that proposes changes to the NRC's subsequent license renewal guidance in NUREG–2191 and NUREG–2192. NUREG–2191 and NUREG–2192 were published in July 2017 and are not scheduled to be updated for several years. The process of updating these NUREGs involves major review and evaluation by the staff, the nuclear industry, and the public, and will take approximately 5 years once the process begins. Several SLRAs are scheduled for submittal to the NRC for review within the next 2 years. Issuance of these ISGs is intended to provide improvements in the effectiveness and efficiency of the preparation and review of the SLRAs.

The proposed changes to NUREG–2191 and NUREG–2192 are contained in three draft ISGs that update aging management criteria for mechanical, structural, and electrical structures and components. In addition, minor edits are proposed where errors were identified in the existing guidance.

A. Draft SLR–ISG–MECHANICAL–2020–XX; Updated Aging Management Criteria for Mechanical Portions of Subsequent License Renewal Guidance

The mechanical ISG is titled, ''Draft SLR–ISG–MECHANICAL–2020–XX; Updated Aging Management Criteria for Mechanical Portions of Subsequent License Renewal Guidance,'' and is available in ADAMS under Accession No. ML20156A330.

This ISG revises the following aging management guidance:

- Aging Management Program (AMP) X.M2, ''Neutron Fluence Monitoring''
- AMP XI.M2, ''Water Chemistry''
- AMP XI.M12, ''Thermal Aging Embrittlement of Cast Austenitic Stainless-Steel (CASS)''
- AMP XI.M21A, ''Closed Treated Water System''
- Aging Management Review (AMR) Line Items Associated with AMP XI.M26, ''Fire Protection''
- Standard Review Plan—Subsequent License Renewal (SRP–SLR) Table 3.3–1 and Generic Aging Lessons Learned for Subsequent License Renewal (GALL–SLR) Volume 1 Table VII H2 to include a line item to manage the reduction of heat transfer for a steel heat exchanger radiator exposed internally to diesel fuel oil.
- SRP–SLR Table 3.3–1and GALL–SLR Volume 1 Table VII H2 to include a line item to manage loss of material for nickel alloy externally exposed to diesel fuel oil
- AMP XI.M42, ''Internal Coatings/Linings for In-Scope Piping, Piping Components, Heat Exchangers, and Tanks''

B. Draft SLR–ISG–STRUCTURES–2020–XX; Updated Aging Management Criteria for Structures Portions of Subsequent License Renewal Guidance

This ISG is titled, ''Draft SLR–ISG–STRUCTURES–2020–XX; Updated Aging Management Criteria for Structures Portions of Subsequent License Renewal Guidance,'' and is available in ADAMS under Accession No. ML20156A338.

This ISG revises the following aging management guidance:

- SRP–SLR sections 3.5.2.2.1.5 and 3.5.3.2.1.5, SRP–SLR Table 3.5–1, ''Summary of Aging Management Programs for Containments, Structures and Component Supports Evaluated in Chapters II and III of the GALL–SLR Report,'' Items 027 and 040, and corresponding GALL–SLR Report AMR items.
- AMP XI.S8, ''Protective Coating Monitoring and Maintenance''
- GALL–SLR Report Chapter II AMR Item tables
- GALL–SLR Report Chapter III AMR Item tables
- SRP–SLR Section 3.5, ''Aging Management of Containments, Structures, and Component Supports,'' and associated AMR Line Items in GALL–SLR

C. Draft SLR–ISG–ELECTRICAL–2020–XX; Updated Aging Management Criteria for Electrical Portions of Subsequent License Renewal Guidance

This ISG is titled, ''Draft SLR–ISG–ELECTRICAL–2020–XX; Updated Aging Management Criteria for Electrical Portions of Subsequent License Renewal Guidance,'' and is available in ADAMS under Accession No. ML20156A324.

This ISG revises the following aging management guidance:

- AMP XI.E3A, ''Electrical Insulation for Inaccessible Medium-Voltage Power Cables Not Subject to 10 CFR 50.49 Environmental Qualification Requirements''
- AMP XI.E3B, ''Electrical Insulation for Inaccessible Instrument and Control Cables Not Subject to 10 CFR 50.49 Environmental Qualification Requirements''
- AMP XI.E3C, ''Electrical Insulation for Inaccessible Low-Voltage Power Cables Not Subject to 10 CFR 50.49 Environmental Qualification Requirements''
- AMP XI.E7, ''High-Voltage Insulators

IV. Availability of Documents

The documents identified in the following table are available to interested persons in ADAMS, as indicated.

Document	ADAMS Accession No.
NUREG–2191, "Generic Aging Lessons Learned for Subsequent License Renewal (GALL–SLR) Report"	ML16274A389 ML16274A399
NUREG-2192, "Standard Review Plan for Review of Subsequent License Renewal Applications for Nuclear Power Plants"	ML16274A402
Draft SLR–ISG–MECHANICAL–2020–XX; Updated Aging Management Criteria for Mechanical Portions of Subsequent License Renewal Guidance.	ML20156A330
Draft SLR–ISG–STRUCTURES–2020–XX; Updated Aging Management Criteria for Structures Portions of Subsequent License Renewal Guidance.	ML20156A338
Draft SLR–ISG–ELECTRICAL–2020–XX; Updated Aging Management Criteria for Electrical Portions of Subsequent License Renewal Guidance.	ML20156A324
March 28, 2019, Summary Of Category 2 Public Meeting On Lessons Learned From The Review Of The First Subsequent License Renewal Applications.	ML19112A206
Summary of December 12, 2019, Category 2 Public Meeting On Lessons Learned From The Review Of The First Subsequent License Renewal Applications.	ML20016A347

Document	ADAMS Accession No.
February 20, 2020, Summary of Category 2 Public Meeting on Lessons Learned from the Review of the First Subsequent License Renewal Applications.	ML20076E074
Summary of March 25, 2020 Meeting with Industry Related to Revisions to Subsequent License Renewal Guidance Documents.	ML20107F702
Summary of April 3, 2020 Meeting with Industry Regarding Changes to Subsequent License Renewal Guidance Documents ..	ML20107F733
Summary of April 7, 2020 Meeting with Industry Regarding Revisions to the Subsequent License Renewal Guidance Documents.	ML20107F699

The NRC may post additional materials to the federal rulemaking website at *https://www.regulations.gov* under Docket ID NRC–2020–0160. The federal rulemaking website allows you to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) Navigate to the docket folder (NRC–2020–0160); (2) click the ''Sign up for Email Alerts'' link; and (3) enter your email address and select how frequently you would like to receive emails (daily, weekly, or monthly).

Dated: June 29, 2020.

For the Nuclear Regulatory Commission.

Anna H. Bradford,

Director, Division of New and Renewed Licenses, Office of Nuclear Reactor Regulation.

[FR Doc. 2020–14323 Filed 7–1–20; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33914]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

June 26, 2020.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of June 2020. A copy of each application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090. An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at *Secretarys-Office@sec.gov* and serving the relevant applicant with a copy of the request by email, if an email address is listed for the relevant applicant below, or personally or by mail, if a physical address is listed for the relevant applicant below. Hearing requests should be received by the SEC by 5:30 p.m. on July 21, 2020, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to Rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary at *Secretarys-Office@sec.gov*.

ADDRESSES: The Commission: *Secretarys-Office@sec.gov*.

FOR FURTHER INFORMATION CONTACT: Shawn Davis, Assistant Director, at (202) 551–6413 or Chief Counsel's Office at (202) 551–6821; SEC, Division of Investment Management, Chief Counsel's Office, 100 F Street NE, Washington, DC 20549–8010.

Cushing ETF Trust [File No. 811–23367]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On November 27, 2019, applicant made a liquidating distribution to its shareholders based on net asset value. Expenses of $10,000 incurred in connection with the liquidation were paid by the applicant's investment adviser.

Filing Dates: The application was filed on November 29, 2019, and amended on June 12, 2020.

Applicant's Address: kevin.hardy@skadden.com.

Oppenheimer Capital Appreciation Fund [File No. 811–03105]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Counselor Series Trust (Invesco Counselor Series Trust), and on May 24, 2019, made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on May 4, 2020.

Applicant's Address: Taylor.Edwards@invesco.com.

Oppenheimer Capital Income Fund [File No. 811–01512]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Investment Funds (Invesco Investment Funds), and on May 24, 2019, made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on May 4, 2020.

Applicant's Address: Taylor.Edwards@invesco.com.

Oppenheimer Developing Markets Fund [File No. 811–07657]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Investment Funds (Invesco Investment Funds), and on May 24, 2019, made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on May 4, 2020.

Applicant's Address: Taylor.Edwards@invesco.com.

Oppenheimer Dividend Opportunity Fund [File No. 811–21208]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Equity Funds (Invesco Equity Funds), and on May 24, 2019, made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on May 4, 2020.

Applicant's Address: *Taylor.Edwards@invesco.com.*

Oppenheimer Emerging Markets Innovators Fund [File No. 811–22943]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Investment Funds (Invesco Investment Funds), and on May 24, 2019, made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on May 4, 2020.

Applicant's Address: *Taylor.Edwards@invesco.com.*

Oppenheimer Emerging Markets Local Debt Fund [File No. 811–22400]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Investment Funds (Invesco Investment Funds), and on May 24, 2019, made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on May 4, 2020.

Applicant's Address: *Taylor.Edwards@invesco.com.*

Oppenheimer Global Focus Fund [File No. 811–22092]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM International Mutual Funds (Invesco International Mutual Funds), and on May 24, 2019, made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on May 4, 2020.

Applicant's Address: *Taylor.Edwards@invesco.com.*

Oppenheimer Global Fund [File No. 811–01810]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM International Mutual Funds (Invesco International Mutual Funds), and on May 24, 2019, made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on May 4, 2020.

Applicant's Address: *Taylor.Edwards@invesco.com.*

Oppenheimer Global High Yield Fund [File No. 811–22609]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Investment Securities Funds (Invesco Investment Securities Funds), and on May 24, 2019, made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on May 4, 2020.

Applicant's Address: *Taylor.Edwards@invesco.com.*

Oppenheimer Global Multi-Asset Growth Fund [File No. 811–23052]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM International Mutual Funds (Invesco International Mutual Funds), and on May 24, 2019, made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on May 4, 2020.

Applicant's Address: *Taylor.Edwards@invesco.com.*

Oppenheimer Global Multi-Asset Income Fund [File No. 811–22993]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Investment Funds (Invesco Investment Funds), and on May 24, 2019, made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on May 4, 2020.

Applicant's Address: *Taylor.Edwards@invesco.com.*

Oppenheimer Gold & Special Minerals Fund [File No. 811–03694]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Sector Funds (Invesco Sector Funds), and on May 24, 2019, made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on May 4, 2020.

Applicant's Address: *Taylor.Edwards@invesco.com.*

Oppenheimer International Bond Fund [File No. 811–07255]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Investment Funds (Invesco Investment Funds), and on May 24, 2019, made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on May 4, 2020.

Applicant's Address: *Taylor.Edwards@invesco.com.*

Oppenheimer International Equity Fund [File No. 811–06105]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM International Mutual Funds (Invesco International Mutual Funds), and on May 24, 2019, made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on May 4, 2020.

Applicant's Address: Taylor.Edwards@invesco.com.

Oppenheimer International Growth Fund [File No. 811–07489]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM International Mutual Funds (Invesco International Mutual Funds), and on May 24, 2019, made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on May 4, 2020.

Applicant's Address: Taylor.Edwards@invesco.com.

Oppenheimer Macquarie Global Infrastructure Fund [File No. 811–23135]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Investment Funds (Invesco Investment Funds), and on May 24, 2019, made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on May 4, 2020.

Applicant's Address: Taylor.Edwards@invesco.com.

Oppenheimer Master Loan Fund, LLC [File No. 811–22137]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Counselor Series Trust (Invesco Counselor Series Trust), and on May 24, 2019, made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on May 4, 2020.

Applicant's Address: Taylor.Edwards@invesco.com.

Oppenheimer Senior Floating Rate Fund [File No. 811–09373]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Counselor Series Trust (Invesco Counselor Series Trust), and on May 24, 2019, made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on May 4, 2020.

Applicant's Address: Taylor.Edwards@invesco.com.

Oppenheimer Senior Floating Rate Plus Fund [File No. 811–22844]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Counselor Series Trust (Invesco Counselor Series Trust), and on May 24, 2019, made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on May 4, 2020.

Applicant's Address: Taylor.Edwards@invesco.com.

Oppenheimer Small Cap Value Fund [File No. 811–23090]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Sector Funds (Invesco Sector Funds), and on May 24, 2019, made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on May 4, 2020.

Applicant's Address: Taylor.Edwards@invesco.com.

Oppenheimer Variable Account Funds [File No. 811–04108]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to AIM Variable Insurance Funds (Invesco Variable Insurance Funds), and on May 24, 2019, made a final distribution to its shareholders based on net asset value. Expenses of $1,300,306.94 incurred in connection with the reorganization were paid by the applicant's investment adviser and the acquiring fund's investment adviser, and/or their affiliates.

Filing Date: The application was filed on May 4, 2020.

Applicant's Address: Taylor.Edwards@invesco.com.

Salt Funds Trust [File No. 811–23406]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to Salt Low truBeta US Market ETF, a series of ETF Series Solutions, and on December 16, 2019, made a final distribution to its shareholders based on net asset value. Expenses of $31,607.56 incurred in connection with the reorganization were paid by the applicant's investment adviser.

Filing Date: The application was filed on May 12, 2020.

Applicant's Address: michael.barolsky@usbank.com.

Small Cap Value Fund, Inc. [File No. 811–21782]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On December 9, 2019, applicant made a liquidating distribution to its shareholders based on net asset value. No expenses were incurred in connection with the liquidation.

Filing Dates: The application was filed on December 10, 2019, and amended on June 18, 2020.

Applicant's Address: adamsaa@sbcglobal.net.

UBS Life Insurance Company USA Separate Account [File No. 811–07536]

Summary: Applicant, a unit investment trust, seeks an order declaring that it has ceased to be an investment company. The applicant is not making and does not presently propose to make a public offering of its securities, and will continue to operate in reliance on section 3(c)(1) of the 1940 Act.

Filing Dates: The application was filed on May 2, 2019, and amended on May 18, 2020.

Applicant's Address: fredbellamy@eversheds-sutherland.us.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–14223 Filed 7–1–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89166; File No. SR–PEARL–2020–07]

Self-Regulatory Organizations; MIAX PEARL, LLC.; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change, As Modified by Amendment No. 1, To Add the Consolidated Audit Trail Industry Member Compliance Rules to Exchange Rule 1014, Imposition of Fines for Minor Rule Violations

June 26, 2020.

On June 18, 2020, MIAX PEARL, LLC (''MIAX PEARL'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''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 add the Consolidated Audit Trail Industry Member Compliance Rules to Exchange Rule 1014. On June 23, 2020, the Exchange filed Amendment No. 1 to the proposed rule change, which partially amended the proposed rule change. The proposed rule change, as modified by Amendment No. 1, is described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons, and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

I. The Exchange's Description of the Proposed Rule Change, as Modified by Amendment No. 1

The Exchange is filing a proposal to add the Consolidated Audit Trail (''CAT'') industry member compliance rules to the list of minor rule violations in Rule 1014.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/pearl* at MIAX PEARL's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to add its CAT industry member compliance rules (the ''CAT Compliance Rules'') to the list of minor rule violations in Rule 1014. This proposal is based upon the Financial Industry Regulatory Authority, Inc. (''FINRA'') filing to amend FINRA Rule 9217 in order to add FINRA's corresponding CAT Compliance Rules to FINRA's list of rules that are eligible for minor rule violation plan treatment.[3] This proposal is also based upon the New York Stock Exchange, Inc. (''NYSE'') filing to amend NYSE Rule 9217 in order to add NYSE's corresponding CAT Compliance Rules to NYSE's list of rules that are eligible for minor rule violation plan treatment.[4]

Proposed Rule Change

The Exchange recently adopted the CAT Compliance Rules under Chapter XVII in order to implement the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan'').[5] The CAT NMS Plan was filed by the Plan Participants to comply with Rule 613 of Regulation NMS under the Exchange Act,[6] and each Plan Participant accordingly has adopted the same compliance rules in the Exchange's Chapter XVII. The common compliance rules adopted by each Plan Participant are designed to require industry members to comply with the provisions of the CAT NMS Plan, which broadly calls for industry members to record and report timely and accurately customer, order, and trade information relating to activity in NMS Securities and OTC Equity Securities.

Rule 1014 sets forth the list of rules under which a member may be subject to a fine. Rule 1014 permits the Exchange to impose a fine of up to $5,000 on any member or a person associated with or employed by a member for a minor violation of an eligible rule. The Exchange proposes to amend Rule 1014 to add the CAT Compliance Rules under Chapter XVII to the list of rules eligible for disposition pursuant to a minor fine under Rule 1014.[7]

The Exchange is coordinating with FINRA and other Plan Participants to promote harmonized and consistent enforcement of all the Plan Participants' CAT Compliance Rules. The Commission recently approved a Rule 17d–2 Plan under which the regulation of CAT Compliance Rules will be allocated among Plan Participants to reduce regulatory duplication for industry members that are members of more than one Participant (''common members'').[8] Under the Rule 17d–2 Plan, the regulation of CAT Compliance Rules with respect to common members that are members of FINRA is allocated to FINRA. Similarly, under the Rule 17d–2 Plan, responsibility for common members of multiple other Plan Participants and not a member of FINRA will be allocated among those other Plan Participants, including to the Exchange. For those non-common members who are allocated to the Exchange pursuant to the Rule 17d–2 Plan, the Exchange and FINRA entered into a Regulatory Services Agreement (''RSA'') pursuant to which FINRA will conduct surveillance, investigation, examination, and enforcement activity in connection with the CAT Compliance Rules on the Exchange's behalf. We expect that the other exchanges would be entering into a similar RSA.

In order to achieve consistency with FINRA and the other Plan Participants, the Exchange proposes to adopt fines up to $2,500 in connection with minor rule fines for violations of the CAT Compliance Rules under Chapter XVII

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release Nos. 88870 (May 14, 2020), 85 FR 30768 (May 20, 2020) (SR–FINRA–2020–013).

[4] *See* SR–NYSE–2020–51.

[5] *See* Securities Exchange Act Release No. 80256 (March 15, 2017), 82 FR 14526 (March 21, 2017) (SR–PEARL–2017–04).

[6] 17 CFR 242.613.

[7] FINRA's maximum fine for minor rule violations under FINRA Rule 9216(b) is $2,500. The Exchange will apply an identical maximum fine amount for eligible violations of Chapter XVII to achieve consistency with FINRA and also to amend its minor rule violation plan (''MRVP'') to include such fines. Like FINRA, the Exchange would be able to pursue a fine greater than $2,500 for violations of Chapter XVII in a regular disciplinary proceeding or Letter of Consent under Rule 1003 as appropriate. Any fine imposed in excess of $2,500 or not otherwise covered by Rule 19d–1(c)(2) of the Act would be subject to prompt notice to the Commission pursuant to Rule 19d–1 under the Act. As noted below, in assessing the appropriateness of a minor rule fine with respect to CAT Compliance Rules, the Exchange will be guided by the same factors that FINRA utilizes. *See* text accompanying notes 9–10, *infra*.

[8] *See* Securities Exchange Act Release No. 88366 (March 12, 2020), 85 FR 15238 (March 17, 2020) (File No. 4–618).

under Rule 1014 and the Exchange's MRVP.

FINRA, in connection with its proposed amendment to FINRA Rule 9217 to make FINRA's CAT Compliance Rules MRVP eligible, has represented that it will apply the minor fines for CAT Compliance Rules in the same manner that FINRA has for its similar existing audit trail-related rules.[9] Accordingly, in order to promote regulatory consistency, the Exchange plans to do the same. Specifically, application of a minor rule fine with respect to CAT Compliance Rules will be guided by the same factors that FINRA referenced in its filing. However, more formal disciplinary proceedings may be warranted instead of minor rule dispositions in certain circumstances such as where violations prevent regulatory users of the CAT from performing their regulatory functions. Where minor rule dispositions are appropriate, the following factors help guide the determination of fine amounts:

- Total number of reports that are not submitted or submitted late;
- The timeframe over which the violations occur;
- Whether violations are batched;
- Whether the violations are the result of the actions of one individual or the result of faulty systems or procedures;
- Whether the firm has taken remedial measures to correct the violations;
- Prior minor rule violations within the past 24 months;
- Collateral effects that the failure has on customers; and
- Collateral effects that the failure has on the Exchange's ability to perform its regulatory function.[10]

Upon effectiveness of this rule change, the Exchange will publish a regulatory bulletin notifying its member organizations of the rule change and the specific factors that will be considered in connection with assessing minor rule fines described above.

For the foregoing reasons, the Exchange believes that the proposed rule change will result in a coordinated, harmonized approach to CAT compliance rule enforcement across Plan Participants that will be consistent with the approach FINRA has taken with the CAT rules.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Section 6(b)(5),[12] 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 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.

Minor rule fines provide a meaningful sanction for minor or technical violations of rules when the conduct at issue does not warrant stronger, immediately reportable disciplinary sanctions. The inclusion of a rule in the Exchange's MRVP does not minimize the importance of compliance with the rule, nor does it preclude the Exchange from choosing to pursue violations of eligible rules through a Letter of Consent if the nature of the violations or prior disciplinary history warrants more significant sanctions. Rather, the Exchange believes that the proposed rule change will strengthen the Exchange's ability to carry out its oversight and enforcement responsibilities in cases where full disciplinary proceedings are unwarranted in view of the minor nature of the particular violation. Rather, the option to impose a minor rule sanction gives the Exchange additional flexibility to administer its enforcement program in the most effective and efficient manner while still fully meeting the Exchange's remedial objectives in addressing violative conduct. Specifically, the proposed rule change is designed to prevent fraudulent and manipulative acts and practices because it will provide the Exchange the ability to issue a minor rule fine for violations of the CAT Compliance Rules under Chapter XVII where a more formal disciplinary action may not be warranted or appropriate consistent with the approach of other Plan Participants for the same conduct.

In connection with the fine level specified in the proposed rule change, adding language that minor rule fines for violations of the CAT Compliance Rules under Chapter XVII shall not exceed $2,500 would further the goal of transparency and add clarity to the Exchange's rules. Adopting the same cap as FINRA for minor rule fines in connection with the CAT Compliance Rules would also promote regulatory consistency across self-regulatory organizations.

The Exchange further believes that the proposed amendments to Rule 1014 are consistent with Section 6(b)(6) of the Act,[13] which provides that members and persons associated with members shall be appropriately disciplined for violation of the provisions of the rules of the exchange, by expulsion, suspension, limitation of activities, functions, and operations, fine, censure, being suspended or barred from being associated with a member, or any other fitting sanction. As noted, the proposed rule change would provide the Exchange ability to sanction minor or technical violations of Chapter XVII pursuant to the Exchange's rules.

Finally, the Exchange also believes that the proposed changes are designed to provide a fair procedure for the disciplining of members and persons associated with members, consistent with Sections 6(b)(7) and 6(d) of the Act.[14] Rule 1014 does not preclude a member or a person associated with or employed by a member from contesting an alleged violation and receiving a hearing on the matter with the same procedural rights through a litigated disciplinary proceeding.

B. Self-Regulatory Organization's Statement on Burden on Competition

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 rule change is not intended to address competitive issues but rather is concerned solely with making the CAT Compliance Rules under Chapter XVII eligible for a minor rule fine disposition, thereby strengthening the Exchange's ability to carry out its oversight and enforcement functions and deter potential violative conduct.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Solicitation of Comments on the Proposed Rule Change, as Modified by Amendment No. 1

Interested persons are invited to submit written data, views, and arguments concerning the foregoing,

[9] *See* SR–FINRA–2020–013; *see also* FINRA Notice to Members 04–19 (March 2004) (providing specific factors used to inform dispositions for violations of OATS reporting rules).

[10] *See id.*

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78f(b)(6).

[14] 15 U.S.C. 78f(b)(7) and 78f(d).

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–PEARL–2020–07 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–PEARL–2020–07. 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–PEARL–2020–07 and should be submitted on or before July 23, 2020.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1 [15]

The Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[16] In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act,[17] which requires that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission also believes that the proposal, as modified by Amendment No. 1, is consistent with Sections 6(b)(1) and 6(b)(6) of the Act [18] which require that the rules of an exchange enforce compliance with, and provide appropriate discipline for, violations of Commission and Exchange rules. Finally, the Commission finds that the proposal, as modified by Amendment No.1, is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act, as required by Rule 19d-1(c)(2) under the Act,[19] which governs minor rule violation plans.

As stated above, the Exchange proposes to add the CAT Compliance Rules to the list of minor rule violations in Rule 1014 to be consistent with the approach FINRA has taken for minor violations of its corresponding CAT Compliance Rules.[20] The Commission has already approved FINRA's treatment of CAT Compliance Rules violations when it approved the addition of CAT Compliance Rules to FINRA's MRVP.[21] As noted in that order, and similarly herein, the Commission believes that Exchange's treatment of CAT Compliance Rules violations as part of its MRVP provides a reasonable means of addressing violations that do not rise to the level of requiring formal disciplinary proceedings, while providing greater flexibility in handling certain violations. However, the Commission expects that, as with FINRA, the Exchange will continue to conduct surveillance with due diligence and make determinations based on its findings, on a case-by-case basis, regarding whether a sanction under the rule is appropriate, or whether a violation requires formal disciplinary action. Accordingly, the Commission believes the proposal, as modified by Amendment No. 1, raises no novel or significant issues.

For the same reasons discussed above, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[22] for approving the proposed rule change, as modified by Amendment No. 1, prior to the thirtieth day after the date of publication of the notice of the filing thereof in the **Federal Register**. The proposal merely adds the CAT Compliance Rules to the Exchange's MRVP and harmonizes its application with FINRA's application of CAT Compliance Rules under its own MRVP. Accordingly, the Commission believes that a full notice-and-comment period is not necessary before approving the proposal, as modified by Amendment No. 1.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act [23] and Rule 19d-1(c)(2) thereunder,[24] that the proposed rule change (SR–PEARL–2020–07), as modified by Amendment No. 1, be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–14233 Filed 7–1–20; 8:45 am]

BILLING CODE 8011–01–P

[15] 17 CFR 200.30–3(a)(12).

[16] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[17] 15 U.S.C. 78f(b)(5).

[18] 15 U.S.C. 78f(b)(1) and 78f(b)(6).

[19] 17 CFR 240.19d–1(c)(2).

[20] As discussed above, the Exchange has entered into a Rule 17d–2 Plan and an RSA with FINRA with respect to the CAT Compliance Rules. The Commission notes that, unless relieved by the Commission of its responsibility, as may be the case under the Rule 17d–2 Plan, the Exchange continues to bear the responsibility for self-regulatory conduct and liability for self-regulatory failures, not the self-regulatory organization retained to perform regulatory functions on the Exchange's behalf pursuant to an RSA. *See* Securities Exchange Release No. 61419 (January 26, 2010), 75 FR 5157 (February 1, 2010) (SR–BATS–2009–031), note 93 and accompanying text.

[21] *See supra* note 3.

[22] 15 U.S.C. 78s(b)(2).

[23] 15 U.S.C. 78s(b)(2).

[24] 17 CFR 240.19d–1(c)(2).

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89163; File No. SR–MRX–2020–13]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Options 3, Section 3 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

June 26, 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 23, 2020, Nasdaq MRX, LLC (the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Options 3, Section 3 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'').

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqmrx.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

The purpose of this rule change is to amend Options 3, Section 3 (Minimum Trading Increments) 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 initiated at the then existing option exchanges in January 2007[5] and was expanded and extended numerous times over the last 13 years.[6] In each instance, 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.[7]

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.[8] On April 1, 2020 the Commission approved the amendment to the OLPP to make permanent the Pilot Program (the ''OLPP Program'').[9]

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 the current rule text in Supplementary Material.01 to Options 3, Section 3 (the ''Penny Pilot Rule''), and replace it with the requirements for the proposed Penny Interval Program from the OLPP Program, which is described below, and to replace references to the ''Penny Pilot'' in several Exchange rules with ''Penny Interval Program.''

The Exchange also proposes to amend Options 3, Section 3 to adopt new subparagraphs (a)(3)(A)–(C) to conform the Exchange's rules regarding the minimum price variations for options in the proposed Penny Interval Program with similar rules of other options exchanges.[10] Specifically, the Exchange proposes to provide in new subparagraphs (a)(3)(A)–(C) that for options series traded pursuant to the

[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. 55154 (January 23, 2007), 72 FR 4743 (February 1, 2007) (SR–CBOE–2006–92); 55161 (January 24, 2007), 72 FR 4754 (February 1, 2007) (SR–ISE–2006–62); 54886 (December 6, 2006), 71 FR 74979 (December 13, 2006) (SR–Phlx–2006–74); 54590 (October 12, 2006), 71 FR 61525 (October 18, 2006) (SR–NYSEArca–2006–73); and 54741 (November 9, 2006), 71 FR 67176 (November 20, 2006) (SR–Amex–2006–106).

[6] The Penny Pilot was established on the Exchange in January 2016 as part of the Exchange's Form 1 application for registration as a national securities exchange, and was last extended in December 2019. *See* Securities Exchange Act Release Nos. 76998 (January 29, 2016), 81 FR 6066 (February 4, 2016) (File No. 10–221); and 87766 (December 16, 2019), 84 FR 70214 (December 20, 2019) (SR–MRX–2019–26).

[7] See Securities Exchange Act Release No. 87766 (December 16, 2019), 84 FR 70214 (December 20, 2019) (SR–MRX–2019–26).

[8] *See* Securities Exchange Act Release No. 87681 (December 9, 2019), 84 FR 68960 (December 17, 2019) (''Notice'').

[9] *See* Securities Exchange Act Release No. 88532 (April 1, 2020), 85 FR 19545 (April 7, 2020) (File No. 4–443) (''Approval Order'').

[10] *See e.g.,* NYSE Arca Rule 6.72–O; and Nasdaq Options Market Supplementary Material .01 to Options 3, Section 3.

proposed Penny Interval Program as described in Supplementary Material .01 to Options 3, Section 3, the following minimum quoting increments will apply: (A) One cent ($0.01) for all options contracts in QQQ, SPY, and IWM; (B) one cent ($0.01) for all other options contracts included in the Penny Interval Program that are trading at less than $3.00; and (C) five cents ($0.05) for all other options contracts included in the Penny Interval Program that are trading at or above $3.00. The Exchange notes that the Commission previously approved minimum quoting increments of one cent ($0.01) for all options contracts in QQQ, IWM, and SPY, regardless of price, over the course of the expansion of the Penny Pilot rules.[11] Accordingly, the Exchange proposes to align its rules regarding minimum price variations for options contracts in the Penny Interval Program with other options exchanges.

The Exchange also proposes to delete obsolete and superfluous language in Options 3, Section 3(a) regarding amendments to the minimum increments that may be established by the Board and designated as a stated policy, practice or interpretation within the meaning of the Act, and the process for such amendments by rule filing.[12] Today, the Exchange may determine to establish a change to the minimum increments within its Rules and must submit proposed rule changes for such amendments to the Commission.[13] Accordingly, Options 3, Section 3(a), as amended, will simply provide that the following minimum quoting increments (as enumerated within Options 3, Section 3(a)) shall apply to options contracts traded on the Exchange.

Penny Interval Program

The Exchange proposes to codify the OLPP Program in Supplementary Material .01 to Options 3, Section (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''), as set forth in proposed subparagraphs (a)(3)(A)–(C) of Options 3, Section 3. The penny increments that currently apply under the Penny Pilot[14] will continue to apply for options classes included in the Penny Program.[15]

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 membership via Options Trader Alert 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 every 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.

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. 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 Options 3, Section 3, 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 Penny 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

[11] *See* Securities Exchange Act Release Nos. 55156 (January 23, 2007), 72 FR 4759 (February 1, 2007) (SR–NYSEArca-2006–73) (Order Granting Approval to Proposed rule Change as Modified by Amendment No. 1 Thereto, To Create an Options Penny Pilot Program); 61061 (November 24, 2009), 74 FR 62857 (December 1, 2009) (SRNYSEArca–2009–44) (Order Granting Partial Approval of a Proposed Rule Change, as Modified by Amendment No. 4 Thereto, Expanding the Penny Pilot Program).

[12] *See* Options 3, Section 3(a), which specifically provides: ''The Board may establish minimum trading increments for options traded on the Exchange. Such changes by the Board will be designated as a stated policy, practice, or interpretation with respect to the administration of this Rule within the meaning of paragraph (3)(A) of Section 19(b) of the Exchange Act and will be filed with the SEC as a rule change for effectiveness upon filing.''

[13] Decisions to change the minimum increments relate to Exchange trading and operations, and thus are made by Exchange management via delegated authority from the Board, rather than the Board itself, which is generally not involved in determinations related to day-to-day operations of the Exchange.

[14] *See supra* notes 10 and 11, with accompanying text.

[15] *See* proposed subparagraphs (a)(3)(A)–(C) of Options 3, Section 3.

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.[16] 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 references to the Penny Pilot with references to the Penny Interval Program in Options 3, Section 8(a)(7) and in Options 3, Section 15(a)(2)(A)(iv). The Exchange believes these technical changes would add clarity, transparency, and internal consistency to the Exchange's rules, making them easier for market participants 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 that its proposal is consistent with Section 6(b) of the Act,[17] in general, and furthers the objectives of Section 6(b)(5) of the Act,[18] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

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 maintenance of a fair and orderly market.

The Exchange notes that the proposed changes to Options 3, Section 8(a)(7) and Options 3, Section 15(a)(2)(A)(iv) to replace references to the Penny Pilot with references to the Penny Interval Program would provide clarity and transparency to the Exchange's rules, 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's 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 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 it 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

No written comments were either solicited or received.

[16] 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.

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(5).

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 Section 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 on July 1, 2020.[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–MRX–2020–13 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–MRX–2020–13. 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–MRX–2020–13 and should be submitted on or before July 23, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–14230 Filed 7–1–20; 8:45 am]

BILLING CODE 8011–01–P

[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).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89169; File No. SR–BX–2020–013]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Options 3, Section 3 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

June 26, 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 23, 2020, Nasdaq BX, Inc. (the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Options 3, Section 3 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'').

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqbx.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

[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).

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 Options 3, Section 3 (Minimum Increments) 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 initiated at the then existing option exchanges in January 2007 [5] and was expanded and extended numerous times over the last 13 years.[6] In each instance, 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.[7]

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.[8] On April 1, 2020 the Commission approved the amendment to the OLPP to make permanent the Pilot Program (the ''OLPP Program'').[9]

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 the current rule text in Supplementary Material.01 to Options 3, Section 3 (the ''Penny Pilot Rule''), and replace it with the requirements for the proposed Penny Interval Program from the OLPP Program, which is described below. The Exchange also proposes to relocate the Exchange's rules regarding the minimum price variations for options in the proposed Penny Interval Program, which are currently within Supplementary Material .01 to Options 3, Section 3, into new subparagraphs (a)(3)(A)–(C) of Options 3, Section 3. Specifically, the Exchange proposes to provide in new subparagraphs (a)(3)(A)–(C) that for options series traded pursuant to the proposed Penny Interval Program as described in Supplementary Material .01 to Options 3, Section 3, the following minimum quoting increments will apply: (A) One cent ($0.01) for all options series in QQQ, SPY, and IWM; (B) one cent ($0.01) for all other options series included in the Penny Interval Program that are trading at less than $3.00; and (C) five cents ($0.05) for all other options series included in the Penny Interval Program that are trading at or above $3.00.

The Exchange also proposes to delete obsolete and superfluous language in Options 3, Section 3(a) regarding amendments to the minimum increments that may be established by the Board and designated as a stated policy, practice or interpretation within the meaning of the Act, and the process for such amendments by rule filing.[10] Today, the Exchange may determine to establish a change to the minimum increments within its Rules and must submit proposed rule changes for such amendments to the Commission.[11] Accordingly, Options 3, Section 3(a), as amended, will simply provide that the following minimum quoting increments (as enumerated within Options 3, Section 3(a)) shall apply to options contracts traded on the Exchange.

Penny Interval Program

The Exchange proposes to codify the OLPP Program in Supplementary Material .01 to Options 3, Section (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''), as set forth in proposed subparagraphs (a)(3)(A)–(C) of Options 3, Section 3. As discussed above, the penny increments that currently apply under the Penny Pilot [12] will continue to apply for options classes included in the Penny Program.[13]

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

[5] *See* Securities Exchange Act Release Nos. 55154 (January 23, 2007), 72 FR 4743 (February 1, 2007) (SR–CBOE–2006–92); 55161 (January 24, 2007), 72 FR 4754 (February 1, 2007) (SR–ISE–2006–62); 54886 (December 6, 2006), 71 FR 74979 (December 13, 2006) (SR–Phlx–2006–74); 54590 (October 12, 2006), 71 FR 61525 (October 18, 2006) (SR–NYSEArca–2006–73); and 54741 (November 9, 2006), 71 FR 67176 (November 20, 2006) (SR–Amex–2006–106).

[6] The Penny Pilot was established on the Exchange in June 2012 and was last extended in December 2019. *See* Securities Exchange Act Release Nos. 67256 (June 26, 2012), 77 FR 39277 (July 2, 2012) (SR–BX–2012–030); and 87754 (December 16, 2019), 84 FR 70232 (December 20, 2019) (SR–BX–2019–046).

[7] *See* Securities Exchange Act Release No. 87754 (December 16, 2019), 84 FR 70232 (December 20, 2019) (SR–BX–2019–046).

[8] *See* Securities Exchange Act Release No. 87681 (December 9, 2019), 84 FR 68960 (December 17, 2019) (''Notice'').

[9] *See* Securities Exchange Act Release No. 88532 (April 1, 2020), 85 FR 19545 (April 7, 2020) (File No. 4–443) (''Approval Order'').

[10] *See* Options 3, Section 3(a), which specifically provides: ''The Board may establish minimum quoting increments for options contracts traded on BX Options. Such minimum increments established by the Board will be designated as a stated policy, practice, or interpretation with respect to the administration of this Rule within the meaning of Section 19 of the Exchange Act and will be filed with the SEC as a rule change for effectiveness upon filing.''

[11] Decisions to change the minimum increments relate to Exchange trading and operations, and thus are made by Exchange management via delegated authority from the Board, rather than the Board itself, which is generally not involved in determinations related to day-to-day operations of the Exchange.

[12] *See* Supplementary Material .01 to Options 3, Section 3.

[13] *See* proposed subparagraphs (a)(3)(A)–(C) of Options 3, Section 3.

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 membership via Options Trader Alert 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 every 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.

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. 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 Options 3, Section 3, 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 Penny 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.

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 that its proposal is consistent with Section 6(b) of the Act,[15] in general, and furthers the objectives of Section 6(b)(5) of the Act,[16] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

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

[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).

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 maintenance of a fair and orderly market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed 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 it 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

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [17] and Rule 19b–4(f)(6) [18] 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 on July 1, 2020.[19]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings 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–BX–2020–013 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2020–013. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of 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–BX–2020–013 and should be submitted on or before July 23, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–14236 Filed 7–1–20; 8:45 am]

BILLING CODE 8011–01–P

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 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.

[19] 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).

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89167; File No. SR–NASDAQ–2020–036]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Options 3, Section 3 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

June 26, 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 23, 2020, The Nasdaq Stock Market LLC (the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Options 3, Section 3 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'').

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

The purpose of this rule change is to amend Options 3, Section 3 (Minimum Increments) 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 initiated at the then existing option exchanges in January 2007[5] and was expanded and extended numerous times over the last 13 years.[6] In each instance, 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.[7]

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.[8] On April 1, 2020 the Commission approved the amendment to the OLPP to make permanent the Pilot Program (the ''OLPP Program'').[9]

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 the current rule text in Supplementary Material.01 to Options 3, Section 3 (the ''Penny Pilot Rule''), and replace it with the requirements for the proposed Penny Interval Program from the OLPP Program, which is described below. The Exchange also proposes to relocate the Exchange's rules regarding the minimum price variations for options in the proposed Penny Interval Program, which are currently within Supplementary Material .01 to Options 3, Section 3, into new subparagraphs (a)(3)(A)—(C) of Options 3, Section 3. Specifically, the Exchange proposes to provide in new subparagraphs (a)(3)(A)—(C) that for options series traded pursuant to the proposed Penny Interval Program as described in Supplementary Material .01 to Options 3, Section 3, the following minimum quoting increments will apply: (A) One cent ($0.01) for all options series in QQQ, SPY, and IWM; (B) one cent ($0.01) for all other options series included in the Penny Interval Program that are trading at less than $3.00; and (C) five cents ($0.05) for all

[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. 55154 (January 23, 2007), 72 FR 4743 (February 1, 2007) (SR–CBOE–2006–92); 55161 (January 24, 2007), 72 FR 4754 (February 1, 2007) (SR–ISE–2006–62); 54886 (December 6, 2006), 71 FR 74979 (December 13, 2006) (SR–Phlx–2006–74); 54590 (October 12, 2006), 71 FR 61525 (October 18, 2006) (SR–NYSEArca-2006–73); and 54741 (November 9, 2006), 71 FR 67176 (November 20, 2006) (SR–Amex–2006–106).

[6] The Penny Pilot was established on the Exchange in March 2008 and was last extended in December 2019. *See* Securities Exchange Act Release Nos. 57579 (March 28, 2008), 73 FR 18587 (April 4, 2008) (SR–NASDAQ–2008–026); and 87831 (December 20, 2019), 84 FR 72013 (December 30, 2019) (SR–NASDAQ–2019–100).

[7] *See* Securities Exchange Act Release No. 87831 (December 20, 2019), 84 FR 72013 (December 30, 2019) (SR–NASDAQ–2019–100).

[8] *See* Securities Exchange Act Release No. 87681 (December 9, 2019), 84 FR 68960 (December 17, 2019) (''Notice'').

[9] *See* Securities Exchange Act Release No. 88532 (April 1, 2020), 85 FR 19545 (April 7, 2020) (File No. 4–443) (''Approval Order'').

other options series included in the Penny Interval Program that are trading at or above $3.00.

The Exchange also proposes to delete obsolete and superfluous language in Options 3, Section 3(a) regarding amendments to the minimum increments that may be established by the Board and designated as a stated policy, practice or interpretation within the meaning of the Act, and the process for such amendments by rule filing.[10] Today, the Exchange may determine to establish a change to the minimum increments within its Rules and must submit proposed rule changes for such amendments to the Commission.[11] Accordingly, Options 3, Section 3(a), as amended, will simply provide that the following minimum quoting increments (as enumerated within Options 3, Section 3(a)) shall apply to options contracts traded on the Exchange.

Penny Interval Program

The Exchange proposes to codify the OLPP Program in Supplementary Material .01 to Options 3, Section (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''), as set forth in proposed subparagraphs (a)(3)(A)—(C) of Options 3, Section 3. As discussed above, the penny increments that currently apply under the Penny Pilot[12] will continue to apply for options classes included in the Penny Program.[13]

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 membership via Options Trader Alert 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 every 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.

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. 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 Options 3, Section 3, 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 Penny 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

[10] *See* Options 3, Section 3(a), which specifically provides: ''The Board may establish minimum quoting increments for options contracts traded on NOM. Such minimum increments established by the Board will be designated as a stated policy, practice, or interpretation with respect to the administration of this Rule within the meaning of Section 19 of the Exchange Act and will be filed with the SEC as a rule change for effectiveness upon filing.''

[11] Decisions to change the minimum increments relate to Exchange trading and operations, and thus are made by Exchange management via delegated authority from the Board, rather than the Board itself, which is generally not involved in determinations related to day-to-day operations of the Exchange.

[12] *See* Supplementary Material .01 to Options 3, Section 3.

[13] *See* proposed subparagraphs (a)(3)(A)—(C) of Options 3, Section 3.

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.

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 that its proposal is consistent with Section 6(b) of the Act,[15] in general, and furthers the objectives of Section 6(b)(5) of the Act,[16] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

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 maintenance of a fair and orderly market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed 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 it 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

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[17] and Rule 19b–4(f)(6)[18] 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 on July 1, 2020.[19]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings 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,

[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] 15 U.S.C. 78s(b)(3)(A).

[18] 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.

[19] 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).

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–2020–036 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–2020–036. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2020–036 and should be submitted on or before July 23, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–14234 Filed 7–1–20; 8:45 am]

BILLING CODE 8011–01–P

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89168; File No. SR–Phlx–2020–32]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Options 3, Section 3 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

June 26, 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 23, 2020, Nasdaq PHLX LLC (the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Options 3, Section 3 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'').

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqphlx.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

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 Options 3, Section 3 (Minimum Increments) 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, 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

[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] The Penny Pilot was established on the Exchange in December 2006 and was last extended in December 2019. *See* Securities Exchange Act Release Nos. 54886 (December 6, 2006), 71 FR 74979 (December 13, 2006) (SR–Phlx–2006–74); and 87748 (December 13, 2019), 84 FR 69803 (December 19, 2019) (SR–Phlx–2019–55).

[6] *See* Securities Exchange Act Release No. 87748 (December 13, 2019), 84 FR 69803 (December 19, 2019) (SR–Phlx–2019–55).

[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'').

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 the current rule text in Supplementary Material.01 to Options 3, Section 3 (the ''Penny Pilot Rule''), and replace it with the requirements for the proposed Penny Interval Program from the OLPP Program, which is described below, and to replace references to the ''Penny Pilot'' in several Exchange rules with ''Penny Interval Program.''

The Exchange also proposes to delete obsolete and superfluous language in Options 3, Section 3(a)(1) regarding amendments to the minimum increments that may be established by the Board and designated as a stated policy, practice or interpretation within the meaning of the Act, and the process for such amendments by rule filing.[9] Today, the Exchange may determine to establish a change to the minimum increments within its Rules and must submit proposed rule changes for such amendments to the Commission.[10] In connection with the foregoing change, the Exchange also proposes to renumber current subparagraphs (a)(2) and (3) in Options 3, Section 3 as subparagraphs (a)(1) and (2).

Penny Interval Program

The Exchange proposes to codify the OLPP Program in Supplementary Material .01 to Options 3, Section (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''), as set forth in Supplementary Material .01 to Options 3, Section 3. The penny increments that currently apply under the Penny Pilot as set forth in existing Supplementary Material .01 to Options 3, Section 3 will continue to apply for options classes included in the Penny Program. Specifically, new subparagraphs (a)(1)–(3) in Supplementary Material .01 to Options 3, Section 3 will state that for options contracts traded pursuant to the Penny Program as described within Supplementary Material .01 to Options 3, Section 3, the following minimum increments will apply: (1) One cent ($0.01) for all options contracts in QQQ, SPY, and IWM; (2) one cent ($0.01) for all other options contracts included in the Penny Interval Program that are trading at less than $3.00; and (3) five cents ($0.05) for all other options contracts included in the Penny Interval Program that are trading at or above $3.00.

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 membership via Options Trader Alert 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 every 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.

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. 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 Options 3, Section 3, 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 Penny 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

[9] *See* Options 3, Section 3(a)(1), which specifically provides: ''However, the Board of Directors may establish different minimum trading increments. The Exchange will designate any such change as a stated policy, practice or interpretation with respect to the administration of this Rule, within the meaning of Section 19(b)(3)(A) of the Exchange Act and will file a proposed rule change with the Securities and Exchange Commission to be effective upon filing.''

[10] Decisions to change the minimum increments relate to Exchange trading and operations, and thus are made by Exchange management via delegated authority from the Board, rather than the Board itself, which is generally not involved in determinations related to day-to-day operations of the Exchange.

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.[11] 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 references to the Penny Pilot with references to the Penny Interval Program in Options 3, Section 8(a)(viii) and in Options 8, Section 33(d)(2). The Exchange also proposes to replace the obsolete reference to ''Commentary'' with ''Supplementary Material to Options 3, Section 3'' in Options 3, Section 3. Further, the Exchange proposes in Options 3, Section 3(a)(3) to replace ''minimum changes'' with ''minimum trading increments'' for greater consistency within the Rule. Lastly, the Exchange proposes to remove the stray punctuation at the end of the Supplementary Material to Options 3, Section 3 header.

The Exchange believes these technical changes would add clarity, transparency, and internal consistency to the Exchange's rules, making them easier for market participants 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 that its proposal is consistent with Section 6(b) of the Act,[12] in general, and furthers the objectives of Section 6(b)(5) of the Act,[13] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to 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.

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 maintenance of a fair and orderly market.

The Exchange notes that the proposed technical changes in Options 3, Section 3, Options 3, Section 8(a)(viii), and Options 8, Section 33(d)(2) would provide clarity and transparency to the Exchange's rules, 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's 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 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

[11] 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.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

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 it 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

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [14] and Rule 19b–4(f)(6) [15] 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 on July 1, 2020.[16]

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–Phlx–2020–32 on the subject line

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2020–32. 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–Phlx–2020–32 and should be submitted on or before July 23, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–14235 Filed 7–1–20; 8:45 am]

BILLING CODE 8011–01–P

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 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.

[16] 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).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89165; File No. SR–IEX–2019–15]

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Designation of Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Add a New Discretionary Limit Order Type Called D-Limit

June 26, 2020.

On December 16, 2019, the Investors Exchange LLC (''IEX'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'') [1] and Rule 19b–44 thereunder,[2] a proposed rule change to adopt a new order type, the Discretionary Limit order (''D-Limit''). The proposed rule change was published for comment in the **Federal Register** on December 30, 2019.[3] On February 12, 2020, the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–44.

[3] *See* Securities Exchange Act Release No. 87814 (December 20, 2019), 84 FR 71997 (December 30, 2019) (''Notice''). Comments on the proposed rule change can be found at *https://www.sec.gov/comments/sr-iex-2019-15/sriex201915.htm.*

rule change.[4] On March 27, 2020, the Commission instituted proceedings to determine whether to approve or disapprove the proposed rule change.[5]

Section 19(b)(2) of the Act[6] provides that, after initiating proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for notice and comment in the **Federal Register** on December 30, 2019.[7] June 27, 2020 is 180 days from that date, and August 26, 2020 is 240 days from that date.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the proposed rule change, the issues raised in the comment letters that have been submitted in connection therewith, and the Exchange's response to comments. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[8] designates August 26, 2020 as the date by which the Commission should either approve or disapprove the proposed rule change (File No. SR–IEX–2019–15).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–14232 Filed 7–1–20; 8:45 am]

BILLING CODE 8011–01–P

[4] *See* Securities Exchange Act Release No. 88186 (February 12, 2020), 85 FR 9513 (February 19, 2020).

[5] *See* Securities Exchange Act Release No. 88501 (March 27, 2020), 85 FR 18612 (April 2, 2020). Comments in response to the proceedings can be found at *https://www.sec.gov/comments/sr-iex-2019-15/sriex201915.htm.*

[6] 15 U.S.C. 78s(b)(2).

[7] *See* Notice, *supra* note 3.

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(57).

SECURITIES EXCHANGE ACT OF 1934

[Release No. 34–89170]

Order Under Section 17a and Section 36 of The Securities Exchange Act of 1934 Extending Temporary Exemptions From Specified Provisions of The Exchange Act and Certain Rules Thereunder

June 26, 2020.

On March 20, 2020, the Securities and Exchange Commission (''Commission'') issued an order pursuant to its authority under Sections 36 and 17A(c)(1) of the Exchange Act that granted transfer agents (and other persons with regard to Exchange Act section 17(f)(2) and Rule 17f–2 thereunder) the following temporary exemptions: (1) Transfer agents from the requirements of Sections 17A and 17(f)(1) of the Exchange Act, as well as Rules 17Ad–1 through 17Ad–11, 17Ad–13 through 17Ad–20, and 17f–1 thereunder; and (2) transfer agents and other persons subject to such requirements, from the requirements of Section 17(f)(2) of the Exchange Act and Rule 17f–2 thereunder (collectively, the ''Exemptions'').[1] The Exemptions were granted in light of the challenges that may be presented by COVID–19 and originally were scheduled to expire on May 30, 2020. On May 27, 2020, the Commission issued an order extending the Exemptions until June 30, 2020.[2]

The Commission understands that COVID–19 may continue to present challenges for transfer agents and other persons in timely meeting certain of their obligations under the federal securities laws. For this reason and the reasons stated in the Order originally granting the Exemptions, the Commission finds that extending the Exemptions pursuant to its authority under Sections 36 and 17A(c)(1) of the Exchange Act, is appropriate in the public interest and consistent with the protection of investors.

Accordingly, *it is ordered*, pursuant to Sections 17A and 36 of the Exchange Act, that the time period for the Exemptions specified in the Order is hereby extended to the date to be specified in a public notice from Commission staff specifying the date on which the Exemptions will terminate. Such date shall be at least two weeks from the date of the Commission staff public notice. Transfer agents and other persons seeking to avail themselves of this relief must satisfy the conditions below.

Conditions

(a) A registrant or other person relying on the Order must provide written notification to the Commission within two weeks of relying on the Order of the following:[3]

(1) The registrant or other person is relying on the Order;

(2) A description of the specific Exempted Provisions, as defined in the Order, the registrant or other person is unable to comply with and a statement of the reasons why, in good faith, the registrant or other person is unable to comply with such Exempted Provisions; and

(3) If a transfer agent knows or believes that it has been unable to maintain the books and records it is required to maintain pursuant to Section 17A and the rules thereunder, a complete and accurate description of the type of books and records that were not maintained, the names of the issuers for whom such books and records were not maintained, the extent of the failure to maintain such books and records, and the steps taken to ameliorate any such failure to maintain such books and records.

(b) As noted in the Order, the Exempted Provisions do not include, and neither the Order, the First Extension order, nor this extension of the Order provides relief from, Rule 17Ad–12 under the Exchange Act. Transfer agents affected by COVID–19 that have custody or possession of any security holder or issuer funds or securities shall continue to comply with the requirements of Rule 17Ad–12 under the Exchange Act. If a transfer agent's operations, facilities, or systems are significantly affected as a result of COVID–19 such that the transfer agent believes its compliance with Rule 17Ad–12 could be negatively affected, to the extent possible, all security holder or issuer funds that remain in the custody of the transfer agent should be maintained in a separate bank account held for the exclusive benefit of security holders until such funds are properly processed, transferred, or remitted.

The notification required under (a) above shall be emailed to: *tradingandmarkets@sec.gov.*

The Commission encourages registered transfer agents and the issuers for whom they act to inform affected security holders whom they should contact concerning their accounts, their access to funds or securities, and other

[1] *See* Securities Exchange Act Release No. 34–88488 (March 20, 2020), 85 FR 17122 (March 26, 2020) (''Order'').

[2] *See* Securities Exchange Act Release No. 34–88960 (May 27, 2020), 85 FR 33234 (June 1, 2020) (''First Extension Order'').

[3] A registrant or other person who is relying on the Order or the First Extension Order and has already provided a written notification to the Commission may rely on this extension without submitting another written notification solely with respect to the Exempted Provisions described in such prior written notification.

shareholder concerns. If feasible, issuers and their transfer agents should place a notice on their websites or provide toll free numbers to respond to inquiries.

The Commission is closely monitoring the impact of COVID–19 on investors, the securities markets, and market participants and may modify the relief provided by the Order, with any additional conditions the Commission deems appropriate, if the need for such modification arises. Transfer agents and other persons who are unable to meet a deadline as extended by this relief, or in need of additional assistance, should contact the Division of Trading and Markets at (202) 551–5777 or *tradingandmarkets@sec.gov.*

By the Commission.

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2020–14246 Filed 7–1–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89162; File No. SR–GEMX–2020–16]

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Options 3, Section 3 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

June 26, 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 23, 2020, Nasdaq GEMX, LLC (the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[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).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Options 3, Section 3 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'').

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqgemx.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

The purpose of this rule change is to amend Options 3, Section 3 (Minimum Trading Increments) 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 initiated at the then existing option exchanges in January 2007[5] and was expanded and extended numerous times over the last 13 years.[6] In each instance, 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.[7]

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.[8] On April 1, 2020 the Commission approved the amendment to the OLPP to make permanent the Pilot Program (the ''OLPP Program'').[9]

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

[5] *See* Securities Exchange Act Release Nos. 55154 (January 23, 2007), 72 FR 4743 (February 1, 2007) (SR–CBOE–2006–92); 55161 (January 24, 2007), 72 FR 4754 (February 1, 2007) (SR–ISE–2006–62); 54886 (December 6, 2006), 71 FR 74979 (December 13, 2006) (SR–Phlx–2006–74); 54590 (October 12, 2006), 71 FR 61525 (October 18, 2006) (SR–NYSEArca–2006–73); and 54741 (November 9, 2006), 71 FR 67176 (November 20, 2006) (SR-Amex–2006–106).

[6] The Penny Pilot was established on the Exchange in July 2013 as part of the Exchange's Form 1 application for registration as a national securities exchange, and was last extended in December 2019. *See* Securities Exchange Act Release Nos. 70050 (July 26, 2013), 78 FR 46622 (August 1, 2013) (File No. 10–209); and 87753 (December 16, 2019), 84 FR 70243 (December 20, 2019) (SR–GEMX–2019–19).

[7] *See* Securities Exchange Act Release No. 87753 (December 16, 2019), 84 FR 70243 (December 20, 2019) (SR–GEMX–2019–19).

[8] *See* Securities Exchange Act Release No. 87681 (December 9, 2019), 84 FR 68960 (December 17, 2019) (''Notice'').

[9] *See* Securities Exchange Act Release No. 88532 (April 1, 2020), 85 FR 19545 (April 7, 2020) (File No. 4–443) (''Approval Order'').

continue to trade pursuant to the OLPP Program until they expire.

To conform its Rules to the OLPP Program, the Exchange proposes to delete the current rule text in Supplementary Material.01 to Options 3, Section 3 (the ''Penny Pilot Rule''), and replace it with the requirements for the proposed Penny Interval Program from the OLPP Program, which is described below, and to replace references to the ''Penny Pilot'' in several Exchange rules with ''Penny Interval Program.''

The Exchange also proposes to amend Options 3, Section 3 to adopt new subparagraphs (a)(3)(A)–(C) to conform the Exchange's rules regarding the minimum price variations for options in the proposed Penny Interval Program with similar rules of other options exchanges.[10] Specifically, the Exchange proposes to provide in new subparagraphs (a)(3)(A)–(C) that for options series traded pursuant to the proposed Penny Interval Program as described in Supplementary Material .01 to Options 3, Section 3, the following minimum quoting increments will apply: (A) One cent ($0.01) for all options contracts in QQQ, SPY, and IWM; (B) one cent ($0.01) for all other options contracts included in the Penny Interval Program that are trading at less than $3.00; and (C) five cents ($0.05) for all other options contracts included in the Penny Interval Program that are trading at or above $3.00. The Exchange notes that the Commission previously approved minimum quoting increments of one cent ($0.01) for all options contracts in QQQ, IWM, and SPY, regardless of price, over the course of the expansion of the Penny Pilot rules.[11] Accordingly, the Exchange proposes to align its rules regarding minimum price variations for options contracts in the Penny Interval Program with other options exchanges.

The Exchange also proposes to delete obsolete and superfluous language in Options 3, Section 3(a) regarding amendments to the minimum increments that may be established by the Board and designated as a stated policy, practice or interpretation within the meaning of the Act, and the process for such amendments by rule filing.[12] Today, the Exchange may determine to establish a change to the minimum increments within its Rules and must submit proposed rule changes for such amendments to the Commission.[13] Accordingly, Options 3, Section 3(a), as amended, will simply provide that the following minimum quoting increments (as enumerated within Options 3, Section 3(a)) shall apply to options contracts traded on the Exchange.

Penny Interval Program

The Exchange proposes to codify the OLPP Program in Supplementary Material .01 to Options 3, Section (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''), as set forth in proposed subparagraphs (a)(3)(A)–(C) of Options 3, Section 3. The penny increments that currently apply under the Penny Pilot[14] will continue to apply for options classes included in the Penny Program.[15]

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 membership via Options Trader Alert 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 every 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.

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. 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 Options 3, Section 3, 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 Penny Program outside the annual review process in two circumstances. These provisions are

[10] *See e.g.,* NYSE Arca Rule 6.72–O; and Nasdaq Options Market Supplementary Material .01 to Options 3, Section 3.

[11] *See* Securities Exchange Act Release Nos. 55156 (January 23, 2007), 72 FR 4759 (February 1, 2007) (SR–NYSEArca–2006–73) (Order Granting Approval to Proposed rule Change as Modified by Amendment No. 1 Thereto, To Create an Options Penny Pilot Program); 61061 (November 24, 2009), 74 FR 62857 (December 1, 2009) (SRNYSEArca–2009–44) (Order Granting Partial Approval of a Proposed Rule Change, as Modified by Amendment No. 4 Thereto, Expanding the Penny Pilot Program).

[12] *See* Options 3, Section 3(a), which specifically provides: ''The Board may establish minimum trading increments for options traded on the Exchange. Such changes by the Board will be designated as a stated policy, practice, or interpretation with respect to the administration of this Rule within the meaning of paragraph (3)(A) of Section 19(b) of the Exchange Act and will be filed with the SEC as a rule change for effectiveness upon filing.''

[13] Decisions to change the minimum increments relate to Exchange trading and operations, and thus are made by Exchange management via delegated authority from the Board, rather than the Board itself, which is generally not involved in determinations related to day-to-day operations of the Exchange.

[14] *See supra* notes 10 and 11, with accompanying text.

[15] *See* proposed subparagraphs (a)(3)(A)–(C) of Options 3, Section 3.

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.[16] 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 references to the Penny Pilot with references to the Penny Interval Program in Options 3, Section 8(a)(7) and in Options 3, Section 15(a)(2)(A)(iv). The Exchange believes these technical changes would add clarity, transparency, and internal consistency to the Exchange's rules, making them easier for market participants 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 that its proposal is consistent with Section 6(b) of the Act,[17] in general, and furthers the objectives of Section 6(b)(5) of the Act,[18] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

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 maintenance of a fair and orderly market.

The Exchange notes that the proposed changes to Options 3, Section 8(a)(7) and Options 3, Section 15(a)(2)(A)(iv) to replace references to the Penny Pilot with references to the Penny Interval Program would provide clarity and transparency to the Exchange's rules, 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's 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 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

[16] 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.

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(5).

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 it 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

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 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 on July 1, 2020.[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–GEMX–2020–16 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–GEMX–2020–16. 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–GEMX–2020–16 and should be submitted on or before July 23, 2020 .

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–14229 Filed 7–1–20; 8:45 am]

BILLING CODE 8011–01–P

[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).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–89164; File No. SR–Phlx–2020–31]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify the Implementation Date of the Proposed Rule Change To Amend Exchange Rules 3301A and 3301B

June 26, 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 17, 2020, Nasdaq PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify the operative date of SR–Phlx–2020–15, which proposed to amend Exchange Rules 3301A and 3301B.

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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On March 26, 2020, the Exchange filed with the Commission a rule change to amend Exchange Rule 3301A and Rule 3301B to modify the behavior of Order Types and Order Attributes in certain situations.[3] The proposed rule change indicated that the implementation date of the modifications would be on or before the end of the Second Quarter of 2020.[4] The Exchange proposes to modify the operative date and delay the implementation of the modifications until on or before the end of the Third Quarter of 2020. The Exchange will announce the new implementation date by an Equity Trader Alert, which shall be issued prior to the implementation date.

Due to the recent market volatility resulting from the novel coronavirus pandemic, the Exchange has been adjusting its systems testing schedule and assessing any risks to the operation of its systems that could potentially be introduced by implementing new functionalities during this time. The extension would therefore provide the Exchange with flexibility and additional time to adjust its systems testing schedule, and to develop and test the new functionalities, to safeguard against any such risk. Furthermore, the extension would allow the Exchange to implement the Order Type and Order Attribute modifications after the Russell Rebalance, a significant market event occurring in June 2020, and for which the Exchange will reduce the number of changes to its systems. The Exchange has historically limited rolling out new functionality before the Russell Rebalance to mitigate the operational risk of introducing technology changes before this significant market event.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Section 6(b)(5) of the Act,[6] 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 providing the Exchange additional time to implement SR–Phlx–2020–15. As discussed above, the proposed delay is in recognition of both the recent market volatility and upcoming annual Russell Rebalance in June 2020. The Exchange believes that the extension would therefore allow the Exchange to mitigate any potential risks to the market and the operation of its systems by limiting the implementation of new functionality until after the Russell Rebalance, which, in turn, protects investors and the public interest.

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 implementation of SR–Phlx–2020–15 does not impose an undue burden on competition. Delaying the implementation will simply allow the Exchange additional time to properly plan and implement SR–Phlx–2020–15.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[9] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[10] 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 requested that the Commission waive the 30-day operative delay. The Exchange states that the proposed implementation delay is in recognition of both the recent market volatility and upcoming annual Russell Rebalance in June 2020, and would allow the Exchange to mitigate any potential risks to the market and the operation of its systems by limiting the implementation of new functionality until after the Russell Rebalance. According to the Exchange, waiver of the operative delay would allow the Exchange to provide prior notice of the implementation delay by July 1, 2020. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.[11]

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–Phlx–2020–31 on the subject line.

[3] *See* Securities Exchange Act Release No. 88583 (April 7, 2020), 85 FR 20533 (April 13, 2020) (SR–Phlx–2020–15).

[4] *See id.* at 20540.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6)(iii).

[11] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2020–31. 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–Phlx–2020–31, and should be submitted on or before July 23, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–14231 Filed 7–1–20; 8:45 am]

BILLING CODE 8011–01–P

[12] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[License No. 04/04–0314]

KLH Capital Fund II, L.P.; Surrender of Small Business Investment Company License

Pursuant to the authority granted to the United States Small Business Administration under the Small Business Investment Act of 1958, as amended, under Section 309 of the Act and § 107.1900 of the Small Business Administration Rules and Regulations (13 CFR 107.1900) to function as a small business investment company under the Small Business Investment Company *License No. 04/04–0303* issued to *KLH Capital Fund II, L.P.* said license is hereby declared null and void.

United States Small Business Administration.

Christopher L. Weaver,

Acting Associate Administrator, Office of Investment and Innovation.

[FR Doc. 2020–14293 Filed 7–1–20; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

[License No. 03/33–0268]

Renovus Capital Partners II, L.P.; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that *Renovus Capital Partners II, L.P., 460 E. Swedesford Road, Suite 2050, Wayne, PA 19087*, a Federal Licensee under the Small Business Investment Act of 1958, as amended (''the Act''), in connection with the financing of a small concern, has sought an exemption under Section 312 of the Act and Section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration (''SBA'') Rules and Regulations (13 CFR 107.730). *Renovus Capital Partners L.P* and *Renovus Capital Partners II, L.P.* provide equity financing to *RCP Education I, LLC d/b/a Great Lakes Institute of Technology*, 5100 Peach Street, Erie Pennsylvania 16509.

The financing is brought within the purview of § 107.730(a)(1) of the Regulations because Renovus Capital Partners, L.P., an Associate of *Renovus Capital Partners II, L.P.*, owns more than ten percent of *RCP Education I, LLC d/b/a Great Lakes Institute of Technology* and therefore this transaction is considered *Financing an Associate* requiring prior SBA written exemption.

Therefore, this transaction is considered financing an Associate, requiring a prior SBA exemption. Notice is hereby given that any interested person may submit written comments on the transaction, within fifteen days of the date of this publication, to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street SW, Washington, DC 20416.

Christopher L. Weaver,

Acting Associate Administrator, Office of Investment and Innovation.

[FR Doc. 2020–14288 Filed 7–1–20; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

[License No. 02/02–0688]

Willow Tree Credit Partners SBIC, L.P.; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that *Willow Tree Credit Partners SBIC, L.P., 640 Fifth Avenue, New York, NY 10019*, a Federal Licensee under the Small Business Investment Act of 1958, as amended (''the Act''), in connection with the financing of a small concern, has sought an exemption under Section 312 of the Act and Section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration (''SBA'') Rules and Regulations (13 CFR 107.730). *Willow Tree Credit Partners SBIC, L.P.* proposes to provide incremental term loan financing to *United Veterinary Care Blocker, Inc.,* 601 Heritage Drive, Jupiter, FL, (''UVCB'').

The financing is brought within the purview of § 107.730(a) and (d) of the Regulations because Willow Tree Fund I, L.P. and WT Fund I (Offshore) Intermediate, L.P., Associates of *Willow Tree Credit Partners SBIC, L.P.,* own more than ten percent of UVCB, and therefore this transaction is considered a financing of an Associate requiring prior SBA approval.

Notice is hereby given that any interested person may submit written comments on the transaction, within fifteen days of the date of this publication, to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street SW, Washington, DC 20416.

Christopher L. Weaver,

Acting Associate Administrator, Office of Investment and Innovation.

[FR Doc. 2020–14290 Filed 7–1–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF STATE

[Public Notice: 11153]

Commission on Unalienable Rights; Notice of Open Meeting

The Members of the Commission on Unalienable Rights (''Commission'') will meet from 2:00 p.m. until 3:00 p.m. on Thursday, July 16, to present the Commission's proposed Report to the public. The meeting will be in Philadelphia at the National Constitution Center, 525 Arch Street, Independence Mall. Doors will open at 1:30 p.m. The Secretary of State will attend, and there will not be late seating available for the meeting.

The conclusion of the meeting will start a two-week public comment period on the Report ending July 30 at midnight. An electronic facsimile of the report will be posted on the Commission's web page: *www.state.gov/commission-on-unalienable-rights* on July 16. The final Report, following a consideration of the comments received, will be posted to the Commission's website after the conclusion of the public comment period.

This meeting is open to the public, though seating is limited and on a first-come-first-served basis. To register for the meeting, members of the public planning to attend must, *no later than July 7,* provide their full name and email address to *RSVPCommission@state.gov*. Requests for reasonable accommodation should be made at the same time as the notification. Late requests will be considered, but might not be possible to fulfill. Email addresses are collected for purposes of notification, should the meeting be postponed or cancelled due to weather or other exigencies.

This announcement may appear in the **Federal Register** less than 15 days prior to the meeting. The Department of State finds that there is an exceptional circumstance in that this advisory committee meeting must be held on July 16 due to the Secretary's schedule.

For additional information, please contact Duncan Walker, Policy Planning Staff, at (202) 647–2236/3490, *orwalkerdh3@state.gov.*

Duncan H. Walker,

Designated Federal Officer, Department of State.

[FR Doc. 2020–14339 Filed 7–1–20; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

[Public Notice: 11146]

Statutory Debarment Under the Arms Export Control Act and the International Traffic in Arms Regulations; Correction

ACTION: Notice; correction.

SUMMARY: The Department of State is correcting Public Notice 11118 published in the **Federal Register** on May 20, 2020 imposing statutory debarment under the International Traffic in Arms Regulations (''ITAR'') on persons convicted of violating, or conspiracy to violate, the Arms Export Control Act (AECA). The effective date for the imposition of statutory debarment remains May 20, 2020.

FOR FURTHER INFORMATION CONTACT: Jae E. Shin, Director, Office of Defense Trade Controls Compliance, Bureau of Political-Military Affairs, Department of State at (202) 632–2107.

SUPPLEMENTARY INFORMATION: The primary purpose of this correction is to clarify Department policy as previously noted in **Federal Register** notice 84 FR 26500 (June 6, 2019).

In FR Doc. 2020–10862, published on May 20, 2020, on page 30783, in the second column, through the end of the notice on page 30784, in the second column, the **SUPPLEMENTARY INFORMATION** section is corrected to read as follows:

SUPPLEMENTARY INFORMATION: Section 38(g)(4) of the AECA, 22 U.S.C. 2778(g)(4), restricts the Department of State from issuing licenses for the export of defense articles or defense services where the applicant, or any party to the export, has been convicted of violating certain statutes, including section 38 of the AECA. The Department refers to this restriction as a limitation on ''export privileges,'' and implements it through § 127.11 of the ITAR. The statute and regulations permit the President to make certain exceptions to the restriction on export privileges on a case-by-case basis. Section 127.7(b) of the ITAR also provides for ''statutory debarment'' of any person who has been convicted of violating or conspiring to violate the AECA. Under this policy, persons subject to statutory debarment are prohibited from participating directly or indirectly in any activities that are regulated by the ITAR.

Statutory debarment is based solely upon conviction in a criminal proceeding, conducted by a United States court, and as such the administrative debarment procedures outlined in part 128 of the ITAR are not applicable.

It is the policy of the Department of State that statutory debarment as described in § 127.7 of the ITAR lasts for a three year period following the date of conviction. Reinstatement from the policy of statutory debarment is not automatic, and in all cases the debarred person must submit a request to the Department of State and be approved for reinstatement from statutory debarment before engaging in any activities subject to the ITAR.

Department of State policy permits debarred persons to apply to the Director, Office of Defense Trade Controls Compliance, for reinstatement from statutory debarment beginning one year after the date of the debarment. In response to a request for reinstatement from statutory debarment, the Department may determine either to rescind only the statutory debarment pursuant to § 127.7(b), or to both rescind the statutory debarment pursuant to § 127.7(b) and reinstate export privileges as described in § 127.11 of the ITAR. *See* 84 FR 7411 for discussion on the Department's policy regarding actions to both rescind the statutory debarment and reinstate export privileges. The reinstatement of export privileges can be made only after the statutory requirements of section 38(g)(4) of the AECA have been satisfied.

Certain exceptions, known as transaction exceptions, may be made to this debarment determination on a case-by-case basis. However, such an exception would be granted only after a full review of all circumstances, paying particular attention to the following factors: Whether an exception is warranted by overriding U.S. foreign policy or national security interests; whether an exception would further law enforcement concerns that are consistent with the foreign policy or national security interests of the United States; or whether other compelling circumstances exist that are consistent with the foreign policy or national security interests of the United States, and that do not conflict with law enforcement concerns. Even if exceptions are granted, the debarment continues until subsequent reinstatement from statutory debarment.

Pursuant to section 38(g)(4) of the AECA and § 127.7(b) and (c)(1) of the ITAR, the following persons, having been convicted in a U.S. District Court, are denied export privileges and are statutorily debarred as of May 20, 2020 (Name; Date of Judgment; Judicial District; Case No.; Month/Year of Birth):

(1) Asad-Ghanem, Rami Najm (aka Ghanem, Rami Najm); August 19, 2019; Central District of California; 2:15–cr–00704; June 1966.

(2) Boyko, Gennadiy; December 7, 2018; Northern District of Georgia; 1:16–cr–00338; February 1970.

(3) Browning, Scott Douglas; August 9, 2019; Eastern District of North Carolina; 5:18–cr–00036; April 1977.

(4) Brunt, Paul Stuart; March 1, 2019; Western District of Washington; 2:18–cr–00025; February 1966.

(5) Chehade, Walid; May 8, 2019; Western District of Michigan; 1:17–cr–00263; July 1981.

(6) Dequarto, Dominick; December 5, 2018; Middle District of Florida; 8:18–cr–00320; December 1965.

(7) Diab, Hicham; June 11, 2019; Western District of Washington; 2:18–cr–00282; July 1976.

(8) El Mir, Nafez; June 11, 2019; Western District of Washington; 2:18–cr–00282; November 1967.

(9) Heubschmann, Andy Lloyd; December 17, 2019; Eastern District of Wisconsin; 1:19–cr–00119; November 1959.

(10) Joseph, Junior Joel; April 12, 2019; Southern District of Florida; 9:18–cr–80139; February 1978.

(11) Peterson, John James; November 18, 2019; Southern District of Florida; 1:19–cr–20442; February 1959.

(12) Prezas, Julian; November 3, 2017; Western District of Texas; 5:16–cr–00040; January 1980.

(13) Rodriguez, Chris; October 18, 2019; Eastern District of Virginia; 1:19–cr–00153; April 1962.

(14) Ruchtein, Sergio; October 29, 2019; Eastern District of Pennsylvania; 2:19–cr–00309; October 1967.

(15) Saiag, Allexander (aka Saiag, Alexandre); November 22, 2019; Eastern District of New York; 1:19–cr–00129; September 1986.

(16) Saidi, Abdul Majid; March 15, 2019; Western District of Michigan; 1:17–cr–00263; March 1976.

(17) Shapovalov, Michael (aka Mikhail Shapovalov); May 29, 2018; District of Connecticut; 3:17–cr–00272; November 1986.

(18) Sheng, Zimo; December 14, 2018; Eastern District of Wisconsin; 2:18–cr–00108; August 1989.

(19) Srivaranon, Apichart; April 15, 2019; District of Maryland; 8:16–cr–00542; February 1985.

(20) Taylor, Maurice; July 22, 2019; Southern District of Mississippi; 3:18–cr–00260; October 1985.

(21) Tishchenko, Oleg Mikhaylovich; June 21, 2019; District of Utah; 1:16–cr–00034; April 1977.

(22) Zamarron-Luna, Carlos Antonio; October 19, 2019; Southern District of Texas; 7:18–cr–01043; March 1967.

(23) Zuppone, Brunella; November 18, 2019; Southern District of Florida; 1:19–cr–20442; May 1952.

At the end of the three-year period following the date of conviction, the above named persons remain debarred unless a request for reinstatement from statutory debarment is approved by the Department of State.

Pursuant to § 120.1(c) of the ITAR, debarred persons are generally ineligible to participate in activity regulated under the ITAR. Also, under § 127.1(d) of the ITAR, any person who has knowledge that another person is ineligible pursuant to § 120.1(c)(2) of the ITAR may not, without disclosure to and written approval from the Directorate of Defense Trade Controls, participate, directly or indirectly, in any ITAR-controlled transaction where such ineligible person may obtain benefit therefrom or have a direct or indirect interest therein.

This notice is provided for purposes of making the public aware that the persons listed above are prohibited from participating directly or indirectly in activities regulated by the ITAR, including any brokering activities and any export from or temporary import into the United States of defense articles, technical data, or defense services in all situations covered by the ITAR. Specific case information may be obtained from the Office of the Clerk for the U.S. District Courts mentioned above and by citing the court case number where provided.

R. Clarke Cooper,

Assistant Secretary, Bureau of Political Military Affairs, Department of State.

[FR Doc. 2020–14053 Filed 7–1–20; 8:45 am]

BILLING CODE 4710–25–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36416]

TFG Transport, LLC—Acquisition Exemption—Decatur Central Railroad, LLC

TFG Transport, LLC (TFGT), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from Decatur Central Railroad, LLC (DCRR) an approximately 16-mile rail line [1] extending from milepost 12.11 in Cisco, Ill., to milepost 27.63 in Decatur, Ill. (the Line).[2]

According to the verified notice of exemption, TFGT is a subsidiary of Topflight Grain Cooperative, Inc. (Topflight). TFGT states that Topflight and OmniTRAX Holdings Combined, Inc. (the sole members of DCRR) have executed a dissolution agreement to dissolve and distribute the assets of DCRR. TFGT states that pursuant to this dissolution agreement, TFGT will acquire the Line and assume the associated common carrier obligations. TFGT states that while no common carrier operations are currently conducted on the Line, it will provide service as needed through contractual arrangements with third party operators.

TFGT certifies that its projected annual revenues are not expected to exceed $5 million and will not exceed those that would qualify it as a Class III rail carrier. TFGT further certifies that the proposed transaction does not involve any provision or agreement that would limit future interchange with a third-party connecting carrier.

The transaction may be consummated on or after July 16, 2020, the effective date of the exemption (30 days after the verified notice was filed).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than July 9, 2020 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36416, must be filed with the Surface Transportation Board either via e-filing or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on TFGT's representative, Deanna S. Mool, Heyl, Royster, Voelker & Allen, 3731 Wabash Avenue, PO Box 9678, Springfield, IL 62791–9678.

According to TFGT, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b)(1).

Board decisions and notices are available at *www.stb.gov.*

Decided: June 29, 2020.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Eden Besera,

Clearance Clerk.

[FR Doc. 2020–14302 Filed 7–1–20; 8:45 am]

BILLING CODE 4915–01–P

[1] TGFT states that it will also acquire appurtenant land and ancillary trackage.

[2] In *Decatur Central Railroad—Acquisition & Operation Exemption—Topflight Grain Cooperative,* FD 36139 (STB served Sept. 14, 2017), the Line was described as having the same mileposts as TFGT states here and being approximately 15.52 miles long.

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36407]

Mississippi Southern Railroad, LLC—Operation Exemption with Interchange Commitment—The Kansas City Southern Railway Company

Mississippi Southern Railroad, LLC (MSR), a Class III railroad, has filed a

verified notice of exemption pursuant to 49 CFR 1150.41 to: (1) Continue to lease from The Kanas City Southern Railway Company (KCS) and operate approximately 26.5 miles of rail line between milepost 133.0 near Bay Springs, Miss., and milepost 159.5 near Newton, Miss. (Bay Springs Branch), and (2) lease from KCS and operate approximately 114.2 miles of rail line from milepost 87.2 at the switch south of the Columbus & Greenville Railway crossing near West Point, Miss., to milepost 161.7 near Newton (Louisville Subdivision), and approximately 15.5 miles of rail line from milepost 0.0 near Union, Miss., to milepost 15.5 near Sebastopol, Miss. (Pearl River Industrial Lead).

MSR, which has leased and operated the Bay Springs Branch since 2005,[1] states that it has reached an agreement with KCS to modify the lease and extend its term to November 30, 2034, through an amendment. MSR states that it has also agreed with KCS to a separate lease for the Louisville Subdivision and Pearl River Industrial Lead with a term expiring on July 19, 2030. According to MSR, it will provide all common carrier service on the lines subject to these leases.

MSR certifies that the amended lease for the Bay Springs Branch and the new lease for the Louisville Subdivision and Pearl River Industrial Lead contain interchange commitments.[2] Accordingly, MSR has provided additional information regarding the interchange commitments, as required by 49 CFR 1150.43(h).[3]

MSR certifies that its projected revenues as a result of this transaction will not result in the creation of a Class II or Class I rail carrier but states that its projected annual revenues will exceed $5 million following the transaction. Pursuant to 49 CFR 1150.42(e), if a carrier's projected annual revenues will exceed $5 million, it must, at least 60 days before the exemption becomes effective, post a notice of its intent to undertake the proposed transaction at the workplace of the employees on the affected lines, serve a copy of the notice on the national offices of the labor unions with employees on the affected lines, and certify to the Board that it has done so. On May 20, 2020, MSR certified that on May 19 it provided the required notice with respect to its proposed lease of the Louisville Subdivision and Pearl River Industrial Lead. However, along with its verified notice of exemption, MSR filed a petition requesting a waiver of the 60-day advance labor notice requirements with respect to its amended lease for the Bay Springs Branch. MSR's petition for waiver will be addressed in a separate decision. The Board will establish the effective date of the exemption in its separate decision on the waiver request.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than July 10, 2020.

All pleadings, referring to Docket No. FD 36407, must be filed with the Surface Transportation Board either via e-filing or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on MSR's representative, Bradon J. Smith, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606–3208.

According to MSR, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at *www.stb.gov.*

Decided: June 29, 2020.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Brendetta Jones,

Clearance Clerk.

[FR Doc. 2020–14318 Filed 7–1–20; 8:45 am]

BILLING CODE 4915–01–P

[1] *See Miss. S. R.R.—Lease & Operation Exemption—Kan. City S. Ry.,* Docket No. FD 34684 (STB served Apr. 21, 2005) (authorizing original lease and operation of the Bay Springs Branch); *Miss. S. R.R.—Lease & Operation Exemption—Kan. City S. Ry.,* Docket No. FD 36060 (STB served Sept. 9, 2016) (authorizing continued lease and operation).

[2] A copy of the amended lease and the new lease were submitted under seal. *See* 49 CFR 1150.43(h)(1).

[3] According to the verified notice, the only interchange affected by the interchange commitments is with the Columbus & Greenville Railway (CAGY) on the Louisville Subdivision at West Point, but there is currently no track connection between the Louisville Subdivision and CAGY's rail line, and the segment of the Louisville Subdivision leading to that location is out of service.

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, foundation/substructure retrofit of three bridges on Interstate 405 at the San Gabriel River in the City of Long Beach, County of Los Angeles, 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 30, 2020. If the Federal lay that authorizes judicial review of a claim provides a time period of less than 150 days for filing such a claim, then that short time period applies.

FOR FURTHER INFORMATION CONTACT: For Caltrans: Eduardo Aguilar, Senior Environmental Planner/Branch Chief, Caltrans Division of Environmental Planning, District 7, 100 South Main Street, Los Angeles, CA 90012. Office Hours: 8:00 a.m.–5:00 p.m., Pacific Standard Time, telephone (213) 897–8492 or email *eduardo.aguilar@dot.ca.gov.* For FHWA, contact David Tedrick at (916) 498–5024 or email *david.tedrick@dot.gov.*

SUPPLEMENTARY INFORMATION: Effective July 1, 2007, the FHWA assigned, and Caltrans assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that Caltrans has taken final agency actions subject to 23 U.S.C. 139*(l)(1)* by issuing licenses, permits, and approvals for the following highway project in the State of California: Caltrans proposes a bridge scour maintenance project at the Interstate 405 (I–405)/Interstate 605 (I–605) interchange—a complex of three (3) bridges that traverse the San Gabriel River, in the City of Long Beach, and at the Los Angeles County/Orange County line, in California. The proposed improvements include a retrofit of the bridge substructure foundation through construction of pier footing extensions at Pier 3 and Pier 4 at each bridge, reinforcement of new footing extensions through placement of new Cast-In-Drilled-Hole (CIDH) piles, and armoring of substructure retrofit through placement of rip-rap/rock protection around each pier. The actions by the Federal agencies, and the laws under

which such actions were taken, are described in the Final Environmental Assessment (FEA)/Finding of No Significant impact (FONSI) for the project, issued on June 17, 2020, and in other documents in Caltrans' project records. The FEA, FONSI and other project records are available by contact Caltrans at the addresses provided above. The Caltrans FEA, FONSI and other project records can be viewed and downloaded at the following Caltrans District 7 Environmental Documents website at *https://tinyurl.com/I405-SGR-Final.*

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. Council on Environmental Quality Regulations
2. National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 et. Seq.
3. Federal-Aid Highway Act of 1970, 23 U.S.C. 109
4. MAP–21, the Moving Ahead for Progress in the 21st Century Act (Pub. L. 112–141)
5. Clean Air Act Amendments of 1990 (CAAA)
6. Clean Water Act of 1977 and 1987
7. Federal Water Pollution Control Act of 1972 (see Clean Water Act of 1977 & 1987)
8. Federal Land Policy and Management Act of 1976 (Paleontological Resources)
9. Noise Control Act of 1972
10. Safe Drinking Water Act of 1944, as amended
11. Endangered Species Act of 1973
12. Executive Order 11990, Protection of Wetlands
13. Executive Order 13112, Invasive Species
14. Executive Order 13186, Migratory Birds
15. Fish and Wildlife Coordination Act of 1934, as amended
16. Migratory Bird Treaty Act
17. Water Bank Act Wetlands Mitigation Banks, ISTEA 1991, Sections 1006–1007
18. Wildflowers, Surface Transportation and Uniform Relocation Act of 1987 Section 130
19. Coastal Zone Management Act of 1972
20. Coastal Zone Management Act Reauthorization Amendments of 1990
21. Executive Order 11988, Floodplain Management
22. Department of Transportation (DOT) Executive Order 5650.2—Floodplain Management and Protection (April 23, 1979)
23. Rivers and Harbors Appropriation Act of 1899, Sections 9 and 10
24. Title VI of the Civil Rights Act of 1964, as amended
25. Executive Order 12898, Federal Actions to Address Environmental Justice and Low-Income Populations

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139*(l)(1).*

Issued on: June 25, 2020.

Rodney Whitfield,

Director, Financial Services, Federal Highway Administration, California Division.

[FR Doc. 2020–14248 Filed 7–1–20; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2020–0050]

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System

Under part 235 of title 49 of the Code of Federal Regulations (CFR) and 49 U.S.C. 20502(a), this provides the public notice that by a document dated May 11, 2020, Pacific Harbor Line (PHL) petitioned the Federal Railroad Administration (FRA) seeking approval to discontinue or modify a signal system. FRA assigned the petition Docket Number FRA–2020–0050.

Applicant: Pacific Harbor Line, Inc. Mr. Otis Cliatt II, President 705 North Henry Ford Ave. Wilmington, CA 90744.

Specifically, PHL requests permission to discontinue a traffic control system on two signaled main tracks on the Long Beach Subdivision, from, but not including, Control Point (CP) Gaspur, milepost (MP) 17.7x, to CP Ocean Boulevard, MP 19.2x, in Long Beach, California.

PHL will remove intermediate automatic signals at MP 18.5x and all switches, with the exception of one crossover within the limits of CP Ocean Boulevard. Remote throw non-signaled territory switches will be installed. Tracks will be designated as Other Than Mainline, General Code of Operating Rules 6.28.

The reason for the proposed changes is that the owner, Port of Long Beach, is implementing a rail improvement project on the Long Beach Subdivision. Operators on the trackage are PHL, Union Pacific Railroad Company, and BNSF Railway.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Ave. SE, W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Website: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE, W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Ave. SE, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by August 17, 2020 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.* See also *http://www.regulations.gov/#!privacyNotice* for the privacy notice of *regulations.gov.*

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2020–14274 Filed 7–1–20; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

FTA Fiscal Year 2020 Coronavirus Aid, Relief, and Economic Security (CARES) Act Supplemental Apportionments, Allocations, Program Information and Guidance

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice.

SUMMARY: This notice provides program information and guidance for implementation of the supplemental fiscal year (FY) 2020 apportionments and allocations appropriated in the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

FOR FURTHER INFORMATION CONTACT: For general information about this notice, contact Kimberly Sledge, Deputy Associate Administrator, Office of Program Management, at (202) 366–2053. Please contact the appropriate FTA Regional Office for any specific requests for information or technical assistance. FTA Regional Office contact information is available on FTA's website: *www.transit.dot.gov.* An FTA headquarters contact for each program area is included in this notice. FTA recommends stakeholders subscribe on FTA's website: *www.transit.dot.gov* to receive email notifications when new information is available.

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D. Grant Application Procedures

I. Overview

This document provides notice to stakeholders that FTA is apportioning supplemental Fiscal Year (FY) 2020 Transit Infrastructure Grants (TIG) funding made available by the CARES Act, 2020 (Pub. L. 116–136). In addition, this document contains important information about statutory requirements and policy priorities for the Transit Infrastructure Grants program. FTA previously posted frequently asked questions and apportionment tables identifying funding amounts to States, urbanized areas and tribes on FTA's website.

For the Transit Infrastructure Grants program, this notice provides information on the FY 2020 supplemental appropriations funding levels, funding availability, and the period of availability of funds. A separate section provides information on pre-award authority as well as other requirements applicable to the Transit Infrastructure Grants program and grant administration. Finally, the notice includes a reference to the apportionment tables on FTA's website that show the amount of funding made available until the funds are expended.

Information in this document includes references to existing FTA program guidance and circulars. Some information in FTA's guidance documents and circulars that were issued prior to passage of the Fixing America's Surface Transportation (FAST) Act (Pub. L. 114–94) may have been superseded by the FAST Act, but these guidance documents and circulars remain a resource for program management in most areas.

II. FY 2020 Funding for FTA Programs

A. Funding Available Under the CARES Act

The CARES Act, 2020 (Pub. L. 116–136) makes $25 billion in supplemental funding available for FTA grantees to prevent, prepare for, and respond to the coronavirus disease 2019 (COVID–19). The CARES Act provides $25 billion in funding from the General Fund, including $22,696,291,664 for Section 5307 Urbanized Area Formula Grants (Urbanized Area Program) and $2,228,708,336 for Section 5311 Formula Grants for Rural Areas (Rural Area Program). Current funding availability for each program is identified in Section IV of this notice and in Table 1 located on FTA's FY 2020 Apportionment web page: *www.transit.dot.gov/funding/apportionments.*

B. Oversight Takedown

The CARES Act provides that not more than three-quarters of 1 percent, but not to exceed $75 million, of the funds shall be available until expended for administrative expenses and ongoing program management oversight and to generally provide technical assistance and correct deficiencies identified in compliance reviews and audits as authorized under sections 5334 and 5338(f)(2) of title 49, United States Code.

C. CARES Act Apportionments: Data and Methodology

1. Apportionment Tables

FTA has posted tables displaying the funds available to eligible states, tribes, and urbanized areas to *www.transit.dot.gov/funding/apportionments.* This website contains a page with the apportionment tables for the CARES Act, links to prior year formula apportionment notices and tables, and the National Transit Database (NTD) and Census data used to calculate the apportionments.

2. Funding Assignment to Urbanized Area and Rural Area Formula Grant Programs

The CARES Act provides for the apportionment of funds via the Urbanized Area formula, the Rural Area formula, the State of Good Repair formula, and the Growing States and High Density States formula factors. The CARES Act also stipulates that the funding apportioned via the formulas be made available under the existing Urbanized Area and Rural Area Formula programs and procedures. Details on the apportionment for both programs are found in the program specific sections below.

3. NTD and Census Data Used in the CARES Act Apportionments

Consistent with past practices, the apportionments calculations for Sections 5307, 5311, and 5337 rely on the most-recent transit service data reported to the NTD, which for FY 2020 is the 2018 report year. In some cases, where an apportionment is based on the age of the system, the age is calculated as of September 30, 2019, the last day before FY 2020 began. Recipients or beneficiaries of either Section 5307 or 5311 funds are required to report to the NTD. Additionally, several transit operators report to the FTA's NTD on a voluntary basis. For the 2018 report year, the NTD includes data from 941 reporters in urbanized areas, 925 of

which reported operating transit service. The NTD also includes data from 1,475 providers of rural transit service, which includes 134 Indian Tribes providing transit service.

The 2010 Census data is used to determine population and population density for Section 5307 as well as rural population and rural land area for the Section 5311 program. The formulas for Sections 5307, 5311, and 5311(c)(1) include tiers where funding is allocated based on the number of persons living in poverty. The Census Bureau no longer publishes decennial census data on persons living in poverty. As a result, since FY 2013, FTA has used the data for this population available via the Census' American Community Survey (ACS). The NTD and Census data that FTA used to calculate the apportionments associated with this notice can be found on FTA's website: *www.transit.dot.gov/funding/apportionments.*

The FY 2020 CARES Act apportionments use data on low-income persons, persons with disabilities, and older adults from the 2013–2017 ACS five-year data set, which was published in December 2018. This data represents the most recent five-year ACS estimates that are available as of October 1 for the year being apportioned. As was the case in prior years, data on low-income persons comes from ACS Table B17024, ''Age by Ratio of Income to Poverty in the Last Twelve Months.''

III. FY 2020 Program Highlights

A. Emergency Relief Docket

Pursuant to 49 CFR 601.42, on January 15, 2020 FTA announced the establishment of an Emergency Relief Docket for calendar year 2020. See *https://federalregister.gov/d/2020-00539* for more information. After an emergency or major disaster, if FTA requirements impede a grantee or subgrantee's ability to respond to the emergency or major disaster, a grantee or subgrantee may submit a request for temporary relief from FTA administrative and statutory requirements. A grantee or subgrantee seeking relief must submit a petition for waiver of FTA requirements at *https://www.regulations.gov* for posting in the docket (FTA–2020–0001). FTA encourages grantees, prior to submitting a request to the docket, to review existing requests and responses already posted, as well as FTA's COVID–19 Frequently Asked Questions web page, at *https://www.transit.dot.gov/cares-act.* In addition to the docket, FTA has established an email address by which grantees may ask questions about FTA requirements: *FTAResponse@dot.gov.*

For additional information on the Emergency Relief Docket, please contact the appropriate FTA Regional Office.

B. New Eligibilities and Increased Federal Share

Activities eligible under the CARES Act include all activities typically eligible under the Urbanized Area and Rural Area Formula Programs undertaken beginning on January 20, 2020. Funds appropriated through the CARES Act are also available for all funding recipients in large urban, small urban, and rural areas for operating expenses (net fare revenues) in response to the COVID–19 public health emergency as described in Section 319 of the Public Health Service Act, including, beginning on January 20, 2020, reimbursement for operating costs to maintain service, purchase of personal protective equipment, and paying for administrative leave of operations personnel due to reductions in service and quarantining after potential exposure to COVID–19.

The Federal share for Transportation Infrastructure Grants is, at the option of the recipient, up to 100 percent for all eligible expenses.

IV. FY 2020 Program Specific Information Under CARES Act

A. Urbanized Area Formula Program (49 U.S.C. 5307)

Funds made available under this notice for the Transit Infrastructure Grants program, apportioned through the Urbanized Area Formula Program, provide financial assistance to designated recipients in urbanized areas (UZAs) for all projects normally eligible under the Urbanized Area Formula program such as capital investments in public transportation systems, planning, job access and reverse commute projects, and operating under limited circumstances. Under the CARES Act, funds are available for operating assistance in both large and small urbanized areas. There is no limit on the amount of CARES funds that may be spent on operating activities.

For more information about the Urbanized Area Formula Program, contact John Bodnar at (202) 366–9091 or john.bodnar@dot.gov.

1. Funding Availability

The CARES Act provides a total of $22,696,291,664 of supplemental FY 2020 funding for the Urbanized Area Formula program. Of that amount, $13,748,722,241 is apportioned according to the Urbanized Area Formula (49 U.S.C. 5336), $7,485,374,559 is apportioned according to the State of Good Repair formula (49 U.S.C. 5337), $862,846,477 is apportioned according to the High Density States formula, and $599,348,387 according to the Growing States formula. FTA apportioned funds do not include a take-down for the competitive Passenger Ferry Grant Program or the State Safety Oversight Program.

URBANIZED AREA FORMULA PROGRAM

5307	Urbanized Area Formula	$13,748,722,241
5337	State of Good Repair	7,485,374,559
5340	High Density States	862,846,477
5340	Growing States	599,348,387
	Total Apportioned	22,696,291,664

2. Period of Availability

Funds made available under the Urbanized Area Formula Program are available until expended, though FTA encourages recipients to obligate and expend CARES Act funds expeditiously in response to the coronavirus public health emergency.

3. Operating Expenses Under the CARES Act

All FTA recipients, including those in urbanized areas of 200,000 or more in population, may utilize funds made available under the CARES Act for operating expenses incurred to maintain service on or after January 20, 2020. Such expenses include any operating expenses (net fare revenues) incurred in response to the COVID–19 public health emergency, as well as paying for administrative leave for operations personnel due to reductions in service. Additionally, such funds may be used to pay for leave for employees who are placed on administrative leave due to quarantine or for employees placed on sick leave due to COVID–19 infection. See Chapter IV of the *Urbanized Area Formula Program Guidance* (FTA Circular 9030.1E) for details on eligible operating assistance activities.

Note that service that might otherwise be characterized as charter service, such as exclusive, closed door transportation of children to meal sites, or of homeless individuals to shelters, paid for by a third party, is eligible for reimbursement (net payment by a third party) if the service is in direct response to COVID–19. For charter operations lasting more than 90 days after the date a Governor declared a state of emergency, the recipient should submit a waiver request to the Emergency Relief docket.

Recipients are not required to incur operating expenses (or preventive

maintenance expenses, which are operating expenses that may be capitalized for the purposes of FTA grants) prior to grant award. A recipient, at its discretion, may use operating expenses submitted, accepted, and published by the NTD for the 2018 report year as justification for its request for operating assistance, along with a description of operations included in the grant. Draw down of funds must reflect actual expenses. There is no limit on the amount of funds made available under the CARES Act that may be used for operating assistance.

B. Formula Grants for Rural Areas Program (49 U.S.C. 5311)

The Formula Grants for Rural Areas Program provides formula funding to States and Indian tribes for supporting public transportation in areas with a population of less than 50,000. Funding under this notice may be used for all activities typically eligible under the Rural Areas Program, including reimbursement for operating costs to maintain service during the COVID–19 public health emergency, the purchase of personal protective equipment, and paying the administrative leave of operations personnel due to reduction in service. Eligible subrecipients include State and local governmental authorities, Indian Tribes, private non-profit organizations, and private intercity bus companies. Indian Tribes also are eligible direct recipients under the Formula Grants for Rural Areas Program, both for funds apportioned to the States and for projects apportioned with funds set aside for the Tribal Transit Program.

For more information about the Formula Grants for Rural Areas program, contact Élan Flippin at (202) 366–3800 or elan.flippin@dot.gov.

1. Funding Availability

The CARES Act provides a total of $2,178,708,336 of supplemental FY 2020 funding for the Rural Area Formula Program. Of that amount $1,989,462,090 is apportioned according to the Rural Area formula and $239,246,246 is apportioned according to the Growing States formula. Of the amount appropriated, $20 million is made available for the Appalachian Development Public Transportation Assistance Program and $30 million is made available for the Public Transportation on Indian Reservations formula program. FTA-apportioned funds do not include a take-down for the Rural Transit Assistance Program or the Public Transportation on Indian Reservations competitive program.

GRANTS FOR RURAL AREAS FORMULA PROGRAM

5311 Rural Area Formula	$1,989,462,090
5311(c)(2) Appalachian Development	(20,000,000)
5311(c)(1) Public Transportation on Indian Res	(30,000,000)
5340 Growing States	239,246,246
Total Apportioned	2,178,708,336

2. Period of Availability

The Formula Grants for Rural Areas Program funds apportioned in this notice are available until expended, though FTA encourages recipients to obligate and expend CARES Act funds expeditiously in response to the coronavirus public health emergency.

3. Operating Expenses Under the CARES Act

All FTA recipients may utilize funds made available under the CARES Act for operating expenses incurred as of January 20, 2020, at a 100 percent Federal share. Such expenses include any expenses incurred in response to the COVID–19 public health emergency, as well as paying for administrative leave for operations personnel due to reductions in service. Additionally, such funds may be used to pay for leave for employees who are placed on administrative leave due to quarantine or for employees on sick leave due to COVID–19 infection. Additional information on eligible operating assistance projects can be found in Chapter III of *Formula Grants for Rural Areas: Program Guidance and Application Instructions.*

Note that service that might otherwise be characterized as charter service, such as exclusive, closed door transportation of children to meal sites, or of homeless individuals to shelters, paid for by a third party, is eligible for reimbursement (net payment by a third party) if the operations are in direct response to COVID–19. For charter operations lasting more than 90 days after the date a Governor declared a state of emergency, the recipient should submit a waiver request to the Emergency Relief docket.

Recipients are not required to incur operating expenses (or preventive maintenance expenses, which are operating expenses that may be capitalized for the purposes of FTA grants) prior to grant award. A recipient, at its discretion, may use operating expenses submitted, accepted, and published by the NTD for the 2018 report year as justification for its request for operating assistance, along with a description of operations included in the grant. Draw down of funds must reflect actual expenses. There is no limit on the amount of funds made available under the CARES Act that may be used for operating assistance.

States may use methods other than those identified in their State Management Plans to allocate CARES Act funds.

4. Appalachian Development Public Transportation Assistance Program (49 U.S.C. 5311(c)(2))

This program is a take-down under the Formula Grants for Rural Areas Program to provide additional funding to support public transportation in the Appalachian region. There are thirteen eligible States that receive an allocation under this provision. The State allocations are shown in the Formula Grants for Rural Areas Program table posted on FTA's website at *www.transit.dot.gov/funding/apportionments* . A total of $20 million is available until expended through the CARES Act.

For more information about the Appalachian Development Public Transportation Assistance Program, contact Élan Flippin at (202) 366–3800 or elan.flippin@dot.gov.

4. Public Transportation on Indian Reservations Program (49 U.S.C. 5311(c)(1))

The Public Transportation on Indian Reservations Program, or Tribal Transit Program (TTP), is funded as a take-down from funds made available for the Formula Grants for Rural Areas program. Formula factors include vehicle revenue miles and the number of low-income individuals residing on tribal lands (defined as American Indian Areas and Alaska Native Areas). Eligible direct recipients are federally recognized Indian tribes and Alaskan Native Villages providing public transportation in rural areas. The TTP funds are allocated for grants to eligible recipients for any purpose eligible under Formula Grants for Rural Areas program or the CARES Act, which includes capital, operating, planning, and job access and reverse commute projects. Allocations are shown in the Public Transportation on Indian Reservations Formula Program table posted on FTA's website at *www.transit.dot.gov/funding/apportionments.* A total of $30 million is available until expended through the CARES Act.

For more information about the Tribal Transit Program, contact Amy Fong at (202) 366–0876 or amy.fong@dot.gov.

C. Public Transportation Emergency Relief Program (49 U.S.C. 5324)

In addition to the funds appropriated under the CARES Act, on March 13, 2020, FTA announced that all recipients in large urban, small urban, and rural areas that operate in states that have declared a State of Emergency related to COVID–19 may use their existing Urbanized Area and Rural Area Formula funding for both capital and operating expenses related to COVID–19 response at an increased Federal share, as authorized by the Public Transportation Emergency Relief Program (49 U.S.C. 5324). For information on how to use funds previously apportioned under the Urbanized Area and Rural Area Formula programs for COVID–19 response, please visit *transit.dot.gov/coronavirus.*

For more information about the Emergency Relief Program, contact Thomas Wilson at (202) 366–5279 or thomas.wilson@dot.gov.

V. Transit Infrastructure Grants

A. Automatic Pre-Award Authority To Incur Project Costs

Recipients have pre-award authority to incur project costs as of January 20, 2020. Recipients should review the most recent version of FTA's Apportionments Notice for further guidance on pre-award authority.

B. Federal Requirements

Except as noted otherwise in this notice, all statutory and administrative requirements pertaining to Urbanized Area and Rural Area formula funds apply to grants utilizing funding made available through the CARES Act, including the requirements for Department of Labor certification found in Federal public transportation law (49 U.S.C. 5333(b)).

CARES Act funds used to pay for operating expenses in response to COVID–19 do not need to be included in a Transportation Improvement Plan (TIP) and/or Statewide Transportation Improvement Plan (STIP). CARES Act funds used to pay for capital expenses for emergency relief in response to COVID–19 do not need to be included in the TIP and/or STIP unless the projects are for substantial functional, locational, or capacity changes per Federal planning and assistance standards regulations (23 CFR 450.326(e)(5), 23 CFR 450.218(g)(5)). Accordingly, capital projects to prevent, prepare for, and respond to COVID–19 that involve substantial functional, locational, or capacity changes must be included in the TIP and/or STIP.

C. Insurance and Other Federal Funds

FTA funds may not be used to reimburse expenses that have previously been reimbursed by insurance proceeds or other Federal funds. Recipients are required to pursue claims for any losses covered by insurance policies that are also eligible expenses under FTA's programs. The recipient must report to FTA any insurance proceeds or Federal funds received before or after FTA grant obligation that duplicate any funding received through an FTA grant and make subsequent adjustments to the grant prior to disbursement or return to FTA the amount of funding determined to be duplicative. This includes any proceeds from insurance policies that include applicable business interruption coverage and funding received from the Federal Emergency Management Agency. Any such funds returned to FTA will remain available to the recipient for obligation in another grant for eligible expenses.

D. Grant Application Procedures

All applications for FTA funds should be submitted to the appropriate FTA Office. All applications must be filed electronically. FTA continues to award and manage grants and cooperative agreements using the Transit Award Management System (TrAMS). To access TrAMS, contact your FTA Office. Resources on using TrAMS can be found on FTA's website at *https://www.transit.dot.gov/TrAMS.*

FTA regional staff are responsible for working with grantees to review and process grant applications. For an application to be considered complete and ready for FTA to assign a Federal Award Identification Number (FAIN), enabling submission in TrAMS, and submission to the Department of Labor, when applicable, the following requirements must be met:

a. Recipient has registered in the System for Award Management (SAM) and its registration is current with an active status. To register an entity or check the status and renew registration, visit the SAM website at *https://www.sam.gov/SAM/.*

b. Recipient's contact information, including Dun and Bradstreet Data Universal Numbering System (DUNS), is correct. To request a DUNS number, call Dun & Bradstreet at 1–866–705–5711 or visit the website at *http://fedgov.dnb.com/webform.*

c. Recipient has properly submitted its annual certifications and assurances.

d. Recipient's Civil Rights submissions are current.

e. After October 1, 2018, the grantee has a Transit Asset Management plan in place that meets the requirements of the Transit Asset Management regulation (49 CFR part 625), or is covered by a compliant Group Plan.

f. Documentation is on file to support recipient's status as either a designated recipient for the program and area or a direct recipient.

g. Funding is available, including any flexible funds included in the budget, and split letters or sub allocation letters on file, where applicable, to support the amount requested in the grant application.

h. The activity is listed in a currently approved Transportation Improvement Program (TIP); Statewide Transportation Improvement Program (STIP), or Unified Planning Work Program (UPWP) if applicable.

i. All eligibility issues are resolved.

j. Required environmental findings are made.

k. The application contains a well-defined scope of work, including at least one project with accompanying project narratives, at least one budget scope code and one activity line item, Federal and non-Federal funding amounts, and milestones.

l. Milestone information is complete. FTA will also review status of other open award reports to confirm financial and milestone information is current on other open awards.

Other important issues that impact FTA grant processing activities in addition to the list above are discussed below.

a. Award Budgets—Scope Codes and Activity Line Items (ALI) Codes; Financial Purpose Codes

FTA uses Scope and ALI Codes in the award budgets to track disbursements, monitor program trends, report to Congress, and to respond to requests from the Inspector General and the Government Accountability Office, as well as to manage grants. The accuracy of the data is dependent on the careful and correct use of codes.

b. Designated and Direct Recipients Documentation

For its formula programs, FTA primarily apportions funds to the designated recipient in large UZAs (areas over 200,000), or for areas under 200,000 (small UZAs and rural areas), it apportions the funds to the Governor, or its designee (*e.g.,* State DOT). Depending on the program, as described in the individual program sections found in Section IV of this notice, further suballocation of funds may be permitted to eligible recipients who may then apply directly to FTA for the funding as direct recipients.

For the programs in which FTA may make grants to eligible direct recipients, other than the designated recipient(s), recipients are reminded that documentation must be on file to support: (1) The status of the recipient either as a designated recipient or direct recipient; and (2) the allocation of funds to the direct recipient.

Documentation to support existing designated recipients for the UZA must also be on file at the time of the first application in FY 2020. Split letters and/or suballocation letters (Governor's Apportionment letters), must also be on file to support grant applications for direct recipients. Split and/or suballocation letters must be updated to include funds apportioned via this notice. Once suballocation letters for FY 2020 funding are finalized, recipients should upload them as part of the application into TrAMS.

The Direct Recipient is required to upload to TrAMS a copy of the suballocation letter (Letter) indicating their allocation of funding, for the appropriate fund program, when the applicant transmits their application for initial review. The Letter must be signed by the Designated Recipient, or as applicable in accordance with planning requirements. If there are two Designated Recipients, both entities must sign the Letter. The Letter must: (1) Indicate the allocations to the respective Direct Recipients listed in the letter; (2) incorporate language above the signatories to reflect this agreement; and (3) make clear that the Direct Recipient will assume any/all responsibility associated with the award for the funds. When drafting the Letter, Designated Recipients may use the template language below:

''As identified in this Letter, the Designated Recipient(s) authorize the reassignment/reallocation of [enter fund source; *e.g.,* CARES Act funds] to the Direct Recipient(s) named herein. The undersigned agree to the amounts allocated/reassigned to each Direct Recipient. Each Direct Recipient is responsible for its application to the Federal Transit Administration to receive such funds and assumes the responsibilities associated with any award for these funds.''

The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

Grantees should refer to applicable regulations and statutes referenced in this document.

K. Jane Williams,

Acting Administrator.

[FR Doc. 2020–14249 Filed 7–1–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. DOT–NHTSA–2020–0070]

Agency Information Collection Activities; Notice and Request for Comment; Automated Vehicle Transparency and Engagement for Safe Testing (AV TEST) Initiative

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice and request for comments on a request for approval of a new information collection.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) invites public comments about our intention to request approval from the Office of Management and Budget (OMB) for a new information collection. Before a Federal agency can collect certain information from the public, it must receive approval from OMB. Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information. This document describes a collection of information for NHTSA's planned Automated Vehicle Transparency and Engagement for Safe Testing (AV TEST) Initiative for which NHTSA intends to seek OMB approval. The AV TEST Initiative involves the voluntary collection of information from entities testing vehicles equipped with automated driving systems (ADS) and from States and local authorities involved in the regulation of ADS testing. The purpose of this collection is to provide information to the public about ADS testing operations in the U.S. and applicable State and local laws, regulations, and guidelines.

DATES: Comments must be submitted on or before August 31, 2020.

ADDRESSES: You may submit comments identified by the Docket No. DOT–NHTSA–2020–0070 through any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except on Federal holidays.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m. ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9322 before coming.
- *Instructions:* All submissions must include the agency name and docket number for this proposed collection of information. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.
- *Privacy Act:* Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *https://www.transportation.gov/privacy.*
- *Docket:* For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or the street address listed above. To be sure someone is there to help you, please call (202) 366–9322 before coming. Follow the online instructions for accessing the dockets via internet.

FOR FURTHER INFORMATION CONTACT: For additional information or access to background documents, contact Michael Frenchik, Office of Data Acquisition, Safety Systems Management Division (NSA–0130), Room W53–303, 1200 New Jersey Avenue SE, Washington, DC 20590. Mr. Frenchik's telephone number is (202) 366–0641.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in

such a document. Under OMB's regulation (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following: (i) 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; (ii) 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; (iii) how to enhance the quality, utility, and clarity of the information to be collected; (iv) how to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. In compliance with these requirements, NHTSA asks for public comments on the following proposed collection of information:

Title: Automated Vehicle Transparency and Engagement for Safe Testing (''AV TEST'') Initiative.

OMB Control Number: New.

Type of Request: Request for approval of a new information collection.

Type of Review Requested: Regular.

Affected Public: There are two information collection components to this request. The first affects entities engaged in testing of ADS vehicles, including original manufacturers of ADS vehicles and ADS vehicle equipment, and operators of ADS vehicles. The second affects local authorities regulating testing of ADS vehicles within their jurisdictions, including States, cities, counties, and other municipalities.

Request Expiration Date of Approval: Three years from date of approval.

Summary of the Collection of Information: The U.S. Department of Transportation (DOT), National Highway Traffic Safety Administration (NHTSA) was established by Congress to save lives, prevent injuries, and reduce economic costs due to motor vehicle crashes through education, research, safety standards, and enforcement activity. DOT and NHTSA are fully committed to reaching an era of crash-free roadways through the deployment of innovative lifesaving technologies. The prevalence of automotive crashes in the United States underscores the urgency to develop and deploy lifesaving technologies that can dramatically decrease the number of fatalities and injuries on our Nation's roadways. NHTSA believes that Automated Driving System (ADS) technology, including technology contemplating no human driver at all, has the potential to significantly improve roadway safety in the United States. This technology remains substantially in development phases with companies across the United States performing varying levels of development, research, and testing relating to the performance of various aspects of ADS vehicle technologies. While much of these development operations occur in private facilities and closed-course test tracks, many stakeholders have progressed to conducting ADS vehicle testing on public roads or in public demonstrations. Moreover, to regulate such operations in their jurisdictions, many local authorities, such as States and cities, have passed laws governing ADS vehicle testing on public roads. These statutes, regulations, and ordinances vary, ranging from operational requirements to mandating the submission of periodic reports detailing ADS vehicle operation.

Description of the Need for the Information and Proposed Use of the Information: The AV TEST Initiative seeks to enhance public education and engagement with public ADS vehicle testing by coalescing information regarding respondents' various testing operations or requirements into a centralized resource. This information collections seeks voluntarily-provided information from entities performing ADS testing about their operations and information from local authorities about requirements or recommendations for such operations. NHTSA will maintain a digital platform on its website that collects information from respondents and makes the information about ADS operations and applicable State and local requirements and recommendations available to members of the public.

The program will support two main objectives. The first objective is to provide the public with access to geographic visualizations of testing at the national, State, and local levels. This information will be displayed on a graphic of the United States, with projects overlaid on the geographic areas in which the testing project is taking place. By clicking on a testing location, members of the public will be able see additional information about the operation and the ADS operator. Additional information may include basic information about the ADS operator, a brief statement about the entity, specific details of the testing activity, high-level (non-confidential) descriptions of the vehicles and technology, photos of the test vehicles, the dates on which testing occurs, frequency of vehicle operations, the number of vehicles participating in the project, the specific streets or areas comprising the testing routes, information about safety drivers and their training, information about engagement with the community and/or local government, weblinks to the company's websites with brief introductory statements, and a link to the company's Voluntary Safety Self-Assessment (VSSA).[1]

The second objective is to provide members of the public with information collected from States and local authorities that regulate ADS operations. State and local authorities will be asked to provide weblinks for specific ADS-related topics, such as statutes, regulations, or guidelines for ADS operations, privacy-related issues, emergency response policies and training, or other activities that cultivate ADS testing. The implementation of this program will provide a central resource for the aforementioned information concerning ADS testing across the United States.

Estimated Number of Respondents: NHTSA anticipates that the Initiative will include up to 60 State or local government respondents and 40 ADS developer, ADS vehicle manufacturer, or ADS operator respondents per year.

Frequency: Participation is completely voluntary and each participant will choose its respective degree of involvement and the frequency of its submissions. Therefore, the frequency of a participant's response may vary due to a variety of factors, such as the degree of the entity's participation in the initiative or the frequency with which each entity modifies its ADS testing operations or, in the case of local authorities, amends its regulations governing such operations.

Estimated Total Annual Burden Hours: NHTSA estimates that the annual burden of participation will be approximately 48 hours for private industry respondents that include ADS operators, developers, or vehicle manufacturers. This total number of hours represents approximately four hours per month to perform data entry for testing projects (4 hours × 12 months = 48). Therefore, for the estimated 40 ADS operator participants, the total burden is estimated to be 1,920 hours per year (40 respondents × 48 hours).

[1] Voluntary Self-Assessments are described in Automated Driving Systems 2.0: A Vision for Safety, available at *https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/13069a-ads2.0_090617_v9a_tag.pdf.* VSSAs are covered by the PRA Clearance with OMB Control Number 2127–0723.

NHTSA estimates that the annual burden of participation will be approximately 10 hours for State or local authorities because the amount of information requested is more limited and also less likely to require frequent updating. Therefore, for the estimated 60 State or local authority participants, the total burden is estimated to be 600 hours per year.

The total annual burden for the entire information collection request is estimated to 2,520 hours (1,920 hours + 600 hours).

The labor cost associated with this collection of information is derived by (1) applying the appropriate average hourly labor rate published by the Bureau of Labor Statistics, (2) dividing by either 0.701 [2] (70.1%), for private industry workers, or 0.623 (62.3%), for state and local government workers, to obtain the total cost of compensation, and (3) multiplying by the estimated burden hours for each respondent type.

Labor costs associated with original manufacturers of ADS Vehicles or ADS vehicle equipment and operators of ADS vehicles are estimated to be $60.96 per hour for ''Project Management Specialists,'' Occupation Code 13–1198, ($42.73 [3] per hour ÷ 0.701). The estimated labor cost per private industry respondent is estimated to be $2,926.08 per year ($60.96 × 48 hours). Therefore, the total annual labor cost for private industry to participate in the AV TEST Initiative is estimated to be $117,043.

Labor costs associated with local and regional authorities, such as States, counties, and cities are estimated to be $60.84 per hour for ''Legal Support Workers,'' Occupation Code 23–2099, ($37.90 [4] per hour ÷ 0.623). The labor cost per regional authority respondent is estimated to be $608.40 per year ($60.84 × 10 hours). Therefore, the total annual labor cost for regional authorities to participate in the AV TEST Initiative is estimated to be $36,504 per year.

The total annual labor costs for all respondents, private industry and regional authorities together, are estimated to be $153,547 per year. See Table 1 below for a summary of estimated annual burden hours and estimated labor costs.

TABLE 1—SUMMARY OF ESTIMATED BURDEN HOURS AND ESTIMATED LABOR COSTS

Respondent type	Number of respondents	Annual hours per respondent	Labor cost per hour	Annual labor cost per respondent	Total annual estimated burden hours	Total annual labor costs
Original Manufacturer of ADS Vehicles or ADS Vehicle Equipment and Operators of ADS Vehicles	40	48	$60.96	$2,926.08	1,920	$117,043.20 117,043
State or Local Authority	60	10	60.84	608.40	600	36,504
Total All Respondents	100				5,000	153,547

Estimated Total Annual Burden Costs: NHTSA estimates that there will be no costs to respondents other than costs associated with burden hours.

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 the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (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 the use of automated collection techniques or other forms of information technology.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; 49 CFR 1.49; and DOT Order 1351.29.

Issued on June 26, 2020.

Chou-Lin Chen,

Associate Administrator, National Center for Statistics and Analysis.

[FR Doc. 2020–14227 Filed 7–1–20; 8:45 am]

BILLING CODE 4910–59–P

[2] *See* Table 1. Employer Costs for Employee Compensation by ownership (Dec. 2019), available at *https://www.bls.gov/news.release/ecec.t01.htm* (accessed May 4, 2020).

[3] *See* May 2019 National Industry-Specific Occupational Employment and Wage Estimates, NAICS 336100—Motor Vehicle Manufacturing, available at *https://www.bls.gov/oes/current/naics4_336100.htm#15-0000* (accessed May 4, 2020).

[4] *See* May 2019 National Occupational Employment and Wage Estimates by ownership, Federal, state, and local government, available at *https://www.bls.gov/oes/current/999001.htm#23-0000* (accessed May 4, 2020).

FEDERAL REGISTER

Vol. 85 Thursday,

No. 128 July 2, 2020

Part II

Environmental Protection Agency

40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants: Cellulose Products Manufacturing Residual Risk and Technology Review; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2018–0415; FRL–10006–76–OAR]

RIN 2060–AU23

National Emission Standards for Hazardous Air Pollutants: Cellulose Products Manufacturing Residual Risk and Technology Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action finalizes the residual risk and technology review (RTR) conducted for the Miscellaneous Viscose Processes and Cellulose Ether Production source categories regulated under the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Cellulose Products Manufacturing. The EPA is finalizing the proposed determination that the risks from both source categories are acceptable and that the current NESHAP provides an ample margin of safety to protect public health. The EPA identified no new cost-effective controls under the technology review to achieve further emissions reductions. These final amendments address emissions during startup, shutdown, and malfunction (SSM) events; add electronic reporting requirements; add provisions for periodic emissions performance testing for facilities using non-recovery control devices; add a provision allowing more flexibility for monitoring of biofilter control devices; and make technical and editorial changes. Although these amendments are not expected to reduce emissions of hazardous air pollutants (HAP), they will improve monitoring, compliance, and implementation of the rule.

DATES: This final rule is effective on July 2, 2020. The incorporation by reference (IBR) of certain publications listed in the rule is approved by the Director of the Federal Register as of July 2, 2020.

ADDRESSES: The U.S. Environmental Protection Agency (EPA) has established a docket for this action under Docket ID No. EPA–HQ–OAR–2018–0415. All documents in the docket are listed on the *https://www.regulations.gov/* website. Although listed, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *https://www.regulations.gov/,* or in hard copy at the EPA Docket Center, WJC West Building, Room Number 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m. Eastern Standard Time (EST), Monday through Friday. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact Dr. Kelley Spence, Sector Policies and Programs Division (E143–03), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–3158; fax number: (919) 541–0516; and email address: *spence.kelley@epa.gov.* For specific information regarding the risk modeling methodology, contact Mr. James Hirtz, Health and Environmental Impacts Division (C539–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–0881; fax number: (919) 541–0840; and email address: *hirtz.james@epa.gov.* For information about the applicability of the NESHAP to a particular entity, contact Ms. Maria Malave, Office of Enforcement and Compliance Assurance (2227A), U.S. Environmental Protection Agency, WJC South Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–7027; and email address: *malave.maria@epa.gov.*

SUPPLEMENTARY INFORMATION:

Preamble acronyms and abbreviations. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

%R percent recovery
ASTM American Society for Testing and Materials
CAA Clean Air Act
CDX Central Data Exchange
CEDRI Compliance and Emissions Data Reporting Interface
CEMS continuous emission monitoring system
CEP Cellulose Ethers Production
CFR Code of Federal Regulations
CMC carboxymethyl cellulose
CPMS continuous parameter monitoring system
CS_2 carbon disulfide
EPA Environmental Protection Agency
ERPG Emergency Response Planning Guideline
FTIR Fourier Transform Infrared
H_2S hydrogen sulfide
HAP hazardous air pollutants(s)
HCl hydrochloric acid
HEC hydroxyethyl cellulose
HI hazard index
IBR incorporation by reference
ICR information collection request
km kilometers
km^2 square kilometers
lbs/yr pounds per year
MACT maximum achievable control technology
MC methyl cellulose
mg/kg-day milligrams per kilogram per day
MIR maximum individual risk
MVP Miscellaneous Viscose Processes
NAAQS National Ambient Air Quality Standards
NAICS North American Industry Classification System
NaOH sodium hydroxide
NESHAP national emission standards for hazardous air pollutants
ng/dscm nanograms per dry standard cubic meter
NRDC National Resources Defense Council
NTTAA National Technology Transfer and Advancement Act
OMB Office of Management and Budget
PB–HAP hazardous air pollutants known to be persistent and bio-accumulative in the environment
PRA Paperwork Reduction Act
RFA Regulatory Flexibility Act
RIA Regulatory Impact Analysis
RTR residual risk and technology review
SSM startup, shutdown, and malfunction
TOSHI target organ-specific hazard index
the Court the United States Court of Appeals for the District of Columbia Circuit
tpy tons per year
UMRA Unfunded Mandates Reform Act
VCS voluntary consensus standards
VOC volatile organic compounds

Background information. The EPA is finalizing the September 9, 2019, proposed determinations regarding the Cellulose Products Manufacturing NESHAP RTR and the proposed revisions to this NESHAP to address emissions during SSM events and to improve monitoring, compliance, and implementation. We summarize some of the more significant comments received regarding the proposed rule and provide our responses in this preamble. A summary of the public comments on the proposal not discussed in this preamble and the EPA's responses to those comments is available in the memorandum titled *National Emissions Standards for Hazardous Air Pollutants: Cellulose Products Manufacturing (40 CFR part 63, subpart UUUU) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 9, 2019 Proposal,* Docket ID No. EPA–HQ–OAR–2018–0415. A ''track changes''

version of the regulatory language that incorporates the changes in this action is available in the docket.

Organization of this document. The information in this preamble is organized as follows:

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C. What changes did we propose for the Cellulose Products Manufacturing NESHAP in our September 9, 2019, proposal?
III. What is included in this final rule?
A. What are the final rule amendments based on the risk review for the source category?
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A. Executive Orders 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
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I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51
K. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
L. Congressional Review Act (CRA)

I. General Information

A. Does this action apply to me?

Regulated entities. Categories and entities potentially regulated by this action are shown in Table 1 of this preamble.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS FINAL ACTION

Source category	NESHAP	NAICS code [1]
Miscellaneous Viscose Processes	Cellulose Products Manufacturing	325211, 325220, 326121, 326199.
Cellulose Ethers Production	Cellulose Products Manufacturing	325199.

[1] North American Industry Classification System.

Table 1 of this preamble is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by the final action for the source categories listed. To determine whether your facility is affected, you should examine the applicability criteria in the appropriate NESHAP. If you have any questions regarding the applicability of any aspect of this NESHAP, please contact the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this final action will also be available on the internet. Following signature by the EPA Administrator, the EPA will post a copy of this final action at: *https://www.epa.gov/stationary-sources-air-pollution/cellulose-products-manufacturing-national-emission-standards.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version at this same website.

Additional information is available on the RTR website at *https://www.epa.gov/stationary-sources-air-pollution/risk-and-technology-review-national-emissions-standards-hazardous.* This information includes an overview of the RTR program and links to project websites for the RTR source categories.

C. Judicial Review and Administrative Reconsideration

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit (the Court) by August 31, 2020. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements. Section 307(d)(7)(B) of the CAA further provides that only an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review. This section also provides a mechanism for the EPA to reconsider the rule if the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within the period for public comment or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule. Any person seeking to make such a demonstration should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, WJC South Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION**

CONTACT section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

II. Background

A. What is the statutory authority for this action?

Section 112 of the CAA establishes a two-stage regulatory process to address emissions of HAP from stationary sources. In the first stage, the EPA must identify categories of sources emitting one or more of the HAP listed in CAA section 112(b) and then promulgate technology-based NESHAP for those sources. ''Major sources'' are those that emit, or have the potential to emit, any single HAP at a rate of 10 tons per year (tpy) or more, or 25 tpy or more of any combination of HAP. For major sources, these standards are commonly referred to as maximum achievable control technology (MACT) standards and must reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy requirements, and non-air quality health and environmental impacts). In developing MACT standards, CAA section 112(d)(2) directs the EPA to consider the application of measures, processes, methods, systems, or techniques, including, but not limited to, those that reduce the volume of or eliminate HAP emissions through process changes, substitution of materials, or other modifications; enclose systems or processes to eliminate emissions; collect, capture, or treat HAP when released from a process, stack, storage, or fugitive emissions point; are design, equipment, work practice, or operational standards; or any combination of the above.

For these MACT standards, the statute specifies certain minimum stringency requirements, which are referred to as MACT floor requirements, and which may not be based on cost considerations. See CAA section 112(d)(3). For new sources, the MACT floor cannot be less stringent than the emission control achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than floors for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources). In developing MACT standards, the EPA must also consider control options that are more stringent than the floor under CAA section 112(d)(2). The Agency may establish standards more stringent than the floor based on the consideration of the cost of achieving the emissions reductions, any non-air quality health and environmental impacts, and energy requirements.

In the second stage of the regulatory process, the CAA requires the EPA to undertake two different analyses, which we refer to as the technology review and the residual risk review. Under the technology review, the EPA must review the technology-based standards and revise them ''as necessary (taking into account developments in practices, processes, and control technologies)'' no less frequently than every 8 years, pursuant to CAA section 112(d)(6). Under the residual risk review, the EPA must evaluate the risk to public health remaining after application of the technology-based standards and revise the standards, if necessary, to provide an ample margin of safety to protect public health or to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. The residual risk review is required within 8 years after promulgation of the technology-based standards, pursuant to CAA section 112(f). In conducting the residual risk review, if the EPA determines that the current standards provide an ample margin of safety to protect public health, it is not necessary to revise the MACT standards pursuant to CAA section 112(f).[1] For more information on the statutory authority for this rule, see 84 FR 47348, September 9, 2019.

B. What is the source category and how does the NESHAP regulate HAP emissions from the source category?

The EPA promulgated the Cellulose Products Manufacturing NESHAP on June 11, 2002 (67 FR 40044). The standards are codified at 40 CFR part 63, subpart UUUU. The cellulose products manufacturing industry includes the Miscellaneous Viscose Processes (MVP) source category and the Cellulose Ethers Production (CEP) source category. The sections below provide details on each source category and how the NESHAP regulates the HAP emissions from each source category.

1. Miscellaneous Viscose Processes

The MVP source category includes any facility engaged in the production of cellulose food casings, rayon, cellophane, or cellulosic sponges, which includes the following process steps: Production of alkali cellulose from cellulose and sodium hydroxide (NaOH); production of sodium cellulose xanthate from alkali cellulose and carbon disulfide (CS_2) (xanthation); production of viscose from sodium cellulose xanthate and NaOH solution; regeneration of liquid viscose into solid cellulose;[2] and washing of the solid cellulose product (see 65 FR 52171–2, August 28, 2000).

There are currently five MVP facilities in operation in the United States. While the NESHAP includes standards for rayon manufacturing, all rayon plants in the U.S. have shut down since promulgation of the original rule.

The Cellulose Products Manufacturing NESHAP includes emission limits, operating limits, and work practice standards for MVP emission sources. MVP operations are required to reduce the total sulfide emissions from their process vents and control the CS_2 emissions from their CS_2 unloading and storage operations. Cellophane operations are required to reduce the toluene emissions from their solvent coating operations and toluene storage vessels. Additionally, MVP operations must comply with work practice standards for closed-vent systems and heat exchanger systems. The NESHAP also includes various operating limits, initial performance tests, ongoing monitoring using continuous parameter monitoring systems (CPMS) and continuous emissions monitoring systems (CEMS), recordkeeping, and reporting. The rule was amended in June 2005 (70 FR 36524) to correct the definition for ''viscose process change'' under 40 CFR 63.5610.

2. Cellulose Ethers Production

The CEP source category includes any facility engaged in the production of carboxymethyl cellulose (CMC), hydroxyethyl cellulose (HEC), hydroxypropyl cellulose (HPC), methyl cellulose (MC), or hydroxypropyl methyl cellulose (HPMC), which

[1] The Court has affirmed this approach of implementing CAA section 112(f)(2)(A): *NRDC* v. *EPA,* 529 F.3d 1077, 1083 (D.C. Cir. 2008) (''If EPA determines that the existing technology-based standards provide an 'ample margin of safety,' then the Agency is free to readopt those standards during the residual risk rulemaking.'').

[2] The MVP operations use different methods and equipment to complete the regeneration step. Cellulose food casing operations extrude viscose through a die, forming a tube, while rayon operations extrude viscose through spinnerets, forming thin strands. Cellophane operations extrude viscose through a long slit, forming a flat sheet, while cellulosic sponge operations feed a mixture of viscose and Glauber's salt into a sponge mold.

includes the following process steps: Production of alkali cellulose from cellulose and NaOH; reaction of the alkali cellulose with one or more organic chemicals to produce a cellulose ether product;[3] washing and purification of the cellulose ether product; and drying of the cellulose ether product (see 65 FR 52171; August 28, 2000).

There are currently three CEP facilities in operation in the United States. The Cellulose Products Manufacturing NESHAP includes emission limits, operating limits, and work practice standards for CEP emission sources. CEP operations are required to control the HAP emissions from their process vents, wastewater, equipment leaks, and liquid streams in open systems. Additionally, CEP operations must comply with work practice standards for closed-vent systems and heat exchanger systems. The NESHAP also includes various operating limits, initial performance tests, ongoing monitoring using CPMS and CEMS, recordkeeping, and reporting. The rule was amended in June 2005 (70 FR 36524) to correct the definition for ''cellulose ether process change'' under 40 CFR 63.5610.

C. What changes did we propose for the Cellulose Products Manufacturing NESHAP in our September 9, 2019, proposal?

On September 9, 2019, the EPA published a proposed rule in the **Federal Register** for the Cellulose Products Manufacturing NESHAP, 40 CFR part 63, subpart UUUU, that presented the results of the RTR analyses, proposed RTR determinations, and several proposed rule changes. Based on our RTR analyses, the EPA proposed to determine that the risks from the source categories covered by the Cellulose Products Manufacturing NESHAP are acceptable, that the current NESHAP provides an ample margin of safety to protect public health, and that no new cost-effective controls are available that would achieve further emissions reductions.

The proposed rule changes included the following:

- Amendments to the SSM provisions;
- new periodic air emissions performance testing for facilities that use non-recovery control devices;
- new reporting provisions requiring affected sources to electronically submit compliance notifications, semiannual reports and performance test reports using the EPA's Compliance and Emissions Data Reporting Interface (CEDRI);
- amendments to the operating limits and compliance requirements in 40 CFR 63.5535(i)(7) to allow facilities the flexibility to monitor conductivity as an alternative to pH monitoring for determining compliance of biofilter control devices;
- revision of the requirements in 40 CFR 63.5505 to clarify that CS_2 storage tanks that are part of a submerged unloading and storage operation subject to 40 CFR part 63, subpart UUUU, is not subject to 40 CFR part 60, subpart Kb;
- revision of the performance test requirements in 40 CFR 63.5535(b) and 40 CFR 63.5535(c) to specify the conditions for conducting performance tests;
- revisions to Table 4 to Subpart UUUU of Part 63 to correct an error in the reference to a test method appendix;
- revisions to the performance test requirements in Table 4 to Subpart UUUU of Part 63 to add IBR for ASTM D6420–99 (Reapproved 2010), ASTM D5790–95 (Reapproved 2012), and ASTM D6348–12e1;
- revision to the reporting requirements in 40 CFR 63.5580 and the reporting and recordkeeping requirements in Tables 8 and 9 to Subpart UUUU of Part 63 to include the requirements to record and report information on failures to meet the applicable standard and the corrective actions taken; and
- revisions to the General Provisions applicability table (Table 10 to Subpart UUUU of Part 63) to align with those sections of the General Provisions that have been amended or reserved over time.

III. What is included in this final rule?

This action finalizes the EPA's determinations pursuant to the RTR provisions of CAA section 112 for the MVP and the CEP source categories. This action also finalizes changes to the Cellulose Products Manufacturing NESHAP, including removal of the SSM exemption, addition of electronic reporting, addition of periodic emissions performance testing, amendments allowing more flexibility for monitoring of biofilter control devices, and other clarifications and corrections.

A. What are the final rule amendments based on the risk review for the source category?

1. Miscellaneous Viscose Processes

The EPA is finalizing its proposed finding that risk due to emissions of air toxics from this source category is acceptable, and is finalizing its proposed determination that the current NESHAP provides an ample margin of safety to protect public health and prevent an adverse environmental effect. Based on these determinations, we are not finalizing any revisions to the Cellulose Products Manufacturing NESHAP based on the analyses conducted under CAA section 112(f) for the MVP source category, and we are readopting the standards.

2. Cellulose Ethers Production

The EPA is finalizing its proposed finding that risk due to emissions of air toxics from this source category is acceptable, and is finalizing its proposed determination that the current NESHAP provides an ample margin of safety to protect public health and prevent an adverse environmental effect. Based on these determinations, we are not finalizing any revisions to the Cellulose Products Manufacturing NESHAP based on the analyses conducted under CAA section 112(f) for the CEP source category, and we are readopting the standards.

B. What are the final rule amendments based on the technology review for the source category?

1. Miscellaneous Viscose Processes

The EPA is finalizing its proposed determination that there are no developments in practices, processes, and control technologies that warrant revisions to the MACT standards for this source category. Therefore, we are not finalizing any revisions to the MACT standards under CAA section 112(d)(6).

2. Cellulose Ethers Production

The EPA is finalizing its proposed determination that there are no developments in practices, processes, and control technologies that warrant revisions to the MACT standards for this source category. Therefore, we are not finalizing any revisions to the MACT standards under CAA section 112(d)(6).

C. What are the final rule amendments addressing emissions during periods of SSM?

The EPA is finalizing the proposed amendments to the Cellulose Products Manufacturing NESHAP to remove and revise provisions related to SSM. In its 2008 decision in *Sierra Club* v. *EPA,* 551

[3] To produce CMC, HEC, HPC, MC, and HPMC, alkali cellulose is reacted with chloroacetic acid, ethylene oxide, propylene oxide, methyl chloride, and a combination of methyl chloride and propylene oxide, respectively.

F.3d 1019 (D.C. Cir. 2008), the Court vacated portions of two provisions in the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM. Specifically, the Court vacated the SSM exemption contained in 40 CFR 63.6(f)(1) and 40 CFR 63.6(h)(1), holding that under section 302(k) of the CAA, emissions standards or limitations must be continuous in nature and that the SSM exemption violates the CAA's requirement that some CAA section 112 standards apply continuously. As detailed in section IV.D of the preamble to the proposed rule (84 FR 47366, September 9, 2019), the EPA proposed to eliminate the SSM exemption in 40 CFR 63.5515(a) so that the Cellulose Products Manufacturing NESHAP would apply at all times (see 40 CFR 63.5515(a)), including during SSM events, consistent with the Court decision in *Sierra Club* v. *EPA,* 551 F. 3d 1019 (D.C. Cir. 2008). In addition to proposing that the SSM exemption be eliminated, we proposed to remove the requirement for sources to develop and maintain an SSM plan, as well as certain recordkeeping and reporting provisions related to the SSM exemption.

The EPA is finalizing the proposed revision of 40 CFR 63.5515(a) to eliminate the SSM exemption. The EPA is also finalizing the removal of the SSM exemption in 40 CFR 63.5555(d) that states deviations that occur during SSM events are not violations if a facility meets the general duty requirements. In addition, we are updating the references in Table 10 to Subpart UUUU of Part 63—Applicability of General Provisions to Subpart UUUU, including the references to 40 CFR 63.6(f)(1) and (h)(1)—the provisions vacated by *Sierra Club* v. *EPA.* Consistent with that decision, the standards in this rule will now apply at all times. We are also revising Table 10 to Subpart UUUU of Part 63 to change several references related to requirements that apply during periods of SSM. For example, we are eliminating the incorporation of the General Provisions' requirement that sources develop an SSM plan. We also are eliminating and revising certain recordkeeping and reporting requirements related to the SSM exemption.

The EPA did not propose separate standards for malfunctions. As discussed in section IV.D.1 of the September 9, 2019 proposal preamble, the EPA interprets CAA section 112 as not requiring emissions that occur during periods of malfunction to be factored into development of CAA section 112 standards, although the EPA has the discretion to set standards for malfunctions where feasible. For the MVP source category and the CEP source category, it is unlikely that a malfunction would result in a violation of the standards. Facilities using thermal oxidizers as pollution control equipment indicated in the 2018 information collection survey that interlocks shut down processes when an oxidizer malfunction occurs, and facilities may also have back-up oxidizers that could be used to treat the emissions. Refer to section IV.D.1 of the preamble to the proposed rule for further discussion of the EPA's rationale for the decision not to set standards for malfunctions, as well as a discussion of the actions a source could take in the unlikely event that a source fails to comply with the applicable CAA section 112(d) standards as a result of a malfunction event, given administrative and judicial procedures for addressing exceedances of the standards fully recognize that violations may occur despite good faith efforts to comply and can accommodate those situations.

As is explained in more detail below, the EPA is finalizing revisions to the Table 10 to Subpart UUUU of Part 63—Applicability of General Provisions to Subpart UUUU, to eliminate requirements that include rule language providing an exemption for periods of SSM. Additionally, we are finalizing our proposal to eliminate language related to SSM that treats periods of startup and shutdown the same as periods of malfunction, as explained further below. Finally, we are finalizing our proposal to revise reporting and record keeping requirements as they relate to malfunctions, as further described below. As discussed in the proposal preamble, these revisions are consistent with the requirement in 40 CFR 63.5515(a) that the standards apply at all times. Refer to section IV.C of this preamble for a detailed discussion of these amendments.

D. What other changes have been made to the NESHAP?

The EPA is finalizing new requirements for periodic emissions testing, electronic reporting, and biofilter effluent conductivity monitoring. The periodic emissions testing is part of an ongoing effort to improve compliance with various federal air emission regulations. The new provisions require facilities that use non-recovery control devices to conduct periodic air emissions performance testing, with the first of the periodic performance tests to be conducted within *July 2, 2023,* and thereafter no longer than 5 years following the previous test. The periodic emissions tests will ensure control devices are properly maintained over time, thereby reducing the potential for acute emissions episodes.

The electronic reporting provisions require owners and operators to submit all initial notifications, compliance notifications, performance test reports, performance evaluation reports, and semiannual reports electronically through the EPA's Central Data Exchange (CDX) using CEDRI. A description of the electronic data submission process is provided in the memorandum, *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules,* available at Docket ID Item No. EPA–HQ–OAR–2018–0415–0058.

The new biofilter effluent conductivity monitoring will allow owners and operators the flexibility to monitor either conductivity or pH to determine continuous compliance of biofilter control devices with the standards.

In addition to these new requirements, we are also finalizing several technical and editorial corrections and incorporating by reference three test method standards, in accordance with the provisions of 1 CFR 51.5. For more information on these changes, see 84 FR 47370–47371, September 9, 2019.

E. What are the effective and compliance dates of the standards?

The revisions to the NESHAP being promulgated in this action are effective on July 2, 2020. For sources that commenced construction or reconstruction before the notice of proposed rulemaking was published on September 9, 2019, the deadline to comply with the amendments in this rulemaking is no later than 180 days after the effective date of the final rule. Affected sources that commenced construction or reconstruction after September 9, 2019, must comply with all of the requirements of the subpart, including the amendments, immediately upon the effective date of the standard, July 2, 2020, or upon startup, whichever is later.

Through our work with other similar industries required to convert to electronic reporting, the EPA has found a period of 180 days is generally necessary to successfully install necessary hardware and software; become familiar with the process of submitting performance test results electronically through the EPA's CEDRI; test these new electronic submission capabilities; and reliably employ

electronic reporting. Our experience with similar industries has shown that facilities generally require a time period of 180 days to read and understand the amended rule requirements; evaluate their operations to ensure that they can meet the standards during SSM periods and make any necessary adjustments; adjust parameter monitoring and recording systems to accommodate revisions; and update their operations to reflect the revised requirements. Based on our assessment of the timeframe needed for facilities to comply with the amended rule, the EPA determined that a compliance date of within 180 days of the final rule's effective date was practicable. In the proposal, we solicited comment on whether the 180-day compliance period was reasonable and specifically requested sources provide information regarding the specific actions they would need to undertake to comply with the amended rule. We received no feedback on the proposed compliance deadlines. From our assessment of the timeframe needed for compliance with the entirety of the revised requirements, the EPA considers a period of 180 days to be the most expeditious compliance period practicable. Thus, all sources existing at the time the proposed rulemaking was published on September 9, 2019, must be in compliance with all of this regulation's revised requirements within 180 days of the regulation's effective date.

The final rule also requires sources that use a non-recovery control device to comply with the standards to conduct periodic performance tests every 5 years. Each source that commenced construction or reconstruction on or before September 9, 2019, and uses a non-recovery control device to comply with the standards must conduct the first periodic performance test on or before July 3, 2020, and conduct subsequent periodic performance tests no later than 5 years thereafter following the previous performance test. For each new and reconstructed affected source that commences construction or reconstruction after September 9, 2019, and uses a non-recovery control device to comply with the standards, the owners and operators must conduct the first periodic performance test no later than 5 years following the initial performance test required by 40 CFR 63.5535 and conduct subsequent periodic performance tests no later than 5 years thereafter following the previous performance test. We determined that a compliance date of 3 years for the first periodic performance test for sources constructed or reconstructed on or before September 9, 2019, was necessary to avoid scheduling issues that may arise as affected sources compete for a limited number of testing contractors.

IV. What is the rationale for our final decisions and amendments for the source category?

For each issue, this section provides a description of what we proposed and what we are finalizing for the issue, the EPA's rationale for the final decisions and amendments, and a summary of key comments and responses. For all comments not discussed in this preamble, comment summaries and the EPA's responses can be found in the comment summary and response document available in the docket, Docket ID No. EPA–HQ–OAR–2018–0415.

A. Residual Risk Review

1. Miscellaneous Viscose Processes

a. What did we propose pursuant to CAA section 112(f) for the source category?

The EPA estimated risks based on actual and allowable emissions from MVP sources subject to the Cellulose Products Manufacturing NESHAP. For the MVP source category, we estimated the chronic baseline inhalation cancer risk to be less than 1-in-1 million, with the risk driver being acetaldehyde emissions from viscose process equipment. The total estimated cancer incidence from MVP emission sources based on actual and allowable emission levels is 0.000006 excess cancer cases per year, or one case in every 167,000 years. Emissions of acetaldehyde contributed 100 percent to this cancer incidence. Based on actual and allowable emissions, no people are exposed to cancer risks greater than or equal to 1-in-1 million. The maximum chronic noncancer target organ-specific hazard index (TOSHI) values for the source category, based on actual and allowable emissions, are estimated to be less than 1. Based on actual and allowable emissions, CS_2 emissions from viscose process equipment are the risk driver for respiratory risks. For the acute risk assessment, the maximum refined offsite acute noncancer hazard quotient (HQ) value for the MVP source category is less than 1 from CS_2 emissions (based on the acute (1-hour) ERPG–1 for CS_2). We proposed that environmental and multipathway risks are not an issue for the MVP source category because there are no HAP known to be persistent and bio-accumulative in the environment (PB–HAP), lead compounds, or acid gases (hydrochloric acid (HCl) or hydrogen flouride) identified in the emissions inventory. The assessment of facility-wide emissions indicated that none of the five MVP facilities have a facility-wide maximum individual cancer risk (MIR) greater than 1-in-1 million and the maximum facility-wide cancer risk is 1-in-1 million, driven by formaldehyde, cadmium compounds, and nickel compounds from a non-category fugitive area source. The total estimated facility-wide cancer incidence is 0.00006 excess cancer cases per year, or one case in every 16,700 years, with zero people estimated to have cancer risks greater than 1-in-1 million. The maximum facility-wide chronic noncancer TOSHI is estimated to be less than 1, driven by source category emissions of CS_2 from viscose process equipment.

The risk assessment for this source category is contained in the report titled *Residual Risk Assessment for the Miscellaneous Viscose Processes Source Category in Support of the 2020 Risk* and *Technology Review Final Rule,* which can be found in the docket for this action (Docket ID No. EPA–HQ–OAR–2018–0415).

b. How did the risk review change for the source category?

The EPA has not made any changes to either the risk assessment or our determinations regarding risk acceptability, ample margin of safety, or adverse environmental effects for the MVP source category since the proposal was published on September 9, 2019. We are finalizing the risk review as proposed with no changes (84 FR 47346, September 9, 2019).

c. What key comments did we receive on the risk review, and what are our responses?

The EPA did not receive any comments specific to the MVP risk review and proposed results. We received comments from one commenter opposing our proposed risk assessment and determination that no revision to the standards is warranted under CAA section 112(f)(2). Generally, the commenter was not supportive of the acceptability and ample margin of safety determinations and suggested changes to the underlying risk assessment methodology. Examples of the commenter's suggested changes to the EPA's risk assessment methodology included lowering the presumptive limit of acceptability for cancer risks to below 100-in-1 million, including emissions outside of the source categories in question in the risk assessment, and assuming that pollutants with noncancer health risks

have no safe level of exposure. The comments and information provided by the commenter did not change our risk analyses or the proposed results that risks from the MVP source category are acceptable and provide an ample margin of safety.

For detailed summaries and responses to comments, see the memorandum in the docket, *National Emission Standards for Hazardous Air Pollutants: Cellulose Products Manufacturing (40 CFR part 63, subpart UUUU) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 9, 2019 Proposal* (Docket ID No. EPA–HQ–OAR–2018–0415).

d. What is the rationale for our final approach and final decisions for the risk review?

As noted in the proposal, the EPA sets standards under CAA section 112(f)(2) using ''a two-step standard-setting approach, with an analytical first step to determine an 'acceptable risk' that considers all health information, including risk estimation uncertainty, and includes a presumptive limit on MIR of 'approximately 1-in-10 thousand' '' (see 54 FR 38045, September 14, 1989). We weigh all health risk factors in our risk acceptability determination, including the cancer MIR, cancer incidence, the maximum cancer TOSHI, the maximum acute noncancer HQ, the extent of noncancer risks, the distribution of cancer and noncancer risks in the exposed population, and the risk estimation uncertainties.

The EPA evaluated all of the comments on the risk review and determined that no changes to the review are needed. For the reasons explained in the proposal, we determined that the risks from the MVP source category are acceptable, and the current standards provide an ample margin of safety to protect public health and prevent an adverse environmental effect. Therefore, pursuant to CAA section 112(f)(2), we are finalizing our residual risk review as proposed.

2. Cellulose Ethers Production

a. What did we propose pursuant to CAA section 112(f) for the source category?

The EPA estimated risks based on actual and allowable emissions from CEP sources subject to the Cellulose Products Manufacturing NESHAP. For the source category, we estimated the chronic baseline inhalation cancer risk using current actual and allowable emissions to be 80-in-1 million with the risk driver being ethylene oxide emissions from cellulose ether process equipment used to produce HEC. The total estimated cancer incidence from CEP emission sources based on actual and allowable emission levels is 0.01 excess cancer cases per year, or one case in every 100 years. Emissions of ethylene oxide contributed 99 percent to this cancer incidence based on actual emissions. Based on actual or allowable emissions, 105,000 people are exposed to cancer risks greater than or equal to 1-in-1 million. The maximum chronic noncancer hazard index (TOSHI) values for the source category, based on actual and allowable emissions, are estimated to be less than 1. Based on actual and allowable emissions, respiratory risks are driven by chlorine emissions from cellulose ether process equipment. The maximum refined offsite acute noncancer HQ value for the source category is less than 1 from methanol emissions from cellulose ether process equipment (based on the acute (1-hour) reference exposure level for methanol). The highest HQ is based on an hourly emissions multiplier of 10 times the annual emissions rate. Acute HQs were not calculated for allowable or whole facility emissions. For the multipathway risk screening, one facility within the CEP source category reported emissions of multipathway pollutants of lead compounds, carcinogenic PB–HAP (arsenic), and noncarcinogenic PB–HAP (cadmium and mercury). Results of the worst-case Tier 1 screening analysis indicate that PB–HAP emissions (based on estimates of actual emissions) emitted from the facility exceeded the screening values for the carcinogenic PB–HAP (arsenic compounds) by a factor of 2, and for the noncarcinogenic PB–HAP (cadmium and mercury) is equal to the Tier 1 screening value of 1. Based on this Tier 1 screening assessment for carcinogens, the arsenic, cadmium, and mercury emission rates for the single facility are below our level of concern. The highest annual average lead concentration of 0.00001 milligrams per cubic meter is well below the National Ambient Air Quality Standard (NAAQS) for lead, indicating a low potential for multipathway impacts of concern due to lead. For the environmental risk screening, the three CEP facilities reported emissions of lead compounds, an acid gas (HCl), arsenic, cadmium, and mercury. In the Tier 1 screening analysis for PB–HAP, no exceedances of the ecological benchmarks evaluated were found. For lead, we did not estimate any exceedances of the secondary lead NAAQS. For HCl, the average modeled concentration around each facility (*i.e.,* the average concentration of all off-site data points in the modeling domain) did not exceed any ecological benchmark. In addition, each individual modeled concentration of HCl (*i.e.,* each off-site data point in the modeling domain) was below the ecological benchmarks for all facilities. Based on the results of the environmental risk screening analysis, we do not expect an adverse environmental effect as a result of HAP emissions from this source category. Results of the assessment of facility-wide emissions indicate that all three facilities modeled have a facility-wide MIR cancer risk greater than 1-in-1 million. The maximum facility-wide cancer risk is 500-in-1 million, mainly driven by ethylene oxide from sources outside the source category, including holding ponds, storage tanks, tank truck unloading, and equipment/vent releases. The next highest cancer risk was 80-in-1 million, based on whole facility emissions of ethylene oxide. The total estimated cancer incidence from the whole facility is 0.04 excess cancer cases per year, or one case in every 25 years, with 570,000 people estimated to have cancer risks greater than 1-in-1 million and 2,000 people with risks greater than 100-in-1 million. The maximum facility-wide chronic noncancer TOSHI is estimated to be equal to 4, driven by emissions of chlorine from non-category sources.

The risk assessment for this source category are contained in the report titled *Residual Risk Assessment for the Cellulose Ethers Production Source Category in Support of the 2020 Risk and Technology Review Final Rule,* which can be found in the docket for this action.

b. How did the risk review change for the source category?

The EPA did not make any changes to either the risk assessments or our determinations regarding risk acceptability, ample margin of safety, or adverse environmental effects for the CEP source category since the proposal was published on September 9, 2019. We are finalizing the residual risk review as proposed with no changes (84 FR 47346, September 9, 2019).

c. What key comments did we receive on the risk review, and what are our responses?

The EPA received one comment opposing our proposed risk assessment and determination that no revision to the standards for the CEP source category are warranted under CAA section 112(f)(2). Generally, the commenter was not supportive of the

acceptability and ample margin of safety determinations and suggested changes to the underlying risk assessment methodology. The commenter asserted that changes to the EPA's risk assessment methodology were needed, including that the EPA should lower its presumptive limit of acceptability for cancer risks to below 100-in-1 million, include emissions outside of the source categories in question in the risk assessment, and assume that pollutants with noncancer health risks have no safe level of exposure. The commenter supported the proposal's use of the 2016 Integrated Risk Information System (IRIS) value for ethylene oxide. The comments and information provided by the commenter did not change our risk analyses or the proposed results that risks from the CEP source category are acceptable and provide an ample margin of safety.

For a detailed summary of the comments and our responses, see the memorandum in the docket, *National Emission Standards for Hazardous Air Pollutants: Cellulose Products Manufacturing (40 CFR part 63, subpart UUUU) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 9, 2019 Proposal.*

d. What is the rationale for our final approach and final decisions for the risk review?

As noted in our proposal, the EPA sets standards under CAA section 112(f)(2) using ''a two-step standard-setting approach, with an analytical first step to determine an 'acceptable risk' that considers all health information, including risk estimation uncertainty, and includes a presumptive limit on MIR of 'approximately 1-in-10 thousand' '' (see 54 FR 38045, September 14, 1989). We weigh all health risk factors in our risk acceptability determination, including the cancer MIR, cancer incidence, the maximum cancer TOSHI, the maximum acute noncancer HQ, the extent of noncancer risks, the distribution of cancer and noncancer risks in the exposed population, and the risk estimation uncertainties.

The EPA evaluated all of the comments on the risk review and determined that no changes to the review are needed. For the reasons explained in the proposal, we determined that the risk from the CEP source category is acceptable, and the current standards provide an ample margin of safety to protect public health and prevent an adverse environmental effect. Therefore, pursuant to CAA section 112(f)(2), we are finalizing our residual risk review as proposed.

B. Technology Review

1. Miscellaneous Viscose Processes

a. What did we propose pursuant to CAA section 112(d)(6) for the source category?

Pursuant to CAA section 112(d)(6), the EPA proposed to conclude that no revisions to the current MACT standards for the MVP source category are necessary (section IV.C of proposal preamble, 84 FR 47365, September 9, 2019). Based on the review, we did not identify any developments in practices, processes, or control technologies for the MVP source category, and, therefore, we did not propose any changes to the standards under CAA section 112(d)(6). Additional details of our technology review can be found in the memorandum, *Technology Review for the Cellulose Products Manufacturing Industry—Proposed Rule* (Docket ID Item No. EPA–HQ–OAR–2018–0415–0119).

b. How did the technology review change for the source category?

The EPA has not made any changes to the technology review for the MVP source category since the proposal was published on September 9, 2019. We are finalizing the technology review as proposed with no changes (84 FR 47346, September 9, 2019).

c. What key comments did we receive on the technology review, and what are our responses?

We received comments from one commenter that did not support the proposed determination from the technology review that no revisions were warranted under CAA section 112(d)(6). In general, the commenter claimed that the EPA failed to consider all HAP emitted by the source category and that the EPA should set new standards for previously unregulated emission points/pollutants as part of the technology review.

The EPA disagrees with the commenter's assertion that the EPA failed to consider all HAP emitted and that we should set new standards for previously unregulated emission points/pollutants as part of the technology review. CAA section 112(d)(6) requires the EPA to review and revise, as necessary (taking into account developments in practices, processes, and control technologies), emission standards promulgated under this section. The EPA reads CAA section 112(d)(6) as a limited provision requiring the Agency to, at least every 8 years, review the emission standards already promulgated in the NESHAP and to revise those standards as necessary, taking into account developments in practices, processes, and control technologies. Nothing in CAA section 112(d)(6) directs the Agency, as part of or in conjunction with the mandatory 8-year technology review, to develop new emission standards to address HAP or emission points for which standards were not previously promulgated. As shown by the statutory text and the structure of CAA section 112, CAA section 112(d)(6) does not impose upon the Agency any obligation to promulgate emission standards for previously unregulated emissions as part of the technology review.

When the EPA establishes standards for previously unregulated emissions, we do so pursuant to the provisions that govern initial standard setting—CAA sections 112(d)(2) and (3) or, if the prerequisites are met, CAA section 112(d)(4) or CAA section 112(h). Establishing emissions standards under these provisions of the CAA involves a different analytical approach from reviewing emissions standards under CAA section 112(d)(6).

Though the EPA has discretion to develop standards under CAA section 112(d)(2) through (4) and CAA section 112(h) for previously unregulated pollutants at the same time as the Agency completes the CAA section 112(d)(6) review, any such action would not be part of the CAA section 112(d)(6) review, and there is no obligation to undertake such actions at the same time as the CAA section 112(d)(6) review. Additionally, given the court-ordered deadline of March 13, 2020, we did not have sufficient time to analyze existing data, determine if additional data were needed, collect additional data, and develop new emission standards. Therefore, we are not establishing new standards for previously unregulated emissions as part of this rulemaking.

For detailed summaries and responses regarding the technology review, see the memorandum in the docket, *National Emission Standards for Hazardous Air Pollutants: Cellulose Products Manufacturing (40 CFR part 63, subpart UUUU) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 9, 2019 Proposal* (Docket ID No. EPA–HQ–OAR–2018–0415).

d. What is the rationale for our final approach for the technology review?

The EPA evaluated all of the comments on the technology review and determined that no changes to the

review are needed. Therefore, pursuant to CAA section 112(d)(6), we are finalizing our technology review as proposed. Additional details of our technology review can be found in the memorandum titled *Technology Review for the Cellulose Products Manufacturing Industry,* which is available in the docket for this action (Docket ID Item No. EPA–HQ–OAR–2018–0415–0119).

2. Cellulose Ethers Production

a. What did we propose pursuant to CAA section 112(d)(6) for the source category?

Pursuant to CAA section 112(d)(6), the EPA proposed to conclude that no revisions to the current MACT standards for the CEP source category are necessary (section IV.C of proposal preamble, 84 FR 47365, September 9, 2019). Our review of the developments in technology for the source category did not reveal any changes in practices, processes, and controls that warrant revisions to the emission standards. Based on our review, we did not identify any developments in practices, processes, or control technologies for the CEP source category, and, therefore, we did not propose any changes to the standards under CAA section 112(d)(6). Additional details of our technology review can be found in the memorandum, *Technology Review for the Cellulose Products Manufacturing Industry—Proposed Rule* (Docket ID Item No. EPA–HQ–OAR–2018–0415–0119).

b. How did the technology review change for the source category?

The EPA has not made any changes to the technology review for the CEP source category since the proposal was published on September 9, 2019. We are finalizing the technology review as proposed with no changes (84 FR 47346, September 9, 2019).

c. What key comments did we receive on the technology review, and what are our responses?

The EPA received comments from one commenter that did not support the proposed determination from the technology review that no revisions were warranted under CAA section 112(d)(6). In general, the commenter claimed that the EPA failed to consider all HAP emitted and that the EPA should set new standards for previously unregulated emission points/pollutants as part of the technology review. The commenter also claimed that the EPA did not consider leak detection and repair, fenceline monitoring, process changes, dry sorbent injection, or spray dryer absorbers as part of the technology review.

The EPA disagrees with the commenter's assertion that the EPA failed to consider all HAP emitted and that we should set new standards for previously unregulated emission points/pollutants as part of the technology review. See the discussion of this topic in section IV.B.1.c of this preamble.

The EPA also disagrees with the commenter's assertion that the EPA failed to consider leak detection and repair, fenceline monitoring, process changes, dry sorbent injection, or spray dryer absorbers as part of the technology review. The Agency did consider these options but found that they were not appropriate for the CEP emission sources. See the comment response document, *National Emission Standards for Hazardous Air Pollutants: Cellulose Products Manufacturing (40 CFR part 63, subpart UUUU) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 9, 2019 Proposal,* for more details.

d. What is the rationale for our final approach for the technology review?

We evaluated all of the comments on the technology review and determined that no changes to the review are needed. Therefore, pursuant to CAA section 112(d)(6), we are finalizing our technology review as proposed. Additional details of our technology review can be found in the memorandum titled *Technology Review for the Cellulose Products Manufacturing Industry,* which is available in the docket for this action (Docket ID Item No. EPA–HQ–OAR–2018–0415–0119).

C. Removal of the SSM Exemption

1. What did we propose?

The EPA proposed amendments to the Cellulose Product Manufacturing NESHAP to remove the provisions related to SSM that are not consistent with the requirement that the standards apply at all times. The proposed amendments included:

- Revising Table 10 (General Provisions) entry for 40 CFR 63.6(e)(1) and (2) by redesignating it as 40 CFR 63.6(e)(1)(i) and changing the ''yes'' in column 4 to a ''no'' and adding general duty regulatory text to 40 CFR 63.5515 that reflect the general duty to minimize emissions included in 40 CFR 63.6(e)(1) without the references to SSM;
- revising Table 10 by adding an entry for 40 CFR 63.6(e)(1)(ii) and including a ''no'' in column 4 because 40 CFR 63.6(e)(1)(ii) imposes requirements that are not necessary with the elimination of the SSM exemption or are redundant with the general duty requirement being added at 40 CFR 63.5515;
- removing the SSM plan requirements by changing the Table 10 entry for 40 CFR 63.6(e)(3) from ''yes'' in column 4 to ''no'';
- revising the compliance standards in Table 10 by changing the entry for 40 CFR 63.6(f)(1) from ''yes'' to ''no,'' redesignating 40 CFR63.6(h) as 40 CFR 63.6(h)(1), and changing the ''yes'' to ''no'' in column 4;
- revising the performance testing requirements in Table 10 by changing the entry for 40 CFR 63.7(e)(1) from ''yes'' in column 4 to a ''no'' and revising 40 CFR 63.5535(b) and 40 CFR 63.5535(c) to specify the conditions under which performance tests should be completed;
- revising the monitoring requirements entries in Table 10 for 40 CFR 63.8(c)(1)(i) and (iii) by changing the ''yes'' in column 4 to ''no'' and revising 40 CFR 63.5545(b)(1) to specify the ongoing operation and maintenance procedures;
- adding a new entry to Table 10 for 40 CFR 63.8(d)(3) with a ''no'' entered in column 4 and adding the language in 40 CFR 63.8(d)(3) to Table 9 except that the final sentence is replaced with the following: ''The program of corrective action should be included in the plan required under 40 CFR 63.8(d)(2).'';
- revising the recordkeeping requirements in Table 10 by redesignating the entries for 40 CFR 63.10(b)(2)(i) through (iv) as 40 CFR 63.10(b)(2)(i) and changing the ''yes'' in column 4 to a ''no'' and revising the recordkeeping requirements to Table 9 to clarify what records are required for SSM events;
- adding an entry for 40 CFR 63.10(b)(2)(ii) to Table 10 and including a ''no'' in column 4 and adding text to Table 9 that is similar to 40 CFR 63.10(b)(2)(ii) that describes the recordkeeping requirements during a malfunction;
- revising the recordkeeping provisions by adding entries for 40 CFR 63.10(b)(2)(iv), 40 CFR 63.10(b)(2)(v), and 40 CFR 63.10(c)(15) to Table 10 and adding ''no'' in column 4 for each new entry;
- revising the entry for 40 CFR 63.10(d)(5) in Table 10 by redesignating it as 40 CFR 63.10(d)(5)(i) and changing the ''yes'' in column 4 to a ''no'';
- adding reporting requirements to 40 CFR 63.5580 and Table 8 to eliminate periodic SSM reports as a stand-alone report and require sources that fail to meet an applicable standard at any time

to report the number, date, time, duration, list of affected source or equipment, estimate of the quantity of each regulated pollutant emitted, a description of the method used to estimate the emissions, and the cause of such events in the semiannual compliance report already required under this rule; and

• revising the reporting requirements in Table 10 by adding an entry for 40 CFR 63.10(d)(5)(ii) and including a ''no'' in column 4.

More information concerning the elimination of SSM provisions is in the preamble to the proposed rule (84 FR 47366–47370, September 9, 2019).

2. What changed since proposal?

We are finalizing the removal of the SSM exemption as proposed with no changes (84 FR 47346, September 9, 2019).

3. What are the key comments and what are our responses?

Only one commenter submitted comments related to our proposed removal of the SSM exemption, and their comments generally supported the proposed removal of the SSM provisions but stated that the EPA cannot finalize a malfunction exemption, as proposed. The Agency did not propose a malfunction exemption in this rulemaking, therefore, this portion of the comment was not relevant. We evaluated the comments and determined that no changes to the proposed SSM provisions are warranted. A summary of these comments and our responses are located in the memorandum titled *National Emission Standards for Hazardous Air Pollutants: Cellulose Products Manufacturing (40 CFR part 63, subpart UUUU) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 9, 2019 Proposal,* in the docket for this rulemaking.

4. What is the rationale for our final approach for the SSM provisions?

The EPA evaluated all comments on the EPA's proposed amendments to remove the SSM exemption. For the reasons explained in the proposed rule, we determined that the proposed amendments remove and revise provisions related to SSM that are not consistent with the requirement that the standards apply at all times. More information concerning the amendments we are finalizing for SSM is in the preamble to the proposed rule (84 FR 47366–47370, September 9, 2019). We are finalizing our approach for removing the SSM exemption as proposed.

D. Five-Year Periodic Emissions Testing

1. What did we propose?

The EPA proposed to add new requirements for periodic performance testing at 40 CFR 63.5535(g)(1), 40 CFR 63.5535(h)(1), and 40 CFR 63.5541 for facilities that use non-recovery control devices. We proposed that facilities constructed or reconstructed on or before September 9, 2019, conduct periodic air emissions performance testing every 5 years, with the first periodic performance test to be conducted within 3 years of the effective date of the revised standards and thereafter every 5 years following the previous test. For facilities that commence construction after September 9, 2019, we proposed a periodic performance test be completed within 5 years of the initial performance required by 40 CFR 63.5535 and that subsequent tests be conducted every 5 years thereafter.

2. What changed since proposal?

We are finalizing the 5-year periodic emission testing requirements for facilities that use non-recovery control devices as proposed with no changes (84 FR 47346, September 9, 2019).

3. What are the key comments and what are our responses?

We did not receive any comments on the proposed 5-year periodic emission testing requirements for facilities that use non-recovery control devices.

4. What is the rationale for our final approach for the 5-year periodic emission testing?

For the reasons explained in the preamble to the proposed rule and taking into account the fact that the EPA received no comments relating to the proposed provisions, we are finalizing the requirement for facilities that use non-recovery control devices to conduct periodic emissions tests once every 5 years. The new performance tests will serve as a check on the accuracy of facilities' mass balance calculations and on the efficiency of the control devices used to achieve compliance with the standards. The new performance testing will ensure that control devices are properly maintained over time, thereby reducing the potential for acute emissions episodes.

E. Electronic Reporting

1. What did we propose?

The EPA proposed amendments to the Cellulose Products Manufacturing NESHAP to require owners and operators of MVP and CEP facilities to submit electronic copies of initial notifications, notifications of compliance status, performance test reports, performance evaluation reports, and semiannual reports through the EPA's CDX using CEDRI. Additionally, we proposed two broad circumstances in which electronic reporting extensions may be provided at the discretion of the Administrator. The EPA proposed these extensions to protect owners and operators from noncompliance in cases where they are unable to successfully submit a report by the reporting deadline for reasons outside of their control, including CDX and CEDRI outages and *force majeure* events, such as acts of nature, war, or terrorism.

2. What changed since proposal?

No changes have been made to the proposed requirement for owners and operators of MVP and CEP facilities to submit initial notifications, notifications of compliance status, performance test reports, performance evaluation reports, and semiannual reports electronically using CEDRI. Therefore, we are finalizing the electronic reporting provisions as proposed with no changes (84 FR 47346, September 9, 2019).

3. What are the key comments and what are our responses?

The EPA received one comment supporting the proposed amendment to require electronic reporting. The commenter, however, asserted that the *force majeure* language should be removed. The commenter expressed concern that proposed 40 CFR 63.5420(c)(5) provides an exemption from reporting due to *force majeure* events. The commenter noted that the Court rejected similar ''affirmative defense'' to civil penalties for malfunctions (*NRDC* v. *EPA,* 749 F.3d 1055 (D.C. Cir. 2014)). The commenter also argued that adding such an exemption would be arbitrary and unlawful because it would undermine the reporting requirements by providing a justification to delay reporting, and, thus, undermine compliance, enforcement, and fulfillment of the emissions standards designed to protect public health and the environment at the core of the CAA's and section 7412's purpose (42 U.S.C. 740).

The commenter is incorrect in referring to 40 CFR 63.5420(c)(5) as an ''exemption.'' This provision provides instructions for actions an affected source should take if it is unable to submit an electronic report (required under 40 CFR 63.5420(c)) ''due to a *force majeure* event that is about to

occur, occurs, or has occurred, or if there are lingering effects from such an event within the period of time beginning 5 business days prior to the date the submission is due'' under 40 CFR 63.5420(c). We note that there is no exception or exemption to reporting, only a method for requesting an extension of the reporting deadline. As specified in 40 CFR 63.5420(c)(5), ''[t]he decision to accept the claim of *force majeure* and allow an extension to the reporting deadline is solely within the discretion of the Administrator.'' There is no predetermined timeframe for the length of extension that can be granted, as this is something best determined by the Administrator when reviewing the circumstances surrounding the request. Different circumstances may require a different length of extension for electronic reporting. For example, a tropical storm may delay electronic reporting for a day, but a category 5 hurricane event may delay electronic reporting much longer, especially if the facility has no power, and, as such, the owner or operator has no ability to access electronically stored data or to submit reports electronically. The Administrator will be the most knowledgeable on the events leading to the request for extension and will assess whether an extension is appropriate and, if so, determine a reasonable length. The Administrator may even request that the report be sent in hardcopy until electronic reporting can be resumed. While no new fixed duration deadline is set, the regulation does require that the report be submitted electronically as soon as possible after the CEDRI outage is resolved or after the *force majeure* event occurs.

We also note that the *force majeure* mimics long-standing language in 40 CFR 63.7(a)(4) and 60.8(a)(1) regarding the time granted for conducting a performance test and such language has not undermined compliance or enforcement.

Moreover, we disagree that the reporting extension will undermine enforcement because the Administrator has full discretion to accept or reject the claim of a CEDRI system outage or *force majeure.* As such, an extension is not automatic and is agreed to on an individual basis by the Administrator. If the Administrator determines that a facility has not acted in good faith to reasonably report in a timely manner, the Administrator can reject the claim and find that the failure to report timely is a deviation from the regulation. CEDRI system outages are infrequent, but the EPA knows when they occur and whether a facility's claim is legitimate. *Force majeure* events (*e.g.,* natural disasters impacting a facility) are also usually well-known events.

We also disagree that the ability to request a reporting extension would undermine compliance and fulfillment of the emissions standards. While reporting is an important mechanism for the EPA and air agencies to assess whether owners or operators are in compliance with emissions standards, reporting obligations have nothing to do with whether an owner or operator is required to be in compliance with an emissions standard, especially where the deadline for meeting the standard has already passed and the owner or operator has certified that they are in compliance with the standard.

Additionally, the ability to request a reporting extension does not apply to a broad category of circumstances; on the contrary, the scope for submitting a reporting extension request is very limited in that claims can only be made for events outside of the owner's or operator's control that occur in the 5 business days prior to the reporting deadline. The claim must then be approved by the Administrator, and, in approving such a claim, the Administrator agrees that something outside the control of the owner or operator prevented the owner or operator from meeting its reporting obligation. In no circumstance does this reporting extension allow for the owner or operator to be out of compliance with the emissions standards.

The reporting deadline extension differs from the affirmative defense to civil penalties for malfunctions the Court vacated as beyond the EPA's authority under the CAA in *NRDC* v. *EPA,* 749 F.3d 1055 (D.C. Cir. 2014). Unlike the affirmative defense addressed in *NRDC,* the reporting provision does not address penalty liability for noncompliance with emission standards, but merely addresses, under a narrow set of circumstances outside the control of the facilities, the deadline for reporting.

A detailed summary of these comments and our responses are located in the memorandum titled *National Emission Standards for Hazardous Air Pollutants: Cellulose Products Manufacturing (40 CFR part 63, subpart UUUU) Residual Risk and Technology Review, Final Amendments—Response to Public Comments on September 9, 2019 Proposal,* in the docket for this rulemaking (Docket ID No. EPA–HQ–OAR–2018–0415).

4. What is the rationale for our final approach to electronic reporting?

The EPA is finalizing, as proposed, a requirement that owners or operators of MVP and CEP facilities submit electronic copies of notifications, performance evaluation reports, and semiannual compliance reports using CEDRI. We also are finalizing, as proposed, provisions that allow facility owners or operators a process to request extensions for submitting electronic reports for circumstances beyond the control of the facility (*i.e.,* for a possible outage in the CDX or CEDRI or for a *force majeure* event). The amendments will increase the ease and efficiency of data submittal for owners and operators of MVP and CEP facilities and will make the data more accessible to regulators and the public.

F. Changes to the Monitoring Requirements for Biofilter Control Devices

1. What did we propose?

The EPA proposed revisions to the operating limits in Table 2 to Subpart UUUU of Part 63 to add biofilter effluent conductivity to the list of biofilter operating limits, revisions to the performance testing requirements in 40 CFR 63.5535(i)(7) to add biofilter effluent conductivity to the list of parameters for which operating limits must be established during the compliance demonstration, and revisions to the continuous compliance with operating limits in Table 6 to Subpart UUUU of Part 63 to add biofilter effluent conductivity to the list of parameters to monitor to demonstrate continuous compliance.

2. What changed since proposal?

The EPA has not made any changes to the proposed amendments to include biofilter effluent conductivity monitoring provisions since publication of the proposal on September 9, 2019. We are finalizing the alternative monitoring provisions as proposed with no changes (84 FR 47346, September 9, 2019).

3. What are the key comments and what are our responses?

No comments were received on the proposed addition of biofilter effluent conductivity monitoring provisions.

4. What is the rationale for our final approach to monitoring of biofilter control devices?

The EPA is finalizing the proposed revisions to allow monitoring of biofilter effluent conductivity as an alternative to effluent pH for biofilter control devices.

As we explained in the proposal, the EPA has conditionally approved an alternative monitoring request from one company to use conductivity in lieu of pH monitoring pursuant to 40 CFR 63.8(f). The company's request stated that conductivity would provide a more accurate operating limit than pH for strong acids and bases. To allow other sources the flexibility to use conductivity for monitoring of biofilter control devices without the need to request approval for each source, we have finalized the changes as described in the proposal.

G. IBR Under 1 CFR Part 51 for the Cellulose Products Manufacturing NESHAP

1. What did we propose?

In accordance with requirements of 1 CFR 51.5, the EPA proposed to IBR the following documents into 40 CFR 63.14:

- ASTM D6420–99 (Reapproved 2010), Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry, IBR approved for Table 4 to Subpart UUUU of Part 63;
- ASTM D5790–95 (Reapproved 2012), Standard Test Method for Measurement of Purgeable Organic Compounds in Water by Capillary Column Gas Chromatography/Mass Spectrometry, IBR approved for Table 4 to Subpart UUUU of Part 63; and
- ASTM D6348–12e1, Standard Test Method for Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy, IBR approved for Table 4 to Subpart UUUU of Part 63.

2. What changed since proposal?

The EPA has not made any changes to its proposal to IBR the documents listed above. We are incorporating these documents by reference into 40 CFR 63.14 as proposed (84 FR 47346, September 9, 2019). We have also included an IBR for ASTM D6348–03, Standard Test Method for Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy, in this rulemaking. It was determined that the appendices in this method were needed for use with the ASTM D6348–12e1 method.

3. What are the key comments and what are our responses?

No comments were received on the proposed IBR of the standards into 40 CFR 63.14.

4. What is the rationale for our amendments?

In the proposal, we proposed regulatory text that included IBR. In accordance with requirements of 1 CFR 51.5, we have finalized as proposed the IBR of the four documents listed in sections IV.E.1 and IV.E.2 of this preamble.

H. Technical and Editorial Changes for the Cellulose Products Manufacturing NESHAP

1. What did we propose?

The EPA proposed the following technical and editorial changes:

- Add a new paragraph at 40 CFR 63.5505(f) to clarify that CS_2 storage tanks that are part of a submerged unloading and storage operation subject to 40 CFR part 63, subpart UUUU, are not subject to 40 CFR part 60, subpart Kb;
- revise the performance test requirements in 40 CFR 63.5535 to specify the conditions for conducting performance tests;
- revise the performance evaluation requirements in 40 CFR 63.5545(e)(2) to specify the use of Procedure 1 of 40 CFR part 60, appendix F for quality assurance procedures;
- revise the performance test requirements table (Table 4 to Subpart UUUU of Part 63) to correct an error in the reference to a test method appendix;
- revise the performance test requirements table (Table 4 to Subpart UUUU of Part 63) to add IBR for ASTM D6420–99 (Reapproved 2010), ASTM D5790–95 (Reapproved 2012), and ASTM D6348–12e1;
- revise the reporting requirements in 40 CFR 63.5580 and the reporting and recordkeeping requirements tables (Tables 8 and 9 to Subpart UUUU of Part 63) to include the requirements to record and report information on failures to meet the applicable standard and the corrective actions taken; and
- revise the General Provisions applicability table (Table 10 to Subpart UUUU of Part 63) to align with those sections of the General Provisions that have been amended or reserved over time.

2. What changed since proposal?

We are finalizing the technical and editorial changes as proposed with no changes (84 FR 47346, September 9, 2019).

3. What are the key comments and what are our responses?

No comments were received on the proposed technical and editorial corrections.

4. What is the rationale for our final approach?

We are finalizing the technical and editorial changes as proposed for the reasons stated in section IV.E.6 of the proposal preamble.

V. Summary of Cost, Environmental, and Economic Impacts and Additional Analyses Conducted

A. What are the affected facilities?

There are currently eight facilities operating in the United States that conduct MVP and CEP operations that are subject to the Cellulose Products Manufacturing NESHAP. The 40 CFR part 63, subpart UUUU affected source for the MVP source category is each cellulose food casing, rayon, cellulosic sponge, or cellophane operation, as defined in 40 CFR 63.5610. The affected source for the CEP source category is each cellulose ether operation, as defined in 40 CFR 63.5610.

B. What are the air quality impacts?

The EPA estimates that annual HAP emissions from the MVP and CEP facilities that are subject to the NESHAP are approximately 4,300 tpy. We are not establishing new emission limits and are not requiring additional controls; therefore, no quantifiable air quality impacts are expected as a result of the final amendments to the rule. However, the final amendments, including the removal of the SSM exemption and addition of periodic emissions testing, have the potential to reduce excess emissions from sources by ensuring proper operation of control devices.

The final amendments will have no effect on the energy needs of the affected facilities and, therefore, have no indirect or secondary air emissions impacts.

C. What are the cost impacts?

The eight facilities subject to the final amendments will incur minimal net costs to meet the revised recordkeeping and reporting requirements and will incur periodic emissions testing costs for add-on control devices. The nationwide costs associated with the new periodic testing requirements are estimated to be $490,000 (2018$) over the 5 years following promulgation of the amendments. For further information on the costs, see the memorandum titled *Costs and Environmental Impacts of Regulatory Options for the Cellulose Products Manufacturing Industry,* and the document titled *Supporting Statement for the NESHAP for Cellulose Products Manufacturing (40 CFR part 63, subpart UUUU),* which are both available in the

docket for this final rule (Docket ID No. EPA–HQ–OAR–2018–0415).

D. What are the economic impacts?

The final revisions to the Cellulose Products Manufacturing NESHAP have some costs associated with the periodic testing requirements and these costs are not expected to have significant economic impacts.

E. What are the benefits?

The final amendments will result in improved monitoring, compliance, and implementation of the rule by adding provisions for periodic emissions testing, requiring MVP and CEP facilities to meet the same emission standards during SSM events as during normal operations, and requiring electronic submittal of initial notifications, performance test results, and semiannual reports. These improvements will further assist in the protection of public health and the environment. The electronic reporting requirements will improve data availability and ultimately result in less burden on the regulated community.

F. What analysis of environmental justice did we conduct?

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.

To examine the potential for any environmental justice issues that might be associated with the Cellulose Products Manufacturing NESHAP, we performed a demographic analysis for the MVP and CEP source categories, which is an assessment of risks to individual demographic groups of the populations living within 5 kilometers (km) and within 50 km of the facilities. In each analysis, we evaluated the distribution of HAP-related cancer and noncancer risks from the MVP and CEP source categories across different demographic groups within the populations living near facilities.[4]

For the MVP source category, we determined that no one is exposed to a cancer risk at or above 1-in-1 million or to a chronic noncancer TOSHI greater than 1. The methodology and the results of the MVP demographic analysis are presented in a technical report, *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Miscellaneous Viscose Processes Facilities,* available in the docket for this action.

For the CEP source category, the results of the demographic analysis indicate that emissions from the source category expose approximately 104,572 people to a cancer risk at or above 1-in-1 million and approximately zero people to a chronic noncancer TOSHI greater than 1. The percentages of the at-risk population in three demographic groups (African American, above poverty level, and over 25 without high school diploma) are greater than their respective nationwide percentages. The methodology and the results of the CEP demographic analysis are presented in the technical report, *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Cellulose Ethers Production Facilities,* available in the docket for this action (Docket ID No. EPA–HQ–OAR–2018–0415).

G. What analysis of children's environmental health did we conduct?

The EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The health and risk assessments for this action are contained in two reports titled *Residual Risk Assessment for the Miscellaneous Viscose Processes Source Category in Support of the 2020 Risk* and *Technology Review Final Rule* and *Residual Risk Assessment for the Cellulose Ethers Production Source Category in Support of the 2020 Risk and Technology Review Final Rule,* which can be found in the docket for this action.

VI. Statutory and Executive Order Reviews

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

A. Executive Orders 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.

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

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

C. Paperwork Reduction Act (PRA)

The information collection activities in this rule have been submitted for approval to the OMB under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 1974.11. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

We are finalizing changes to the recordkeeping and reporting requirements for 40 CFR part 63, subpart UUUU, which eliminate the SSM reporting and SSM plan requirements, add periodic emissions testing, provide biofilter effluent conductivity as an alternative to monitoring pH, and require electronic submittal of notifications, semiannual reports, and performance test reports.

Respondents/affected entities: Respondents include facilities subject to the NESHAP for Cellulose Products Manufacturing (40 CFR part 63, subpart UUUU).

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart UUUU).

Estimated number of respondents: Eight.

Frequency of response: Initial notifications, reports of periodic performance tests, and semiannual compliance reports.

Total estimated burden: 7,256 labor hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $954,000 per year, including $834,000 per year in labor costs and $120,000 per year in annualized capital or operation and 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. When OMB approves this ICR, the Agency will announce that approval in the **Federal Register** and publish a technical amendment to 40 CFR part 9 to display the OMB control number for the approved information collection activities contained in this final rule.

[4] Demographic groups included in the analysis are: White, African American, Native American, other races and multiracial, Hispanic or Latino, children 17 years of age and under, adults 18 to 64 years of age, adults 65 years of age and over, adults without a high school diploma, people living below the poverty level, people living two times the poverty level, and linguistically isolated people.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. There are no small entities in this regulated industry and, as such, this action will not impose any requirements on small entities.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes 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. 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. None of the facilities known to be engaged in the manufacture of cellulose products that would be affected by this action are owned or operated by tribal governments or located within tribal lands. Thus, Executive Order 13175 does not apply to this action.

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

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are contained in sections III.A and IV.A of this preamble. Further documentation is provided in the following risk reports titled *Residual Risk Assessment for the Miscellaneous Viscose Processes Source Category in Support of the 2020 Risk and Technology Review Final Rule* and *Residual Risk Assessment for the Cellulose Ethers Production Source Category in Support of the 2020 Risk and Technology Review Final Rule,* which can be found in the docket for this action.

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

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51

This action involves technical standards. The EPA has decided to use three voluntary consensus standards (VCS). ASTM D6420–99 (Reapproved 2010), ''Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry,'' is used for the measurement of toluene and total organic HAP. This method employs a direct interface gas chromatograph/mass spectrometer to identify and quantify the 36 volatile organic compounds (VOC) (or sub-set of these compounds) listed on the ASTM website. This ASTM standard has been approved by the EPA as an alternative to EPA Method 18 when the target compounds are all known, and the target compounds are all listed in ASTM D6420 as measurable.

ASTM D5790–95 (Reapproved 2012), ''Standard Test Method for Measurement of Purgeable Organic Compounds in Water by Capillary Column Gas Chromatography/Mass Spectrometry,'' identifies and measures purgeable VOC. It has been validated for treated drinking water, wastewater, and groundwater. ASTM D5790–95 is acceptable as an alternative to EPA Method 624 and for the analysis of total organic HAP in wastewater samples. For wastewater analyses, this ASTM method should be used with the sampling procedures of EPA Method 25D or an equivalent method in order to be a complete alternative. This ASTM standard is validated for all of the 21 volatile organic HAP (including toluene) targeted by EPA Method 624 and is also validated for an additional 14 HAP not targeted by the EPA method.

ASTM D6348–12e1, ''Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy,'' is an acceptable alternative to using EPA Method 320 with caveats requiring inclusion of selected annexes to the standard as mandatory. This test method provides the volume concentration of detected analytes. Converting the volume concentration to a mass emission rate using the compound's molecular weight, and the effluent volumetric flow rate, temperature, and pressure is useful for determining the impact of that compound to the atmosphere. When using ASTM D6348–12e, the following conditions must be met: (1) The test plan preparation and implementation in the Annexes to ASTM D 6348–03, Sections A1 through A8 are mandatory; and (2) in ASTM D6348–03, Annex A5 (Analyte Spiking Technique), the percent recovery (%R) must be determined for each target analyte (Equation A5.5). For the test data to be acceptable for a compound, %R must be greater than or equal to 70 percent and less than or equal to 130 percent. If the %R value does not meet this criterion for a target compound, the test data are not acceptable for that compound and the test must be repeated for that analyte (*i.e.,* the sampling and/or analytical procedure should be adjusted before a retest). The %R value for each compound must be reported in the test report, and all field measurements must be corrected with the calculated %R value for that compound by using the following equation: Reported Results = ((Measured Concentration in the Stack)/(%R)) × 100.

These four ASTM standards are available from ASTM International, 100 Barr Harbor Drive, Post Office Box C700, West Conshohocken, PA 19428–2959. See *https://www.astm.org/.*

While the EPA identified 14 other VCS as being potentially applicable, the Agency has decided not to use them. The use of these VCS would not be practical due to lack of equivalency, documentation, validation date, and other important technical and policy considerations. For further information, see the memorandum titled *Voluntary Consensus Standard Results for National Emission Standards for Hazardous Air Pollutants for Cellulose Products Manufacturing,* in the docket for this action (Docket ID Item No. EPA–HQ–OAR–2018–0415–0059).

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

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). The documentation for this decision is contained in the technical reports titled *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Miscellaneous Viscose Processes Facilities* and *Risk and*

Technology Review—Analysis of Demographic Factors for Populations Living Near Cellulose Ethers Production Facilities, which are located in the public docket for this action.

L. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous substances, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: March 11, 2020.

Andrew R. Wheeler,

Administrator.

For the reasons set forth in the preamble, the EPA amends 40 CFR part 63 as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

■ 1. The authority citation for part 63 continues to read as follows:

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

Subpart A—General Provisions

■ 2. Section 63.14 is amended by revising paragraphs (h)(72), (83), (85), (89), and (91) to read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(h) * * *

(72) ASTM D5790–95 (Reapproved 2012), Standard Test Method for Measurement of Purgeable Organic Compounds in Water by Capillary Column Gas Chromatography/Mass Spectrometry, IBR approved for Table 4 to subpart UUUU.

* * * * *

(83) ASTM D6348–03, Standard Test Method for Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy, including Annexes A1 through A8, Approved October 1, 2003, IBR approved for §§ 63.457(b), 63.1349, Table 4 to subpart DDDD, table 4 to subpart UUUU, table 4 subpart ZZZZ, and table 8 to subpart HHHHHHH.

* * * * *

(85) ASTM D6348–12e1, Standard Test Method for Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy, Approved February 1, 2012, IBR approved for § 63.1571(a) and Table 4 to subpart UUUU.

* * * * *

(89) ASTM D6420–99, Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry, IBR approved for §§ 63.5799 and 63.5850.

* * * * *

(91) ASTM D6420–99 (Reapproved 2010), Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry, Approved October 1, 2010, IBR approved for § 63.670(j), Table 4 to subpart UUUU, and appendix A to this part: Method 325B.

* * * * *

Subpart UUUU—National Emission Standards for Hazardous Air Pollutants for Cellulose Products Manufacturing

■ 3. Section 63.5505 is amended by adding paragraph (f) to read as follows:

§ 63.5505 What emission limits, operating limits, and work practice standards must I meet?

* * * * *

(f) Carbon disulfide storage tanks part of a submerged unloading and storage operation subject to this part are not subject to 40 CFR part 60, subpart Kb (Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984).

■ 4. Section 63.5515 is amended by revising paragraph (a), paragraph (b) introductory text, adding reserved paragraph (b)(2), and revising paragraph (c).

The revisions read as follows:

§ 63.5515 What are my general requirements for complying with this subpart?

(a) On or before December 29, 2020, for each existing source (and for each new or reconstructed source for which construction or reconstruction commenced on or before September 9, 2019), you must be in compliance with the emission limits, operating limits, and work practice standards in this subpart at all times, except during periods of startup, shutdown, and malfunction. After December 29, 2020, for each existing source (and for each new or reconstructed source for which construction or reconstruction commenced on or before September 9, 2019), you must be in compliance with the emission limitations in this subpart at all times. For new and reconstructed sources for which construction or reconstruction commenced after September 9, 2019, you must be in compliance with the emission limits, operating limits, and work practice standards in this subpart at all times on July 2, 2020, or immediately upon startup, whichever is later.

(b) On or before December 29, 2020, for each existing source (and for each new or reconstructed source for which construction or reconstruction commenced on or before September 9, 2019), you must always operate and maintain your affected source, including air pollution control and monitoring equipment, according to the provisions in § 63.6(e)(1)(i). After December 29. 2020, for each existing source (and for each new or reconstructed source for which construction or reconstruction commenced on or before September 9, 2019), and after September 9, 2019, for new and reconstructed sources for which construction or reconstruction commenced after September 9, 2019, you must always operate and maintain your affected source, including air pollution control and monitoring equipment in a manner consistent with good air pollution control practices for minimizing emissions at least to the levels required by this subpart. The general duty to minimize emissions does not require you to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether a source is operating in compliance with operation and maintenance requirements will be based on information available to the Administrator which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

* * * * *

(c) On or before December 29 2020, for each existing source (and for each new or reconstructed source for which construction or reconstruction commenced on or before September 9, 2019), you must maintain a written startup, shutdown, and malfunction (SSM) plan according the provisions in § 63.6(e)(3). For each such source, a SSM plan is not required after December 29, 2020. No SSM plan is required for any new or reconstruction source for

which construction or reconstruction commenced after September 9, 2019.

* * * * *

■ 5. Section 63.5535 is amended by revising paragraph (b), removing and reserving paragraph (c), and revising paragraphs (g)(1), (h)(1), and (i)(7).

The revisions read as follows:

§ 63.5535 What performance tests and other procedures must I use?

* * * * *

(b) You must conduct each performance test for continuous process vents and combinations of batch and continuous process vents based on representative performance (*i.e.,* performance based on normal operating conditions) of the affected source for the period being tested, according to the specific conditions in Table 4 to this subpart. Representative conditions exclude periods of startup and shutdown. You may not conduct performance tests during periods of malfunction. You must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Upon request, you shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

* * * * *

(g) * * *

(1) Viscose process affected sources that must use non-recovery control devices to meet the applicable emission limit in table 1 to this subpart must conduct an initial performance test of their non-recovery control devices according to the requirements in table 4 to this subpart to determine the control efficiency of their non-recovery control devices and incorporate this information in their material balance. Periodic performance tests must be conducted as specified in § 63.5541.

* * * * *

(h) * * *

(1) Cellulose ether affected sources that must use non-recovery control devices to meet the applicable emission limit in table 1 to this subpart must conduct an initial performance test of their non-recovery control devices according to the requirements in table 4 to this subpart to determine the control efficiency of their non-recovery control devices and incorporate this information in their material balance. Periodic performance tests must be conducted as specified in § 63.5541.

* * * * *

(i) * * *

(7) For biofilters, record the pressure drop across the biofilter beds, inlet gas temperature, and effluent pH or conductivity averaged over the same time period as the compliance demonstration while the vent stream is routed and constituted normally. Locate the pressure, temperature, and pH or conductivity sensors in positions that provide representative measurement of these parameters. Ensure the sample is properly mixed and representative of the fluid to be measured.

* * * * *

■ 6. Section 63.5541 is added to read as follows:

§ 63.5541 When must I conduct subsequent performance tests?

(a) For each affected source utilizing a non-recovery control device to comply with § 63.5515 that commenced construction or reconstruction before September 9, 2019, a periodic performance test must be performed by July 2, 2023, and subsequent tests no later than 60 months thereafter.

(b) For each affected source utilizing a non-recovery control device to comply with § 63.5515 that commences construction or reconstruction after September 9, 2019, a periodic performance test must be performed no later than 60 months after the initial performance test required by § 63.5535, and subsequent tests no later than 60 months thereafter.

■ 7. Section 63.5545 is amended by revising paragraphs (b)(1) and (e)(2) to read as follows:

§ 63.5545 What are my monitoring installation, operation, and maintenance requirements?

* * * * *

(b) * * *

(1) Ongoing operation and maintenance procedures in accordance with the general requirements of §§ 63.8(c)(3) and (4)(ii), 63.5515(b), and 63.5580(c)(6);

* * * * *

(e) * * *

(2) You must conduct a performance evaluation of each CEMS according to the requirements in § 63.8, Procedure 1 of 40 CFR part 60, appendix F, and according to the applicable performance specification listed in paragraphs (e)(1)(i) through (iv) of this section.

* * * * *

■ 8. Section 63.5555 is amended by revising paragraph (d) to read as follows:

§ 63.5555 How do I demonstrate continuous compliance with the emission limits, operating limits, and work practice standards?

* * * * *

(d) For each affected source that commenced construction or reconstruction before September 9, 2019, on or before December 29, 2020, deviations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with § 63.5515(b). The Administrator will determine whether deviations that occur on or before December 29, 2020, and during a period you identify as a startup, shutdown, or malfunction are violations, according to the provisions in § 63.5515(b). This section no longer applies after December 30, 2020. For new sources that commence construction or reconstruction after September 9, 2019, this section does not apply.

■ 9. Section 63.5575 is revised to read as follows:

§ 63.5575 What notifications must I submit and when?

You must submit each notification in Table 7 to this subpart that applies to you by the date specified in Table 7 to this subpart. Initial notifications and Notification of Compliance Status Reports shall be electronically submitted in portable document format (PDF) following the procedure specified in § 63.5580(g).

■ 10. Section 63.5580 is amended by:

■ a. Revising paragraphs (b) introductory text and (b)(2) and (4);

■ b. Adding paragraph (b)(6);

■ c. Revising paragraphs (c)(4), (e) introductory text, and (e)(2);

■ d. Adding paragraphs (e)(14) and (g) through (k).

The revisions and additions read as follows:

§ 63.5580 What reports must I submit and when?

* * * * *

(b) Unless the Administrator has approved a different schedule for submitting reports under § 63.10, you must submit each compliance report by the date in Table 8 to this subpart and according to the requirements in paragraphs (b)(1) through (6) of this section.

* * * * *

(2) The first compliance report must be submitted no later than August 31 or February 28, whichever date follows the end of the first calendar half after the

compliance date that is specified for your affected source in § 63.5495.

* * * * *

(4) Each subsequent compliance report must be submitted no later than August 31 or February 28, whichever date is the first date following the end of the semiannual reporting period.

* * * * *

(6) Prior to December 29, 2020, all compliance reports submitted by mail must be postmarked or delivered no later than the dates specified in paragraphs (b)(1) through (5). Beginning on December 29, 2020, you must submit all compliance reports following the procedure specified in paragraph (g) of this section by the dates specified in paragraphs (b)(1) through (5).

* * * * *

(c) * * *

(4) Before December 30, 2020, for each existing source (and for each new or reconstructed source for which construction or reconstruction commenced on or before September 9, 2019), if you had a startup, shutdown, or malfunction during the reporting period and you took actions consistent with your SSM plan, the compliance report must include the information in § 63.10(d)(5)(i). After December 29, 2020, you are no longer required to report the information in § 63.10(d)(5)(i). No SSM plan is required for any new or reconstruction source for which construction or reconstruction commenced after September 9, 2019.

* * * * *

(e) For each deviation from an emission limit or operating limit occurring at an affected source where you are using a CMS to demonstrate continuous compliance with the emission limit or operating limit in this subpart (see Tables 5 and 6 to this subpart), you must include the information in paragraphs (c)(1) through (4) and (e)(1) through (14) of this section. This includes periods of SSM.

* * * * *

(2) The date, time, and duration that each CMS was inoperative, except for zero (low-level) and high-level checks.

* * * * *

(14) An estimate of the quantity of each regulated pollutant emitted over any emission limit, and a description of the method used to estimate the emissions.

* * * * *

(g) If you are required to submit notifications or reports following the procedure specified in this paragraph, you must submit notifications or reports to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI), which can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*). Notifications must be submitted as PDFs to CEDRI. You must use the semi-annual compliance report template on the CEDRI website (*https://www.epa.gov/electronic-reporting-air-emissions/compliance-and-emissions-data-reporting-interface-cedri*) for this subpart. The date report templates become available will be listed on the CEDRI website. The semi-annual compliance report must be submitted by the deadline specified in this subpart, regardless of the method in which the report is submitted. If you claim some of the information required to be submitted via CEDRI is confidential business information (CBI), submit a complete report, including information claimed to be CBI, to the EPA. The report must be generated using the appropriate form on the CEDRI website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

(h) Within 60 days after the date of completing each performance test required by this subpart, you must submit the results of the performance test following the procedures specified in paragraphs (h)(1) through (3) of this section.

(1) *Data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website (https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert) at the time of the test.* Submit the results of the performance test to the EPA via CEDRI, which can be accessed through the EPA's CDX (*https://cdx.epa.gov/*). The data must be submitted in a file format generated through the use of the EPA's ERT. Alternatively, you may submit an electronic file consistent with the extensible markup language (XML) schema listed on the EPA's ERT website.

(2) *Data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the test.* The results of the performance test must be included as an attachment in the ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the ERT generated package or alternative file to the EPA via CEDRI.

(3) *Confidential business information (CBI).* If you claim some of the information submitted under this paragraph (h) is CBI, you must submit a complete file, including information claimed to be CBI, to the EPA. The file must be generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the file on a compact disc, flash drive, or other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described in paragraph (h) of this section.

(i) Within 60 days after the date of completing each CMS performance evaluation (as defined in § 63.2), you must submit the results of the performance evaluation following the procedures specified in paragraphs (i)(1) through (3) of this section.

(1) *Performance evaluations of CMS measuring relative accuracy test audit (RATA) pollutants that are supported by the EPA's ERT as listed on the EPA's ERT website at the time of the evaluation.* Submit the results of the performance evaluation to the EPA via CEDRI, which can be accessed through the EPA's CDX. The data must be submitted in a file format generated through the use of the EPA's ERT. Alternatively, you may submit an electronic file consistent with the XML schema listed on the EPA's ERT website.

(2) *Performance evaluations of CMS measuring RATA pollutants that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the evaluation.* The results of the performance evaluation must be included as an attachment in the ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the ERT generated package or alternative file to the EPA via CEDRI.

(3) *Confidential business information (CBI).* If you claim some of the information submitted under this paragraph (i) is CBI, you must submit a complete file, including information claimed to be CBI, to the EPA. The file must be generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the file on a compact disc, flash drive, or

other commonly used electronic storage medium and clearly mark the medium as CBI. Mail the electronic medium to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described in this paragraph (i).

(j) If you are required to electronically submit a report or notification through CEDRI in the EPA's CDX, you may assert a claim of EPA system outage for failure to timely comply with the reporting requirement. To assert a claim of EPA system outage, you must meet the requirements outlined in paragraphs (j)(1) through (7) of this section.

(1) You must have been or will be precluded from accessing CEDRI and submitting a required report within the time prescribed due to an outage of either the EPA's CEDRI or CDX systems.

(2) The outage must have occurred within the period of time beginning 5 business days prior to the date that the submission is due.

(3) The outage may be planned or unplanned.

(4) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(5) You must provide to the Administrator a written description identifying:

(i) The date(s) and time(s) when CDX or CEDRI was accessed and the system was unavailable;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to EPA system outage;

(iii) A description of measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(6) The decision to accept the claim of the EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(7) In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved.

(k) If you are required to electronically submit a report through CEDRI in the EPA's CDX, you may assert a claim of force majeure for failure to timely comply with the reporting requirement. To assert a claim of force majeure, you must meet the requirements outlined in paragraphs (k)(1) through (5) of this section.

(1) You may submit a claim if a force majeure event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning five business days prior to the date the submission is due. For the purposes of this section, a force majeure event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (*e.g.,* hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (*e.g.,* large scale power outage).

(2) You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(3) You must provide to the Administrator:

(i) A written description of the force majeure event;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to the force majeure event;

(iii) A description of measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported.

(4) The decision to accept the claim of force majeure and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(5) In any circumstance, the reporting must occur as soon as possible after the force majeure event occurs.

■ 11. Section 63.5590 is amended by adding paragraph (e) to read as follows:

§ 63.5590 In what form and how long must I keep my records?

* * * * *

(e) Any records required to be maintained by this part that are submitted electronically via EPA's CEDRI may be maintained in electronic format. This ability to maintain electronic copies does not affect the requirement for facilities to make records, data, and reports available upon request to a delegated air agency or the EPA as part of an on-site compliance evaluation.

■ 12. Table 2 to Subpart UUUU is revised to read as follows:

Table 2 to Subpart UUUU of Part 63—Operating Limits

As required in § 63.5505(b), you must meet the appropriate operating limits in the following table:

For the following control technique . . .	you must . . .
1. condenser	maintain the daily average condenser outlet gas or condensed liquid temperature no higher than the value established during the compliance demonstration.
2. thermal oxidizer	a. for periods of normal operation, maintain the daily average thermal oxidizer firebox temperature no lower than the value established during the compliance demonstration;
	b. after December 29, 2020, for existing sources (and new or reconstructed sources for which construction or reconstruction commenced on or before September 9, 2019), and on July 2, 2020, or immediately upon startup, whichever is later for new or reconstructed sources for which construction or reconstruction commenced after September 9, 2019, maintain documentation for periods of startup demonstrating that the oxidizer was properly operating (*e.g.,* firebox temperature had reached the setpoint temperature) prior to emission unit startup.
3. water scrubber	a. for periods of normal operation, maintain the daily average scrubber pressure drop and scrubber liquid flow rate within the range of values established during the compliance demonstration;

For the following control technique . . .	you must . . .
	b. after December 29, 2020, for existing sources (and new or reconstructed sources for which construction or, reconstruction commenced on or before September 9, 2019), and on July 2, 2020, or immediately upon startup, whichever is later for new or reconstructed sources for which construction or reconstruction commenced after September 9, 2019, maintain documentation for periods of startup and shutdown to confirm that the scrubber is operating properly prior to emission unit startup and continues to operate properly until emission unit shutdown is complete. Appropriate startup and shutdown operating parameters may be based on equipment design, manufacturer's recommendations, or other site-specific operating values established for normal operating periods.
4. caustic scrubber	a. for periods of normal operation, maintain the daily average scrubber pressure drop, scrubber liquid flow rate, and scrubber liquid pH, conductivity, or alkalinity within the range of values established during the compliance demonstration;
	b. after December 29, 2020, for existing sources (and new or reconstructed sources for which construction or reconstruction commenced on or before September 9, 2019), and on July 2, 2020, or immediately upon startup, whichever is later for new or reconstructed sources for which construction or reconstruction commenced after September 9, 2019, maintain documentation for periods of startup and shutdown to confirm that the scrubber is operating properly prior to emission unit startup and continues to operate properly until emission unit shutdown is complete. Appropriate startup and shutdown operating parameters may be based on equipment design, manufacturer's recommendations, or other site-specific operating values established for normal operating periods.
5. flare	maintain the presence of a pilot flame.
6. biofilter	maintain the daily average biofilter inlet gas temperature, biofilter effluent pH or conductivity, and pressure drop within the operating values established during the compliance demonstration.
7. carbon absorber	maintain the regeneration frequency, total regeneration adsorber stream mass or volumetric flow during carbon bed regeneration, and temperature of the carbon bed after regeneration (and within 15 minutes of completing any cooling cycle(s)) for each regeneration cycle within the values established during the compliance demonstration.
8. oil absorber	maintain the daily average absorption liquid flow, absorption liquid temperature, and steam flow within the values established during the compliance demonstration.
9. any of the control techniques specified in this table.	if using a CEMS, maintain the daily average control efficiency of each control device no lower than the value established during the compliance demonstration.
10. any of the control techniques specified in this table.	a. if you wish to establish alternative operating parameters, submit the application for approval of the alternative operating parameters no later than the notification of the performance test or CEMS performance evaluation or no later than 60 days prior to any other initial compliance demonstration;
	b. the application must include: Information justifying the request for alternative operating parameters (such as the infeasibility or impracticality of using the operating parameters in this final rule); a description of the proposed alternative control device operating parameters; the monitoring approach; the frequency of measuring and recording the alternative parameters; how the operating limits are to be calculated; and information documenting that the alternative operating parameters would provide equivalent or better assurance of compliance with the standard;
	c. install, operate, and maintain the alternative parameter monitoring systems in accordance with the application approved by the Administrator;
	d. establish operating limits during the initial compliance demonstration based on the alternative operating parameters included in the approved application; and
	e. maintain the daily average alternative operating parameter values within the values established during the compliance demonstration.
11. alternative control technique.	a. submit for approval no later than the notification of the performance test or CEMS performance evaluation or no later than 60 days prior to any other initial compliance demonstration a proposed site-specific plan that includes: A description of the alternative control device; test results verifying the performance of the control device; the appropriate operating parameters that will be monitored; and the frequency of measuring and recording to establish continuous compliance with the operating limits;
	b. install, operate, and maintain the parameter monitoring system for the alternative control device in accordance with the plan approved by the Administrator;
	c. establish operating limits during the initial compliance demonstration based on the operating parameters for the alternative control device included in the approved plan; and
	d. maintain the daily average operating parameter values for the alternative control technique within the values established during the compliance demonstration.

■ 13. Table 3 to Subpart UUUU is revised to read as follows:

Table 3 to Subpart UUUU of Part 63—Initial Compliance With Emission Limits and Work Practice Standards

As required in §§ 63.5530(a) and 63.5535(g) and (h), you must demonstrate initial compliance with the appropriate emission limits and work practice standards according to the requirements in the following table:

For . . .	at . . .	for the following emission limit or work practice standard . . .	you have demonstrated initial compliance if . . .
1. the sum of all viscose process vents	a. each existing cellulose food casing operation	i. reduce total uncontrolled sulfide emissions (reported as carbon disulfide) by at least 25 percent based on a 6-month rolling average; ii. for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and iii. comply with the work practice standard for closed-vent systems	(1) the average uncontrolled total sulfide emissions, determined during the month-long compliance demonstration or using engineering assessments, are reduced by at least 25 percent; (2) you have a record of the range of operating parameter values over the month-long compliance demonstration during which the average uncontrolled total sulfide emissions were reduced by at least 25 percent; (3) you prepare a material balance that includes the pertinent data used to determine the percent reduction of total sulfide emissions; and (4) you comply with the initial compliance requirements for closed-vent systems.
	b. each new cellulose food casing operation	i. reduce total uncontrolled sulfide emissions (reported as carbon disulfide) by at least 75 percent based on a 6-month rolling average; ii. for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and iii. comply with the work practice standard for closed-vent systems.	(1) the average uncontrolled total sulfide emissions, determined during the month-long compliance demonstration or using engineering assessments, are reduced by at least 75 percent; (2) you have a record of the range of operating parameter values over the month-long compliance demonstration during which the average uncontrolled total sulfide emissions were reduced by at least 75 percent; (3) you prepare a material balance that includes the pertinent data used to determine the percent reduction of total sulfide emissions; and (4) you comply with the initial compliance requirements for closed-vent systems.
	c. each existing rayon operation	i. reduce total uncontrolled sulfide emissions (reported as carbon disulfide) by at least 35 percent within 3 years after the effective date based on a 6-month rolling average; for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and comply with the work practice standard for closed-vent systems; and	(1) the average uncontrolled total sulfide emissions, determined during the month-long compliance demonstration or using engineering assessments, are reduced by at least 35 percent within 3 years after the effective date; (2) you have a record of the average operating parameter values over the month-long compliance demonstration during which the average uncontrolled total sulfide emissions were reduced by at least 35 percent; (3) you prepare a material balance that includes the pertinent data used to determine the percent reduction of total sulfide emissions; and (4) you comply with the initial compliance requirements for closed-vent systems; and
		ii. reduce total uncontrolled sulfide emissions (reported as carbon disulfide) by at least 40 percent within 8 years after the effective date based on a 6-month rolling average; for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and comply with the work practice standard for closed-vent systems.	(1) the average uncontrolled total sulfide emissions, determined during the month-long compliance demonstration or using engineering assessments, are reduced by at least 40 percent within 8 years after the effective date; (2) you have a record of the average operating parameter values over the month-long compliance demonstration during which the average uncontrolled total sulfide emissions were reduced by at least 40 percent; (3) you prepare a material balance that includes the pertinent data used to determine the percent reduction of the total sulfide emissions; and (4) you comply with the initial compliance requirements for closed-vent systems.

For . . .	at . . .	for the following emission limit or work practice standard . . .	you have demonstrated initial compliance if . . .
	d. each new rayon operation	i. reduce total uncontrolled sulfide emissions (reported as carbon disulfide) by at least 75 percent; based on a 6-month rolling average; ii. for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and iii. comply with the work practice standard for closed-vent systems.	(1) the average uncontrolled total sulfide emissions, determined during the month-long compliance demonstration or using engineering assessments, are reduced by at least 75 percent; (2) you have a record of the average operating parameter values over the month-long compliance demonstration during which the average uncontrolled total sulfide emissions were reduced by at least 75 percent; (3) you prepare a material balance that includes the pertinent data used to determine the percent reduction of total sulfide missions; and (4) you comply with the initial compliance requirements for closed-vent systems.
	e. each existing or new cellulosic sponge operation	i. reduce total uncontrolled sulfide emissions (reported as carbon disulfide) by at least 75 percent based on a 6-month rolling average; ii. for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and iii. comply with the work practice standard for closed-vent systems.	(1) the average uncontrolled total sulfide emissions, determined during the month-long compliance demonstration or using engineering assessments, are reduced by at least 75 percent; (2) you have a record of the average operating parameter values over the month-long compliance demonstration during which the average uncontrolled total sulfide emissions were reduced by at least 75 percent; (3) you prepare a material balance that includes the pertinent data used to determine and the percent reduction of total sulfide emissions; and (4) you comply with the initial compliance requirements for closed-vent systems.
	f. each existing or new cellophane operation	i. reduce total uncontrolled sulfide emissions (reported as carbon disulfide) by at least 75 percent based on a 6-month rolling average; ii. for each vent stream that you control using a control device (except for retractable hoods over sulfuric acid baths at a cellophane operation), route the vent stream through a closed-vent system to the control device; and iii. comply with the work practice standard for closed-vent systems.	(1) the average uncontrolled total sulfide emissions, determined during the month-long compliance demonstration or using engineering assessments, are reduced by at least 75 percent; (2) you have a record of the average operating parameter values over the month-long compliance demonstration during which the average uncontrolled total sulfide emissions were reduced by at least 75 percent; (3) you prepare a material balance that includes the pertinent data used to determine the percent reduction of total sulfide emissions; and (4) you comply with the initial compliance requirements for closed-vent systems.
2. the sum of all solvent coating process vents	a. each existing or new cellophane operation	i. reduce uncontrolled toluene emissions by at least 95 percent based on a 6-month rolling average; ii. for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and iii. comply with the work practice standard for closed-vent systems.	(1) the average uncontrolled toluene emissions, determined during the month-long compliance demonstration or using engineering assessments, are reduced by at least 95 percent; (2) you have a record of the average operating parameter values over the month-long compliance demonstration during which the average uncontrolled toluene emissions were reduced by at least 95 percent; (3) you prepare a material balance that includes the pertinent data used to determine the percent reduction of toluene emissions; and (4) you comply with the initial compliance requirements for closed-vent systems.

For . . .	at . . .	for the following emission limit or work practice standard . . .	you have demonstrated initial compliance if . . .
3. the sum of all cellulose ether process vents	a. each existing or new cellulose ether operation using a performance test to demonstrate initial compliance; or	i. reduce total uncontrolled organic HAP emissions by at least 99 percent; ii. for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and iii. comply with the work practice standard for closed-vent systems.	(1) average uncontrolled total organic HAP emissions, measured during the performance test or determined using engineering estimates are reduced by at least 99 percent; (2) you have a record of the average operating parameter values over the performance test during which the average uncontrolled total organic HAP emissions were reduced by at least 99 percent; and (3) you comply with the initial compliance requirements for closed-vent systems.
	b. each existing or new cellulose ether operation using a material balance compliance demonstration to demonstrate initial compliance	i. reduce total uncontrolled organic HAP emissions by at least 99 percent based on a 6-month rolling average; ii. for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and iii. comply with the work practice standard for closed-vent systems.	(1) average uncontrolled total organic HAP emissions, determined during the month-long compliance demonstration or using engineering estimates are reduced by at least 99 percent; (2) you have a record of the average operation parameter values over the month-long compliance demonstration during which the average uncontrolled total organic HAP emissions were reduced by at least 99 percent; (3) you prepare a material balance that includes the pertinent data used to determine the percent reduction of total organic HAP emissions; (4) if you use extended cookout to comply, you measure the HAP charged to the reactor, record the grade of product produced, and then calculate reactor emissions prior to extended cookout by taking a percentage of the total HAP charged.
4. closed-loop systems	each existing or new cellulose ether operation	operate and maintain the closed-loop system for cellulose ether operations.	you have a record certifying that a closed-loop system is in use for cellulose ether operations.
5. each carbon disulfide unloading and storage operation	a. each existing or new viscose process affected source	i. reduce uncontrolled carbon disulfide emissions by at least 83 percent from unloading and storage operations based on a 6-month rolling average if you use an alternative control technique not listed in this table for carbon disulfide unloading and storage operations; if using a control device to reduce emissions, route emissions through a closed-vent system to the control device; and comply with the work practice standard for closed-vent systems;	(1) you have a record documenting the 83-percent reduction in uncontrolled carbon disulfide emissions; and (2) if venting to a control device to reduce emissions, you comply with the initial compliance requirements for closed-vent systems;
		ii. reduce uncontrolled carbon disulfide by at least 0.14 percent from viscose process vents based on a 6-month rolling average; for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and comply with the work practice standard for closed-vent systems;	(1) you comply with the initial compliance requirements for viscose process vents at existing or new cellulose food casing, rayon, cellulosic sponge, or cellophane operations, as applicable; (2) the 0.14-percent reduction must be in addition to the reduction already required for viscose process vents at existing or new cellulose food casing, rayon, cellulosic sponge, or cellophane operations, as applicable; and (3) you comply with the initial compliance requirements for closed-vent systems;
		iii. install a nitrogen unloading and storage system; or	you have a record certifying that a nitrogen unloading and storage system is in use; or

For . . .	at . . .	for the following emission limit or work practice standard . . .	you have demonstrated initial compliance if . . .
		iv. install a nitrogen unloading system; reduce uncontrolled carbon disulfide by at least 0.045 percent from viscose process vents based on a 6-month rolling average; for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and comply with the work practice standard for closed-vent systems.	(1) you have a record certifying that a nitrogen unloading system is in use; (2) you comply with the initial compliance requirements for viscose process vents at existing or new cellulose food casing, rayon, cellulosic sponge, or cellophane operations, as applicable; (3) the 0.045-percent reduction must be in addition to the reduction already required for viscose process vents at cellulose food casing, rayon, cellulosic sponge, or cellophane operations, as applicable; and (4) you comply with the initial compliance requirements for closed-vent systems.
6. each toluene storage vessel	a. each existing or new cellophane operation	i. reduce uncontrolled toluene emissions by at least 95 percent based on a 6-month rolling average; ii. if using a control device to reduce emissions, route the emissions through a closed-vent system to the control device; and iii. comply with the work practice standard for closed-vent systems.	(1) the average uncontrolled toluene emissions, determined during the month-long compliance demonstration or using engineering assessments, are reduced by at least 95 percent; (2) you have a record of the average operating parameter values over the month-long compliance demonstration during which the average uncontrolled toluene emissions were reduced by at least 95 percent; (3) you prepare a material balance that includes the pertinent data used to determine the percent reduction of toluene emissions; and (4) if venting to a control device to reduce emissions, you comply with the initial compliance requirements for closed-vent systems.
7. equipment leaks	a. each existing or new cellulose ether operation	i. comply with the applicable equipment leak standards of §§ 63.162 through 63.179; or	you comply with the applicable requirements described in the Notification of Compliance Status Report provisions in § 63.182(a)(2) and (c)(1) through (3), except that references to the term ''process unit'' mean ''cellulose ether process unit'' for the purposes of this subpart; or
		ii. comply with the applicable equipment leak standards of §§ 63.1021 through 63.1027.	you comply with the applicable requirements described in the Initial Compliance Status Report provisions of § 63.1039(a), except that references to the term ''process unit'' mean ''cellulose ether process unit'' for the purposes of this subpart.
8. all sources of wastewater emissions	each existing or new cellulose ether operation	comply with the applicable wastewater provisions of § 63.105 and §§ 63.132 through 63.140.	you comply with the applicability and Group 1/Group 2 determination provisions of § 63.144 and the initial compliance provisions of §§ 63.105 and 63.145.
9. liquid streams in open systems	each existing or new cellulose ether operation	comply with the applicable provisions of § 63.149, except that references to ''chemical manufacturing process unit'' mean ''cellulose ether process unit'' for the purposes of this subpart.	you install emission suppression equipment and conduct an initial inspection according to the provisions of §§ 63.133 through 63.137.
10. closed-vent system used to route emissions to a control device	a. each existing or new affected source	i. conduct annual inspections, repair leaks, and maintain records as specified in § 63.148.	(1) you conduct an initial inspection of the closed-vent system and maintain records according to § 63.148; (2) you prepare a written plan for inspecting unsafe-to-inspect and difficult-to-inspect equipment according to § 63.148(g)(2) and (h)(2); and (3) you repair any leaks and maintain records according to § 63.148.

For . . .	at . . .	for the following emission limit or work practice standard . . .	you have demonstrated initial compliance if . . .
11. closed-vent system containing a bypass line that could divert a vent stream away from a control device, except for equipment needed for safety purposes (described in § 63.148(f)(3))	a. each existing or new affected source	i. install, calibrate, maintain, and operate a flow indicator as specified in § 63.148(f)(1); or	you have a record documenting that you installed a flow indicator as specified in Table 1 to this subpart; or
		ii. secure the bypass line valve in the closed position with a car-seal or lock-and-key type configuration and inspect the seal or closure mechanism at least once per month as specified in § 63.148(f)(2)	you have record documenting that you have secured the bypass line valve as specified in Table 1 to this subpart.
12. heat exchanger system that cools process equipment or materials in the process unit	a. each existing or new affected source	i. monitor and repair the heat exchanger system according to § 63.104(a) through (e), except that references to "chemical manufacturing process unit" mean "cellulose food casing, rayon, cellulosic sponge, cellophane, or cellulose ether process unit" for the purposes of this subpart.	(1) you determine that the heat exchanger system is exempt from monitoring requirements because it meets one of the conditions in § 63.104(a)(1) through (6), and you document this finding in your Notification of Compliance Status Report; or (2) if your heat exchanger system is not exempt, you identify in your Notification of Compliance Status Report the HAP or other representative substance that you will monitor, or you prepare and maintain a site-specific plan containing the information required by § 63.104(c)(1)(i) through (iv) that documents the procedures you will use to detect leaks by monitoring surrogate indicators of the leak.

■ 14. Table 4 to Subpart UUUU is revised to read as follows:

Table 4 to Subpart UUUU of Part 63—Requirements for Performance Tests

As required in §§ 63.5530(b) and 63.5535(a), (b), (g)(1), and (h)(1), you must conduct performance tests, other initial compliance demonstrations, and CEMS performance evaluations and establish operating limits according to the requirements in the following table:

For . . .	at . . .	you must . . .	using . . .	according to the following requirements . . .
1. the sum of all process vents.	a. each existing or new affected source.	i. select sampling port's location and the number of traverse points;	EPA Method 1 or 1A in appendix A–1 to part 60 of this chapter;	sampling sites must be located at the inlet and outlet to each control device;
		ii. determine velocity and volumetric flow rate;	EPA Method 2, 2A, 2C, 2D, 2F, or 2G in appendices A–1 and A–2 to part 60 of this chapter;	you may use EPA Method 2A, 2C, 2D, 2F, or 2G as an alternative to using EPA Method 2, as appropriate;
		iii. conduct gas analysis; and,	(1) EPA Method 3, 3A, or 3B in appendix A–2 to part 60 of this chapter; or,	you may use EPA Method 3A or 3B as an alternative to using EPA Method 3; or,
			(2) ASME PTC 19.10–1981—Part 10 (incorporated by reference—see § 63.14); and,	you may use ASME PTC 19.10–1981—Part 10 as an alternative to using the manual procedures (but not instrumental procedures) in EPA Method 3B.
		iv. measure moisture content of the stack gas.	EPA Method 4 in appendix A–3 to part 60 of this chapter.	

For . . .	at . . .	you must . . .	using . . .	according to the following requirements . . .
2. the sum of all viscose process vents.	a. each existing or new viscose process source.	i. measure total sulfide emissions.	(1) EPA Method 15 in appendix A–5 to part 60 of this chapter; or	(a) you must conduct testing of emissions at the inlet and outlet of each control device; (b) you must conduct testing of emissions from continuous viscose process vents and combinations of batch and continuous viscose process vents at normal operating conditions, as specified in § 63.5535; (c) you must conduct testing of emissions from batch viscose process vents as specified in § 63.490(c), except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and (d) you must collect CPMS data during the period of the initial compliance demonstration and determine the CPMS operating limit during the period of the initial compliance demonstration.
			(2) carbon disulfide and/or hydrogen sulfide CEMS, as applicable;	(a) you must measure emissions at the inlet and outlet of each control device using CEMS; (b) you must install, operate, and maintain the CEMS according to the applicable performance specification (PS–7, PS–8, PS–9, or PS–15) of appendix B to part 60 of this chapter; and (c) you must collect CEMS emissions data at the inlet and outlet of each control device during the period of the initial compliance demonstration and determine the CEMS operating limit during the period of the initial compliance demonstration.
3. the sum of all solvent coating process vents.	a. each existing or new cellophane operation.	i. measure toluene emissions.	(1) EPA Method 18 in appendix A–6 to part 60 of this chapter, or Method 320 in appendix A to part 63; or	(a) you must conduct testing of emissions at the inlet and outlet of each control device; (b) you may use EPA Method 18 or 320 to determine the control efficiency of any control device for organic compounds; for a combustion device, you must use only HAP that are present in the inlet to the control device to characterize the percent reduction across the combustion device; (c) you must conduct testing of emissions from continuous solvent coating process vents and combinations of batch and continuous solvent coating process vents at normal operating conditions, as specified in § 63.5535; (d) you must conduct testing of emissions from batch solvent coating process vents as specified in § 63.490(c), except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and (e) you must collect CPMS data during the period of the initial compliance demonstration and determine the CPMS operating limit during the initial compliance demonstration.

For . . .	at . . .	you must . . .	using . . .	according to the following requirements . . .
			(2) ASTM D6420–99 (Reapproved 2010) (incorporated by reference—see § 63.14); or	(a) you must conduct testing of emissions at the inlet and outlet of each control device; (b) you may use ASTM D6420–99 (Reapproved 2010) as an alternative to EPA Method 18 only where: The target compound(s) are known and are listed in ASTM D6420 as measurable; this ASTM should not be used for methane and ethane because their atomic mass is less than 35; ASTM D6420 should never be specified as a total VOC method; (c) you must conduct testing of emissions from continuous solvent coating process vents and combinations of batch and continuous solvent coating process vents at normal operating conditions, as specified in § 63.5535; (d) you must conduct testing of emissions from batch solvent coating process vents as specified in § 63.490(c), except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and (e) you must collect CPMS data during the period of the initial compliance demonstration and determine the CPMS operating limit during the period of the initial compliance demonstration.

For . . .	at . . .	you must . . .	using . . .	according to the following requirements . . .
			(3) ASTM D6348–12e1 (incorporated by reference—see § 63.14).	(a) you must conduct testing of emissions at the inlet and outlet of each control device; (b) you may use ASTM D6348–12e1 as an alternative to EPA Method 320 only where the following conditions are met: (1) The test plan preparation and implementation in the Annexes to ASTM D 6348–03, Sections A1 through A8 are mandatory; and (2) in ASTM D6348–03 Annex A5 (Analyte Spiking Technique), the percent recovery (%R) must be determined for each target analyte (Equation A5.5). In order for the test data to be acceptable for a compound, %R must be greater than or equal to 70 percent and less than or equal to 130 percent. If the %R value does not meet this criterion for a target compound, the test data are not acceptable for that compound and the test must be repeated for that analyte (*i.e.,* the sampling and/or analytical procedure should be adjusted before a retest). The %R value for each compound must be reported in the test report, and all field measurements must be corrected with the calculated %R value for that compound by using the following equation: Reported Results = ((Measured Concentration in the Stack)/(%R)) × 100. ASTM D6348–03 is incorporated by reference, see § 63.14. (c) you must conduct testing of emissions from continuous solvent coating process vents and combinations of batch and continuous solvent coating process vents at normal operating conditions, as specified in § 63.5535; (d) you must conduct testing of emissions from batch solvent coating process vents as specified in § 63.490(c), except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and (e) you must collect CPMS data during the period of the initial compliance demonstration and determine the CPMS operating limit during the period of the initial compliance demonstration.

For . . .	at . . .	you must . . .	using . . .	according to the following requirements . . .
4. the sum of all cellulose ether process vents.	a. each existing or new cellulose ether operation.	i. measure total organic HAP emissions.	(1) EPA Method 18 in appendix A–6 to part 60 of this chapter or Method 320 in appendix A to this part, or	(a) you must conduct testing of emissions at the inlet and outlet of each control device; (b) you may use EPA Method 18 or 320 to determine the control efficiency of any control device for organic compounds; for a combustion device, you must use only HAP that are present in the inlet to the control device to characterize the percent reduction across the combustion device; (c) you must conduct testing of emissions from continuous cellulose ether process vents and combinations of batch and continuous cellulose ether process vents at normal operating conditions, as specified in § 63.5535; (d) you must conduct testing of emissions from batch cellulose ether process vents as specified in § 63.490(c), except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and (e) you must collect CPMS data during the period of the initial performance test and determine the CPMS operating limit during the period of the initial performance test.
			(2) ASTM D6420–99 (Reapproved 2010); or	(a) you must conduct testing of emissions at the inlet and outlet of each control device; (b) you may use ASTM D6420–99 (Reapproved 2010) as an alternative to EPA Method 18 only where: The target compound(s) are known and are listed in ASTM D6420 as measurable; this ASTM should not be used for methane and ethane because their atomic mass is less than 35; ASTM D6420 should never be specified as a total VOC method; (c) you must conduct testing of emissions from continuous cellulose ether process vents and combinations of batch and continuous cellulose ether process vents at normal operating conditions, as specified in § 63.5535; (d) you must conduct testing of emissions from batch cellulose ether process vents as specified in § 63.490(c), except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and (e) you must collect CPMS data during the period of the initial performance test and determine the CPMS operating limit during the period of the initial performance test.

For . . .	at . . .	you must . . .	using . . .	according to the following requirements . . .
			(3) ASTM D6348–12e1.	(a) you must conduct testing of emissions at the inlet and outlet of each control device; (b) you may use ASTM D6348–12e1 as an alternative to EPA Method 320 only where the following conditions are met: (1) The test plan preparation and implementation in the Annexes to ASTM D 6348–03, Sections A1 through A8 are mandatory; and (2) in ASTM D6348–03 Annex A5 (Analyte Spiking Technique), the percent recovery (%R) must be determined for each target analyte (Equation A5.5). In order for the test data to be acceptable for a compound, %R must be greater than or equal to 70 percent and less than or equal to 130 percent. If the %R value does not meet this criterion for a target compound, the test data are not acceptable for that compound and the test must be repeated for that analyte (*i.e.,* the sampling and/or analytical procedure should be adjusted before a retest). The %R value for each compound must be reported in the test report, and all field measurements must be corrected with the calculated %R value for that compound by using the following equation: Reported Results = ((Measured Concentration in the Stack)/(%R)) × 100. (c) you must conduct testing of emissions from continuous solvent coating process vents and combinations of batch and continuous solvent coating process vents at normal operating conditions, as specified in § 63.5535; (d) you must conduct testing of emissions from batch solvent coating process vents as specified in § 63.490(c), except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and (e) you must collect CPMS data during the period of the initial compliance demonstration and determine the CPMS operating limit during the period of the initial compliance demonstration.
			(4) EPA Method 25 in appendix A–7 to part 60 of this chapter; or	(a) you must conduct testing of emissions at the inlet and outlet of each control device; (b) you may use EPA Method 25 to determine the control efficiency of combustion devices for organic compounds; you may not use EPA Method 25 to determine the control efficiency of noncombustion control devices; (c) you must conduct testing of emissions from continuous cellulose ether process vents and combinations of batch and continuous cellulose ether process vents at normal operating conditions, as specified in § 63.5535; (d) you must conduct testing of emissions from batch cellulose ether process vents as specified in § 63.490(c), except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and (e) you must collect CPMS data during the period of the initial performance test and determine the CPMS operating limit during the period of the initial performance test

For . . .	at . . .	you must . . .	using . . .	according to the following requirements . . .
			(5) EPA Method 25A in appendix A–7 to part 60 of this chapter.	(a) you must conduct testing of emissions at the inlet and outlet of each control device; (b) you may use EPA Method 25A if: An exhaust gas volatile organic matter concentration of 50 ppmv or less is required in order to comply with the emission limit; the volatile organic matter concentration at the inlet to the control device and the required level of control are such as to result in exhaust volatile organic matter concentrations of 50 ppmv or less; or because of the high control efficiency of the control device, the anticipated volatile organic matter concentration at the control device exhaust is 50 ppmv or less, regardless of the inlet concentration; (c) you must conduct testing of emissions from continuous cellulose ether process vents and combinations of batch and continuous cellulose ether process vents at normal operating conditions, as specified in § 63.5535; (d) you must conduct testing of emissions from batch cellulose ether process vents as specified in § 63.490(c), except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and, (e) you must collect CPMS data during the period of the initial performance test and determine the CPMS operating limit during the period of the initial performance test.
5. each toluene storage vessel.	a. each existing or new cellophane operation.	i. measure toluene emissions.	(1) EPA Method 18 in appendix A–6 to part 60 of this chapter or Method 320 in appendix A to this part; or	(a) if venting to a control device to reduce emissions, you must conduct testing of emissions at the inlet and outlet of each control device; (b) you may use EPA Method 18 or 320 to determine the control efficiency of any control device for organic compounds; for a combustion device, you must use only HAP that are present in the inlet to the control device to characterize the percent reduction across the combustion device; (c) you must conduct testing of emissions from continuous storage vessel vents and combinations of batch and continuous storage vessel vents at normal operating conditions, as specified in § 63.5535 for continuous process vents; (d) you must conduct testing of emissions from batch storage vessel vents as specified in § 63.490(c) for batch process vents, except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and, (e) you must collect CPMS data during the period of the initial compliance demonstration and determine the CPMS operating limit during the period of the initial compliance demonstration.

For . . .	at . . .	you must . . .	using . . .	according to the following requirements . . .
			(2) ASTM D6420–99; or	(a) if venting to a control device to reduce emissions, you must conduct testing of emissions at the inlet and outlet of each control device; (b) you may use ASTM D6420–99 (Reapproved 2010) as an alternative to EPA Method 18 only where: The target compound(s) are known and are listed in ASTM D6420 as measurable; this ASTM should not be used for methane and ethane because their atomic mass is less than 35; ASTM D6420 should never be specified as a total VOC method; (c) you must conduct testing of emissions from continuous storage vessel vents and combinations of batch and continuous storage vessel vents at normal operating conditions, as specified in § 63.5535 for continuous process vents; (d) you must conduct testing of emissions from batch storage vessel vents as specified in § 63.490(c) for batch process vents, except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and, (e) you must collect CPMS data during the period of the initial compliance demonstration and determine the CPMS operating limit during the period of the initial compliance demonstration.

For . . .	at . . .	you must . . .	using . . .	according to the following requirements . . .
			(3) ASTM D6348–12e1.	(a) you must conduct testing of emissions at the inlet and outlet of each control device; (b) you may use ASTM D6348–12e1 as an alternative to EPA Method 320 only where the following conditions are met: (1) The test plan preparation and implementation in the Annexes to ASTM D 6348–03, Sections A1 through A8 are mandatory; and (2) in ASTM D6348–03 Annex A5 (Analyte Spiking Technique), the percent recovery (%R) must be determined for each target analyte (Equation A5.5). In order for the test data to be acceptable for a compound, %R must be greater than or equal to 70 percent and less than or equal to 130 percent. If the %R value does not meet this criterion for a target compound, the test data are not acceptable for that compound and the test must be repeated for that analyte (*i.e.,* the sampling and/or analytical procedure should be adjusted before a retest). The %R value for each compound must be reported in the test report, and all field measurements must be corrected with the calculated %R value for that compound by using the following equation: Reported Results = ((Measured Concentration in the Stack)/(%R)) × 100. (c) you must conduct testing of emissions from continuous solvent coating process vents and combinations of batch and continuous solvent coating process vents at normal operating conditions, as specified in § 63.5535; (d) you must conduct testing of emissions from batch solvent coating process vents as specified in § 63.490(c), except that the emission reductions required for process vents under this subpart supersede the emission reductions required for process vents under subpart U of this part; and (e) you must collect CPMS data during the period of the initial compliance demonstration and determine the CPMS operating limit during the period of the initial compliance demonstration.
6. the sum of all process vents controlled using a flare.	each existing or new affected source.	measure visible emissions.	EPA Method 22 in appendix A–7 to part 60 of this chapter.	you must conduct the flare visible emissions test according to § 63.11(b).
7. equipment leaks	a. each existing or new cellulose ether operation.	i. measure leak rate.	(1) applicable equipment leak test methods in § 63.180; or	you must follow all requirements for the applicable equipment leak test methods in § 63.180; or
			(2) applicable equipment leak test methods in § 63.1023.	you must follow all requirements for the applicable equipment leak test methods in § 63.1023.
8. all sources of wastewater emissions.	a. each existing or new cellulose ether operation.	i. measure wastewater HAP emissions.	(1) applicable wastewater test methods and procedures in §§ 63.144 and 63.145; or	(a) You must follow all requirements for the applicable wastewater test methods and procedures in §§ 63.144 and 63.145; or

For . . .	at . . .	you must . . .	using . . .	according to the following requirements . . .
			(2) applicable wastewater test methods and procedures in §§ 63.144 and 63.145, using ASTM D5790–95 (Reapproved 2012) (incorporated by reference—see § 63.14) as an alternative to EPA Method 624 in appendix A to part 163 of this chapter.	(a) you must follow all requirements for the applicable waste water test methods and procedures in §§ 63.144 and 63.145, except that you may use ASTM D5790–95 (Reapproved 2012) as an alternative to EPA Method 624, under the condition that this ASTM method be used with the sampling procedures of EPA Method 25D or an equivalent method.
9. any emission point	a. each existing or new affected source using a CEMS to demonstrate compliance.	i. conduct a CEMS performance evaluation.	(1) applicable requirements in § 63.8 and applicable performance specification (PS–7, PS–8, PS–9, or PS–15) in appendix B to part 60 of this chapter.	(a) you must conduct the CEMS performance evaluation during the period of the initial compliance demonstration according to the applicable requirements in § 63.8 and the applicable performance specification (PS–7, PS–8, PS–9, or PS–15) of 40 CFR part 60, appendix B; (b) you must install, operate, and maintain the CEMS according to the applicable performance specification (PS–7, PS–8, PS–9, or PS–15) of 40 CFR part 60, appendix B; and (c) you must collect CEMS emissions data at the inlet and outlet of each control device during the period of the initial compliance demonstration and determine the CEMS operating limit during the period of the initial compliance demonstration.

■ 15. Table 5 to Subpart UUUU is revised to read as follows:

Table 5 to Subpart UUUU of Part 63—Continuous Compliance With Emission Limits and Work Practice Standards

As required in § 63.5555(a), you must demonstrate continuous compliance with the appropriate emission limits and work practice standards according to the requirements in the following table:

For . . .	at . . .	for the following emission limit or work practice standard . . .	you must demonstrate continuous compliance by . . .
1. the sum of all viscose process vents.	a. each existing or new viscose process affected source.	i. reduce total uncontrolled sulfide emissions (reported as carbon disulfide) by at least the specified percentage based on a 6-month rolling average; ii. for each vent stream that you control using a control device (except for retractable hoods over sulfuric acid baths at a cellophane operation), route the vent stream through a closed-vent system to the control device; and iii. comply with the work practice standard for closed-vent systems (except for retractable hoods over sulfuric acid baths at a cellophane operation)	(1) maintaining a material balance that includes the pertinent data used to determine the percent reduction of total sulfide emissions; (2) documenting the percent reduction of total sulfide emissions using the pertinent data from the material balance; and (3) complying with the continuous compliance requirements for closed-vent systems.
2. the sum of all solvent coating process vents.	a. each existing or new cellophane operation.	i. reduce uncontrolled toluene emissions by at least 95 percent based on a 6-month rolling average; ii. for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and iii. comply with the work practice standard for closed-vent systems.	(1) maintaining a material balance that includes the pertinent data used to determine the percent reduction of toluene emissions; (2) documenting the percent reduction of toluene emissions using the pertinent data from the material balance; and (3) complying with the continuous compliance requirements for closed-vent systems.

For . . .	at . . .	for the following emission limit or work practice standard . . .	you must demonstrate continuous compliance by . . .
3. the sum of all cellulose ether process vents.	a. each existing or new cellulose ether operation using a performance test to demonstrate initial compliance; or.	i. reduce total uncontrolled organic HAP emissions by at least 99 percent; ii. for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and, iii. comply with the work practice standard for closed-vent systems; or	(1) complying with the continuous compliance requirements for closed-vent systems; or (2) if using extended cookout to comply, monitoring reactor charges and keeping records to show that extended cookout was employed.
	b. each existing or new cellulose ether operation using a material balance compliance demonstration to demonstrate initial compliance.	i. reduce total uncontrolled organic HAP emissions by at least 99 percent based on a 6-month rolling average; ii. for each vent stream that you control using a control device, route the vent stream through a closed-vent system to control device; and iii. comply with the work practice standard for closed-vent systems.	(1) maintaining a material balance that includes the pertinent data used to determine the percent reduction of total organic HAP emissions; (2) documenting the percent reduction of total organic HAP emissions using the pertinent data from the material balance; (3) if using extended cookout to comply, monitoring reactor charges and keeping records to show that extended cookout was employed; (4) complying with the continuous compliance requirements for closed-vent systems.
4. closed-loop systems	each existing or new cellulose ether operation.	operate and maintain a closed-loop system.	keeping a record certifying that a closed-loop system is in use for cellulose ether operations.
5. each carbon disulfide unloading and storage operation.	a. each existing or new viscose process affected source.	i. reduce uncontrolled carbon disulfide emissions by at least 83 percent based on a 6-month rolling average if you use an alternative control technique not listed in this table for carbon disulfide unloading and storage operations; if using a control device to reduce emissions, route emissions through a closed-vent system to the control device; and comply with the work practice standard for closed-vent systems;	(1) keeping a record documenting the 83 percent reduction in carbon disulfide emissions; and (2) if venting to a control device to reduce emissions, complying with the continuous compliance requirements for closed-vent systems;
	.....	ii. reduce total uncontrolled sulfide emissions by at least 0.14 percent from viscose process vents based on a 6-month rolling average; for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and comply with the work practice standard for closed-vent systems;	(1) maintaining a material balance that includes the pertinent data used to determine the percent reduction of total sulfide emissions; (2) documenting the percent reduction of total sulfide emissions using the pertinent data from the material balance; and (3) complying with the continuous compliance requirements for closed-vent systems;
	.....	iii. install a nitrogen unloading and storage system; or	Keeping a record certifying that a nitrogen unloading and storage system is in use; or
	.....	iv. install a nitrogen unloading system; reduce total uncontrolled sulfide emissions by at least 0.045 percent from viscose process vents based on a 6-month rolling average; for each vent stream that you control using a control device, route the vent stream through a closed-vent system to the control device; and comply with the work practice standard for closed-vent systems.	(1) keeping a record certifying that a nitrogen unloading system is in use; (2) maintaining a material balance that includes the pertinent data used to determine the percent reduction of total sulfide emissions; (3) documenting the percent reduction of total sulfide emissions using the pertinent data from the material balance; and (4) complying with the continuous compliance requirements for closed-vent systems.
6. each toluene storage vessel.	a. each existing or new cellophane operation.	i. reduce uncontrolled toluene emissions by at least 95 percent based on a 6-month rolling average; ii. if using a control device to reduce emissions, route the emissions through a closed-vent system to the control device; and iii. comply with the work practice standard for closed vent systems.	(1) maintaining a material balance that includes the pertinent data used to determine the percent reduction of toluene emissions; (2) documenting the percent reduction of toluene emissions using the pertinent data from the material balance; and (3) if venting to a control device to reduce emissions, complying with the continuous compliance requirements for closed-vent systems.
7. equipment leaks	a. each existing or new cellulose ether operation.	i. applicable equipment leak standards of §§ 63.162 through 63.179; or ii. applicable equipment leak standards of §§ 63.1021 through 63.1037.	complying with the applicable equipment leak continuous compliance provisions of §§ 63.162 through 63.179; or complying with the applicable equipment leak continuous compliance provisions of §§ 63.1021 through 63.1037.

For . . .	at . . .	for the following emission limit or work practice standard . . .	you must demonstrate continuous compliance by . . .
8. all sources of wastewater emissions.	each existing or new cellulose either operation.	applicable wastewater provisions of § 63.105 and §§ 63.132 through 63.140.	complying with the applicable wastewater continuous compliance provisions of §§ 63.105, 63.143, and 63.148.
9. liquid streams in open systems.	each existing or new cellulose ether operation.	comply with the applicable provisions of § 63.149, except that references to ''chemical manufacturing process unit'' mean ''cellulose ether process unit'' for the purposes of this subpart.	conducting inspections, repairing failures, documenting delay of repair, and maintaining records of failures and corrective actions according to §§ 63.133 through 63.137.
10. closed-vent system used to route emissions to a control device.	each existing or new affected source.	conduct annual inspections, repair leaks, maintain records as specified in § 63.148.	conducting the inspections, repairing leaks, and maintaining records according to § 63.148.
11. closed-vent system containing a bypass line that could divert a vent stream away from a control device, except for equipment needed for safety purposes (described in § 63.148(f)(3).	a. each existing or new affected source.	i. install, calibrate, maintain, and operate a flow indicator as specified in § 63.148(f)(1); or	(1) taking readings from the flow indicator at least once every 15 minutes; (2) maintaining hourly records of flow indicator operation and detection of any diversion during the hour, and (3) recording all periods when the vent stream is diverted from the control stream or the flow indicator is not operating; or
		ii. secure the bypass line valve in the closed position with a car-seal or lock-and-key type configuration and inspect the seal or mechanism at least once per month as specified in § 63.148(f)(2).	(1) maintaining a record of the monthly visual inspection of the seal or closure mechanism for the bypass line; and (2) recording all periods when the seal mechanism is broken, the bypass line valve position has changed, or the key for a lock-and-key type lock has been checked out.
12. heat exchanger system that cools process equipment or materials in the process unit.	a. each existing or new affected source.	i. monitor and repair the heat exchanger system according to § 63.104(a) through (e), except that references to ''chemical manufacturing process unit'' mean ''cellulose food casing, rayon, cellulosic sponge, cellophane, or cellulose ether process unit'' for the purposes of this subpart.	(1) monitoring for HAP compounds, other substances, or surrogate indicators at the frequency specified in § 63.104(b) or (c); (2) repairing leaks within the time period specified in § 63.104(d)(1); (3) confirming that the repair is successful as specified in § 63.104(d)(2); (4) following the procedures in § 63.104(e) if you implement delay of repair; and (5) recording the results of inspections and repair according to § 63.104(f)(1).

■ 16. Table 6 to Subpart UUUU is revised to read as follows:

Table 6 to Subpart UUUU of Part 63—Continuous Compliance With Operating Limits

As required in § 63.5555(a), you must demonstrate continuous compliance with the appropriate operating limits according to the requirements in the following table:

For the following control technique . . .	for the following operating limit . . .	you must demonstrate continuous compliance by . . .
1. condenser	maintain the daily average condenser outlet gas or condensed liquid temperature no higher than the value established during the compliance demonstration.	collecting the condenser outlet gas or condensed liquid temperature data according to § 63.5545; reducing the condenser outlet gas temperature data to daily averages; and maintaining the daily average condenser outlet gas or condensed liquid temperature no higher than the value established during the compliance demonstration.
2. thermal oxidizer.	a. for normal operations, maintain the daily average thermal oxidizer firebox temperature no lower than the value established during the compliance demonstration.	collecting the thermal oxidizer firebox temperature data according to § 63.5545; reducing the thermal oxidizer firebox temperature data to daily averages; and maintaining the daily average thermal oxidizer firebox temperature no lower than the value established during the compliance demonstration.
	b. for periods of startup, maintain documentation demonstrating that the oxidizer was properly operating (*e.g.,* firebox temperature had reached the setpoint temperature) prior to emission unit startup..	collecting the appropriate, site-specific data needed to demonstrate that the oxidizer was properly operating prior to emission unit start up; and excluding firebox temperature from the daily averages during emission unit startup.

For the following control technique . . .	for the following operating limit . . .	you must demonstrate continuous compliance by . . .
3. water scrubber.	a. for periods of normal operation, maintain the daily average scrubber pressure drop and scrubber liquid flow rate within the range of values established during the compliance demonstration.	collecting the scrubber pressure drop and scrubber liquid flow rate data according to § 63.5545; reducing the scrubber parameter data to daily averages; and maintaining the daily scrubber parameter values within the range of values established during the compliance demonstration.
	b. for periods of startup and shutdown, maintain documentation to confirm that the scrubber is operating properly prior to emission unit startup and continues to operate properly until emission unit shutdown is complete. Appropriate startup and shutdown operating parameters may be based on equipment design, manufacturer's recommendations, or other site-specific operating values established for normal operating periods..	collecting the appropriate, site-specific data needed to demonstrate that the scrubber was operating properly during emission unit startup and emission unit shutdown; and excluding parameters from the daily average calculations.
4. caustic scrubber.	a. for periods of normal operation, maintain the daily average scrubber pressure drop, scrubber liquid flow rate, and scrubber liquid pH, conductivity, or alkalinity within the range of values established during the compliance demonstration.	collecting the scrubber pressure drop, scrubber liquid flow rate, and scrubber liquid pH, conductivity, or alkalinity data according to § 63.5545; reducing the scrubber parameter data to daily averages; and maintaining the daily scrubber parameter values within the range of values established during the compliance demonstration.
	b. for periods of startup and shutdown, maintain documentation to confirm that the scrubber is operating properly prior to emission unit startup and continues to operate properly until emission unit shutdown is complete. Appropriate startup and shutdown operating parameters may be based on equipment design, manufacturer's recommendations, or other site-specific operating values established for normal operating periods..	collecting the appropriate, site-specific data needed to demonstrate that the scrubber was operating properly during emission unit startup and emission unit shutdown; and excluding parameters from the daily average calculations.
5. flare	maintain the presence of a pilot flame	collecting the pilot flame data according to § 63.5545; and maintaining the presence of the pilot flame.
6. biofilter	maintain the daily average biofilter inlet gas temperature, biofilter effluent pH or conductivity, and pressure drop within the values established during the compliance demonstration.	collecting the biofilter inlet gas temperature, biofilter effluent pH or conductivity, and biofilter pressure drop data according to § 63.5545; reducing the biofilter parameter data to daily averages; and maintaining the daily biofilter parameter values within the values established during the compliance demonstration.
7. carbon absorber.	maintain the regeneration frequency, total regeneration stream mass or volumetric flow during carbon bed regeneration and temperature of the carbon bed after regeneration (and within 15 minutes of completing any cooling cycle(s)) for each regeneration cycle within the values established during the compliance demonstration.	collecting the data on regeneration frequency, total regeneration stream mass or volumetric flow during carbon bed regeneration and temperature of the carbon bed after regeneration (and within 15 minutes of completing any cooling cycle(s)) for each regeneration cycle according to § 63.5545; and maintaining carbon absorber parameter values for each regeneration cycle within the values established during the compliance demonstration.
8. oil absorber ..	maintain the daily average absorption liquid flow, absorption liquid temperature, and steam flow within the values established during the compliance demonstration.	collecting the absorption liquid flow, absorption liquid temperature, and steam flow data according to § 63.5545; reducing the oil absorber parameter data to daily averages; and maintaining the daily oil absorber parameter values within the values established during the compliance demonstration.
9. any of the control techniques specified in this table.	if using a CEMS, maintain the daily average control efficiency for each control device no lower than the value established during the compliance demonstration.	collecting CEMS emissions data at the inlet and outlet of each control device according to § 63.5545; determining the control efficiency values for each control device using the inlet and outlet CEMS emissions data; reducing the control efficiency values for each control device to daily averages; and maintaining the daily average control efficiency for each control device no lower than the value established during the compliance demonstration.

■ 17. Table 7 to Subpart UUUU is revised to read as follows:

Table 7 to Subpart UUUU of Part 63—Notifications

As required in §§ 63.5490(c)(4), 63.5530(c), 63.5575, and 63.5595(b), you must submit the appropriate notifications specified in the following table:

If you . . .	then you must . . .
1. are required to conduct a performance test	submit a notification of intent to conduct a performance test at least 60 calendar days before the performance test is scheduled to begin, as specified in §§ 63.7(b)(1) and 63.9(e).

If you . . .	then you must . . .
2. are required to conduct a CMS performance evaluation	submit a notification of intent to conduct a CMS performance evaluation at least 60 calendar days before the CMS performance evaluation is scheduled to begin, as specified in §§ 63.8(e)(2) and 63.9(g).
3. wish to use an alternative monitoring method	submit a request to use alternative monitoring method no later than the notification of the initial performance test or CMS performance evaluation or 60 days prior to any other initial compliance demonstration, as specified in § 63.8(f)(4).
4. start up your affected source before June 11, 2002	submit an initial notification no later than 120 days after June 11, 2002, as specified in § 63.9(b)(2).
5. start up your new or reconstructed source on or after June 11, 2002	submit an initial notification no later than 120 days after you become subject to this subpart, as specified in § 63.9(b)(3).
6. cannot comply with the relevant standard by the applicable compliance date.	submit a request for extension of compliance no later than 120 days before the compliance date, as specified in §§ 63.9(c) and 63.6(i)(4).
7. are subject to special requirements as specified in § 63.6(b)(3) and (4).	notify the Administrator of your compliance obligations no later than the initial notification dates established in § 63.9(b) for new sources not subject to the special provisions, as specified in § 63.9(d).
8. are required to conduct visible emission observations to determine the compliance of flares as specified in § 63.11(b)(4).	notify the Administrator of the anticipated date for conducting the observations specified in § 63.6(h)(5), as specified in §§ 63.6(h)(4) and 63.9(f).
9. are required to conduct a performance test or other initial compliance demonstration as specified in Table 3 to this subpart.	a. submit a Notification of Compliance Status Report, as specified in § 63.9(h); b. submit the Notification of Compliance Status Report, including the performance test, CEMS performance evaluation, and any other initial compliance demonstration results within 240 calendar days following the compliance date specified in § 63.5495; and c. for sources which construction or reconstruction commenced on or before September 9, 2019, beginning on December 29, 2020, submit all subsequent Notifications of Compliance Status following the procedure specified in § 63.5580(g), (j), and (k). For sources which construction or reconstruction commenced after September 9, 2019, on July 2, 2020, or immediately upon startup, whichever is later, submit all subsequent Notifications of Compliance Status following the procedure specified in § 63.5580(g), (j), and (k).
10. comply with the equipment leak requirements of subpart H of this part for existing or new cellulose ether affected sources.	comply with the notification requirements specified in § 63.182(a)(1) and (2), (b), and (c)(1) through (3) for equipment leaks, with the Notification of Compliance Status Reports required in subpart H included in the Notification of Compliance Status Report required in this subpart.
11. comply with the equipment leak requirements of subpart UU of this part for existing or new cellulose ether affected sources.	comply with the notification requirements specified in § 63.1039(a) for equipment leaks, with the Notification Compliance Status Reports required in subpart UU of this part included in the Notification of Compliance Status Report required in this subpart.
12. comply with the wastewater requirements of subparts F and G of this part for existing or new cellulose ether affected sources.	comply with the notification requirements specified in §§ 63.146(a) and (b), 63.151, and 63.152(a)(1) through (3) and (b)(1) through (5) for wastewater, with the Notification of Compliance Status Reports required in subpart G of this part included in the Notification of Compliance Status Report required in this subpart.

■ 18. Table 8 to Subpart UUUU is revised to read as follows:

Table 8 to Subpart UUUU of Part 63—Reporting Requirements

As required in § 63.5580, you must submit the appropriate reports specified in the following table:

You must submit a compliance report, which must contain the following information . . .	and you must submit the report . . .
1. if there are no deviations from any emission limit, operating limit, or work practice standard during the reporting period, then the report must contain the information specified in § 63.5580(c); 2. if there were no periods during which the CMS was out-of-control, then the report must contain the information specified in § 63.5580(c)(6); 3. if there is a deviation from any emission limit, operating limit, or work practice standard during the reporting period, then the report must contain the information specified in § 63.5580(c) and (d); 4. if there were periods during which the CMS was out-of-control, then the report must contain the information specified in § 63.5580(e);	semiannually as specified in § 63.5580(b); beginning on December 29, 2020, submit all subsequent reports following the procedure specified in § 63.5580(g).

You must submit a compliance report, which must contain the following information . . .	and you must submit the report . . .
5. for sources which commenced construction or reconstruction on or before September 9, 2019, if prior to December 29, 2020, you had a startup, shutdown, or malfunction during the reporting period and you took actions consistent with your SSM plan, then the report must contain the information specified in § 63.10(d)(5)(i); 6. for sources which commenced construction or reconstruction on or before September 9, 2019, if prior to December 29, 2020, you had a startup, shutdown, or malfunction during the reporting period and you took actions that are not consistent with your SSM plan, then the report must contain the information specified in § 63.10(d)(5)(ii); 7. the report must contain any change in information already provided, as specified in § 63.9(j); 8. for cellulose ether affected sources complying with the equipment leak requirements of subpart H of this part, the report must contain the information specified in § 63.182(a)(3) and (6) and (d)(2) through (4); 9. for cellulose ether affected sources complying with the equipment leak requirements of subpart UU of this part, the report must contain the information specified in § 63.1039(b); 10. for cellulose ether affected sources complying with the wastewater requirements of subparts F and G of this part, the report must contain the information specified in §§ 63.146(c) through (e) and 63.152(a)(4) and (5) and (c) through (e); 11. for affected sources complying with the closed-vent system provisions in § 63.148, the report must contain the information specified in § 63.148(j)(1); 12. for affected sources complying with the bypass line provisions in § 63.148(f), the report must contain the information specified in § 63.148(j)(2) and (3); 13. for affected sources invoking the delay of repair provisions in § 63.104(e) for heat exchanger systems, the next compliance report must contain the information in § 63.104(f)(2)(i) through (iv); if the leak remains unrepaired, the information must also be submitted in each subsequent compliance report until the repair of the leak is reported; and 14. for storage vessels subject to the emission limits and work practice standards in Table 1 to Subpart UUUU, the report must contain the periods of planned routine maintenance during which the control device does not comply with the emission limits or work practice standards in Table 1 to this subpart.	

■ 19. Table 9 to Subpart UUUU is revised to read as follows:

Table 9 to Subpart UUUU of Part 63—Recordkeeping Requirements

As required in § 63.5585, you must keep the appropriate records specified in the following table:

If you operate . . .	then you must keep . . .	and the record(s) must contain . . .
1. an existing or new affected source.	a copy of each notification and report that you submitted to comply with this subpart.	all documentation supporting any Initial Notification or Notification of Compliance Status Report that you submitted, according to the requirements in § 63.10(b)(2)(xiv), and any compliance report required under this subpart.
2. an existing or new affected source that commenced construction or reconstruction on or before September 9, 2019.	a. the records in § 63.6(e)(3)(iii) through (iv) related to startup, shutdown, and malfunction prior to December 30, 2020.	i. SSM plan; ii. when actions taken during a startup, shutdown, or malfunction are consistent with the procedures specified in the SSM plan, records demonstrating that the procedures specified in the plan were followed; iii. records of the occurrence and duration of each startup, shutdown, or malfunction; and iv. when actions taken during a startup, shutdown, or malfunction are not consistent with the procedures specified in the SSM plan, records of the actions taken for that event.

If you operate . . .	then you must keep . . .	and the record(s) must contain . . .
	b. records related to startup and shutdown, failures to meet the standard, and actions taken to minimize emissions after December 29, 2020.	i. record the date, time, and duration of each startup and/or shutdown period, including the periods when the affected source was subject to the alternative operating parameters applicable to startup and shutdown; ii. in the event that an affected unit fails to meet an applicable standard, record the number of failures. For each failure, record the date, time and duration of each failure; iii. for each failure to meet an applicable standard, record and retain a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit and a description of the method used to estimate the emissions; and iv. record actions taken to minimize emissions in accordance with § 63.5515(b), and any corrective actions taken to return the affected unit to its normal or usual manner of operation.
3. a new or reconstructed affected source that commenced construction or reconstruction after September 9, 2019.	a. records related to startup and shutdown, failures to meet the standard, and actions taken to minimize emissions.	i. record the date, time, and duration of each startup and/or shutdown period, including the periods when the affected source was subject to alternative operating parameters applicable to startup and shutdown; ii. in the event that an affected unit fails to meet an applicable standard, record the number of failures. For each failure, record the date, time and duration of each failure; iii. for each failure to meet an applicable standard, record and retain a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit and a description of the method used to estimate the emissions; and iv. record actions taken to minimize emissions in accordance with § 63.5515(b), and any corrective actions taken to return the affected unit to its normal or usual manner of operation.
4. an existing or new affected source.	a. a site-specific monitoring plan ...	i. information regarding the installation of the CMS sampling source probe or other interface at a measurement location relative to each affected process unit such that the measurement is representative of control of the exhaust emissions (*e.g.,* on or downstream of the last control device); ii. performance and equipment specifications for the sample interface, the pollutant concentration or parametric signal analyzer, and the data collection and reduction system; iii. performance evaluation procedures and acceptance criteria (*e.g.,* calibrations); iv. ongoing operation and maintenance procedures in accordance with the general requirements of §§ 63.8(c)(3) and (4)(ii), 63.5515(b), and 63.5580(c)(6); v. ongoing data quality assurance procedures in accordance with the general requirements of § 63.8(d)(2); and vi. ongoing recordkeeping and reporting procedures in accordance with the general requirements of §§ 63.10(c)(1)–(6), (c)(9)–(14), (e)(1), and (e)(2)(i) and 63.5585.
5. an existing or new affected source.	records of performance tests and CEMS performance evaluations, as required in § 63.10(b)(2)(viii) and any other initial compliance demonstrations.	all results of performance tests, CEMS performance evaluations, and any other initial compliance demonstrations, including analysis of samples, determination of emissions, and raw data.
6. an existing or new affected source.	a. records for each CEMS	i. records described in § 63.10(b)(2)(vi) through (xi); ii. previous (superseded) versions of the performance evaluation plan, with the program of corrective action included in the plan required under § 63.8(d)(2); iii. request for alternatives to relative accuracy test for CEMS as required in § 63.8(f)(6)(i); iv. records of the date and time that each deviation started and stopped, and whether the deviation occurred during a period of startup, shutdown, or malfunction or during another period; and v. records required in Table 6 to Subpart UUUU to show continuous compliance with the operating limit.
7. an existing or new affected source.	a. records for each CPMS	i. records required in Table 6 to Subpart UUUU to show continuous compliance with each operating limit that applies to you; and ii. results of each CPMS calibration, validation check, and inspection required by § 63.5545(b)(4).
8. an existing or new cellulose ether affected ether source.	records of closed-loop systems	records certifying that a closed-loop system is in use for cellulose ether operations.
9. an existing or new viscose process affected source.	records of nitrogen unloading and storage systems or nitrogen unloading systems.	records certifying that a nitrogen unloading and storage systems or nitrogen unloading system is in use.

If you operate . . .	then you must keep . . .	and the record(s) must contain . . .
10. an existing or new viscose process affected source.	records of material balances	all pertinent data from the material balances used to estimate the 6-month rolling average percent reduction in HAP emissions.
11. an existing or new viscose process affected source.	records of calculations	documenting the percent reduction in HAP emissions using pertinent data from the material balances.
12. an existing or new cellulose ether affected source.	a. extended cookout records	i. the amount of HAP charged to the reactor; ii. the grade of product produced; iii. the calculated amount of HAP remaining before extended cookout; and iv. information showing that extended cookout was employed.
13. an existing or new cellulose ether affected source.	a. equipment leak records	i. the records specified in § 63.181 for equipment leaks; or ii. the records specified in 63.1038 for equipment leaks.
14. an existing or new cellulose ether affected source.	wastewater records	the records specified in §§ 63.105, 63.147, and 63.152(f) and (g) for wastewater.
15. an existing or new affected source.	closed-vent system records	the records specified in § 63.148(i).
16. an existing or new affected source.	a. bypass line records	i. hourly records of flow indicator operation and detection of any diversion during the hour and records of all periods when the vent stream is diverted from the control stream or the flow indicator is not operating; or ii. the records of the monthly visual inspection of the seal or closure mechanism and of all periods when the seal mechanism is broken, the bypass line valve position has changed, or the key for a lock-and-key type lock has been checked out and records of any car-seal that has broken.
17. an existing or new affected source.	heat exchanger system records	records of the results of inspections and repair according to source § 63.104(f)(1).
18. an existing or new affected source.	control device maintenance records.	records of planned routine maintenance for control devices used to comply with the percent reduction emission limit for storage vessels in Table 1 to Subpart UUUU.
19. an existing or new affected source.	safety device records	a record of each time a safety device is opened to avoid unsafe conditions according to § 63.5505(d).

■ 20. Table 10 to Subpart UUUU is revised to read as follows:

Table 10 to Subpart UUUU of Part 63—Applicability of General Provisions to Subpart UUUU

As required in §§ 63.5515(h) and 63.5600, you must comply with the appropriate General Provisions requirements specified in the following table:

Citation	Subject	Brief description	Applies to Subpart UUUU
§ 63.1	Applicability	Initial applicability determination; applicability after standard established; permit requirements; extensions, notifications.	Yes.
§ 63.2	Definitions	Definitions for part 63 standards	Yes.
§ 63.3	Units and Abbreviations.	Units and abbreviations for part 63 standards	Yes.
§ 63.4	Prohibited Activities and Circumvention.	Prohibited activities; compliance date; circumvention, severability.	Yes.
§ 63.5	Preconstruction Review and Notification Requirements.	Preconstruction review requirements of section 112(i)(1).	Yes.
§ 63.6(a)	Applicability	General provisions apply unless compliance extension; general provisions apply to area sources that become major.	Yes.
§ 63.6(b)(1) through (4)	Compliance Dates for New and Reconstructed sources.	Standards apply at effective date; 3 years after effective date; upon startup; 10 years after construction or reconstruction commences for CAA section 112(f).	Yes.
§ 63.6(b)(5)	Notification	Must notify if commenced construction or reconstruction after proposal.	Yes.
§ 63.6(b)(6)	[Reserved].		
§ 63.6(b)(7)	Compliance Dates for New and Reconstructed Area Sources That Become Major.	Area sources that become major must comply with major source and standards immediately upon becoming major, regardless of whether required to comply when they were an area source.	Yes.

Citation	Subject	Brief description	Applies to Subpart UUUU
§ 63.6(c)(1) and (2)	Compliance Dates for Existing Sources.	Comply according to date in subpart, which must be no later than 3 years after effective date; for CAA section 112(f) standards, comply within 90 days of effective date unless compliance extension.	Yes.
§ 63.6(c)(3) and (4)	[Reserved].		
§ 63.6(c)(5)	Compliance Dates for Existing Area Sources That Become Major.	Area sources that become major must comply with major source standards by date indicated in subpart or by equivalent time period (*e.g.,* 3 years).	Yes.
§ 63.6(d)	[Reserved]		
§ 63.6(e)(1)(i)	General Duty to Minimize Emissions.	You must operate and maintain affected source in a manner consistent with safety and good air pollution control practices for minimizing emissions.	No, for new or reconstructed sources which commenced construction or reconstruction after September 9, 2019. For all other affected sources, Yes before December 30, 2020, and No thereafter. See 40 CFR 63.5515(b) for general duty requirement.
§ 63.6(e)(1)(ii)	Requirement to Correct Malfunctions ASAP.	You must correct malfunctions as soon as practicable after their occurrence.	No, for new or reconstructed sources which commenced construction or reconstruction after September 9, 2019. For all other affected sources, Yes before December 30, 2020, and No thereafter.
§ 63.6(e)(1)(iii)	Operation and Maintenance Requirements.	Operation and maintenance requirements are enforceable independent of emissions limitations or other requirements in relevant standards.	Yes.
§ 63.6(e)(2)	[Reserved].		
§ 63.6(e)(3)	SSM Plan	Requirement for SSM and SSM plan; content of SSM plan.	No, for new or reconstructed sources which commenced construction or reconstruction after September 9, 2019. For all other affected sources, Yes before December 30, 2020, and No thereafter. See 40 CFR 63.5515(c).
§ 63.6(f)(1)	SSM Exemption	You must comply with emission standards at all times except during SSM.	No, see 40 CFR 63.5515(a).
§ 63.6(f)(2) and (3)	Methods for Determining Compliance/ Finding of Compliance.	Compliance based on performance test, operation and maintenance plans, records, inspection.	Yes.
§ 63.6(g)(1) through (3)	Alternative Standard	Procedures for getting an alternative standard	Yes.
§ 63.6(h)(1)	SSM Exemption	You must comply with opacity and visible emission standards at all times except during SSM.	No, see CFR 63.5515(a).
§ 63.6(h)(2) through (9)	Opacity and Visible Emission (VE) Standards.	Requirements for opacity and visible emission limits.	Yes, but only for flares for which EPA Method 22 observations are required under § 63.11(b).
§ 63.6(i)(1) through (16)	Compliance Extension	Procedures and criteria for Administrator to grant compliance extension.	Yes.
§ 63.6(j)	Presidential Compliance Exemption.	President may exempt source category from requirement to comply with subpart.	Yes.
§ 63.7(a)(1) and (2)	Performance Test Dates.	Dates for conducting initial performance test; testing and other compliance demonstrations; must conduct 180 days after first subject to subpart.	Yes.
§ 63.7(a)(3)	Section 114 Authority	Administrator may require a performance test under CAA section 114 at any time.	Yes.
§ 63.7(b)(1)	Notification of Performance Test.	Must notify Administrator 60 days before the test.	Yes.
§ 63.7(b)(2)	Notification of Rescheduling.	If rescheduling a performance test is necessary, must notify Administrator 5 days before scheduled date of rescheduled test.	Yes.
§ 63.7(c)	Quality Assurance and Test Plan.	Requirement to submit site-specific test plan 60 days before the test or on date Administrator agrees with; test plan approval procedures; performance audit requirements; internal and external QA procedures for testing.	No.
§ 63.7(d)	Testing Facilities	Requirements for testing facilities	Yes.
§ 63.7(e)(1)	Performance Testing	Performance tests must be conducted under representative conditions; cannot conduct performance tests during SSM; not a violation to exceed standard during SSM.	No, see § 63.5535 and Table 4.

Citation	Subject	Brief description	Applies to Subpart UUUU
§ 63.7(e)(2)	Conditions for Conducting Performance Tests.	Must conduct according to this subpart and EPA test methods unless Administrator approves alternative.	Yes.
§ 63.7(e)(3)	Test Run Duration	Must have three test runs of at least 1 hour each; compliance is based on arithmetic mean of three runs; conditions when data from an additional test run can be used.	Yes.
§ 63.7(f)	Alternative Test Method.	Procedures by which Administrator can grant approval to use an alternative test method.	Yes.
§ 63.7(g)	Performance Test Data Analysis.	Must include raw data in performance test report; must submit performance test data 60 days after end of test with the Notification of Compliance Status Report; keep data for 5 years.	Yes.
§ 63.7(h)	Waiver of Tests	Procedures for Administrator to waive performance test.	Yes.
§ 63.8(a)(1)	Applicability of Monitoring Requirements.	Subject to all monitoring requirements in standard.	Yes.
§ 63.8(a)(2)	Performance Specifications.	Performance specifications in appendix B of 40 CFR part 60 apply.	Yes.
§ 63.8(a)(3)	[Reserved].		
§ 63.8(a)(4)	Monitoring with Flares	Unless your subpart says otherwise, the requirements for flares in § 63.11 apply.	Yes.
§ 63.8(b)(1)	Monitoring	Must conduct monitoring according to standard unless Administrator approves alternative.	Yes.
§ 63.8(b)(2) and (3)	Multiple Effluents and Multiple Monitoring Systems.	Specific requirements for installing monitoring systems; must install on each effluent before it is combined and before it is released to the atmosphere unless Administrator approves otherwise; if more than one monitoring system on an emission point, must report all monitoring system results, unless one monitoring system is a backup.	Yes.
§ 63.8(c)(1) and (c)(1)(i).	General Duty to Minimize Emissions and CMS Operation.	Maintain monitoring system in a manner consistent with good air pollution control practices.	No, for new or reconstructed sources which commenced construction or reconstruction after September 9, 2019. For all other affected sources, Yes before December 30, 2020, and No thereafter. See 40 CFR 63.5515(b).
§ 63.8(c)(1)(ii)	Parts for Routine Repairs.	Keep parts for routine repairs readily available.	Yes.
§ 63.8(c)(1)(iii)	Requirements to develop SSM Plan for CMS.	Develop a written SSM plan for CMS	No, for new or reconstructed sources which commenced construction or reconstruction after September 9, 2019. For all other affected sources, Yes before December 30, 2020, and No thereafter. See 40 CFR 63.5515(c).
§ 63.8(c)(2) and (3)	Monitoring System Installation.	Must install to get representative emission of parameter measurements; must verify operational status before or at performance test.	Yes.
§ 63.8(c)(4)	CMS Requirements	CMS must be operating except during breakdown, out-of control, repair, maintenance, and high-level calibration drifts.	No. Replaced with language in § 63.5560.
§ 63.8(c)(4)(i) and (ii)	CMS Requirements	Continuous opacity monitoring systems (COMS) must have a minimum of one cycle of sampling and analysis for each successive 10-second period and one cycle of data recording for each successive 6-minute period; CEMS must have a minimum of one cycle of operation for each successive 15-minute period.	Yes, except that § 63.8(c)(4)(i) does not apply because subpart UUUU does not require COMS.
§ 63.8(c)(5)	COMS Minimum Procedures.	COMS minimum procedures	No. Subpart UUUU does not require COMS.
§ 63.8(c)(6)	CMS Requirements	Zero and high level calibration check requirements; out-of-control periods.	No. Replaced with language in § 63.5545.
§ 63.8(c)(7) and (8)	CMS Requirements	Out-of-control periods, including reporting	No. Replaced with language in § 63.5580(c)(6).

Citation	Subject	Brief description	Applies to Subpart UUUU
§ 63.8(d)	CMS Quality Control	Requirements for CMS quality control, including calibration, etc.; must keep quality control plan on record for 5 years; keep old versions for 5 years after revisions; program of correction action to be included in plan required under § 63.8(d)(2).	No, except for requirements in § 63.8(d)(2).
§ 63.8(e)	CMS Performance Evaluation.	Notification, performance evaluation test plan, reports.	Yes, except that § 63.8(e)(5)(ii) does not apply because subpart UUUU does not require COMS.
§ 63.8(f)(1) through (5)	Alternative Monitoring Method.	Procedures for Administrator to approve alternative monitoring.	Yes, except that no site-specific test plan is required. The request to use an alternative monitoring method must be submitted with the notification of performance test or CEMS performance evaluation or 60 days prior to any initial compliance demonstration.
§ 63.8(f)(6)	Alternative to Relative Accuracy Test.	Procedures for Administrator to approve alternative relative accuracy tests for CEMS.	Yes.
§ 63.8(g)(1) through (4)	Data Reduction	COMS 6-minute averages calculated over at least 36 evenly spaced data points; CEMS 1-hour averages computed over at least four equally spaced data points; data that cannot be used in average.	No. Replaced with language in § 63.5545(e).
§ 63.8(g)(5)	Data Reduction	Data that cannot be used in computing averages for CEMS and COMS.	No. Replaced with language in § 63.5560(b).
§ 63.9(a)	Notification Requirements.	Applicability and State delegation	Yes.
§ 63.9(b)(1) through (5)	Initial Notifications	Submit notification subject 120 days after effective date; notification of intent to construct or reconstruct; notification of commencement of construction or reconstruction; notification of startup; contents of each.	Yes.
§ 63.9(c)	Request for Compliance Extension.	Can request if cannot comply by date or if installed BACT/LAER.	Yes.
§ 63.9(d)	Notification of Special Compliance Requirements for New Source.	For sources that commence construction between proposal and promulgation and want to comply 3 years after effective date.	Yes.
§ 63.9(e)	Notification of Performance Test.	Notify Administrator 60 days prior	Yes.
§ 63.9(f)	Notification of VE or Opacity Test.	Notify Administrator 30 days prior	Yes, but only for flares for which EPA Method 22 observations are required as part of a flare compliance assessment.
§ 63.9(g)	Additional Notifications When Using CMS.	Notification of performance evaluation; notification using COMS data; notification that exceeded criterion for relative accuracy.	Yes, except that § 63.9(g)(2) does not apply because subpart UUUU does not require COMS.
§ 63.9(h)(1) through (6)	Notification of Compliance Status Report.	Contents; due 60 days after end of performance test or other compliance demonstration, except for opacity or VE, which are due 30 days after; when to submit to federal vs. state authority.	Yes, except that Table 7 to this subpart specifies the submittal date for the notification. The contents of the notification will also include the results of EPA Method 22 observations required as part of a flare compliance assessment.
§ 63.9(i)	Adjustment of Submittal Deadlines.	Procedures for Administrator to approve change in when notifications must be submitted.	Yes.
§ 63.9(j)	Change in Previous Information.	Must submit within 15 days after the change	Yes, except that the notification must be submitted as part of the next semiannual compliance report, as specified in Table 8 to this subpart.
§ 63.10(a)	Recordkeeping and Reporting.	Applies to all, unless compliance extension; when to submit to federal vs. state authority; procedures for owners of more than one source.	Yes.
§ 63.10(b)(1)	Recordkeeping and Reporting.	General requirements; keep all records readily available; keep for 5 years.	Yes.
§ 63.10(b)(2)(i)	Recordkeeping of Occurrence and Duration of Startups and Shutdowns.	Records of occurrence and duration of each startup or shutdown that causes source to exceed emission limitation.	No, for new or reconstructed sources which commenced construction or reconstruction after September 9, 2019.For all other affected sources, Yes before December 29, 2020, and No thereafter.

Citation	Subject	Brief description	Applies to Subpart UUUU
§ 63.10(b)(2)(ii)	Recordkeeping of Failures to Meet a Standard.	Records of occurrence and duration of each malfunction of operation or air pollution control and monitoring equipment.	No, see Table 9 for recordkeeping of (1) date, time and duration; (2) listing of affected source or equipment, and an estimate of the quantity of each regulated pollutant emitted over the standard; and (3) actions to minimize emissions and correct the failure.
§ 63.10(b)(2)(iii)	Maintenance Records	Records of maintenance performed on air pollution control and monitoring equipment.	Yes.
§ 63.10(b)(2)(iv) and (v)	Actions Taken to Minimize Emissions During SSM.	Records of actions taken during SSM to minimize emissions.	No, for new or reconstructed sources which commenced construction or reconstruction after September 9, 2019. For all other affected sources, Yes before December 30, 2020, and No thereafter.
§ 63.10(b)(2)(vi), (x), and (xi).	CMS Records	Malfunctions, inoperative, out-of-control; calibration checks, adjustments, maintenance.	Yes.
§ 63.10(b)(2)(vii) through (ix).	Records	Measurements to demonstrate compliance with emission limits; performance test, performance evaluation, and opacity/VE observation results; measurements to determine conditions of performance tests and performance evaluations.	Yes, including results of EPA Method 22 observations required as part of a flare compliance assessment.
§ 63.10(b)(2)(xii)	Records	Records when under waiver	Yes.
§ 63.10(b)(2)(xiii)	Records	Records when using alternative to relative accuracy test.	Yes.
§ 63.10(b)(2)(xiv)	Records	All documentation supporting Initial Notification and Notification of Compliance Status Report.	Yes.
§ 63.10(b)(3)	Records	Applicability determinations	Yes.
§ 63.10(c)(1) through (6), (9) through (14).	Records	Additional records for CMS	Yes.
§ 63.10(c)(7) and (8)	Records	Records of excess emissions and parameter monitoring exceedances for CMS.	No. Replaced with language in Table 9 to this subpart.
§ 63.10(c)(15)	Use of SSM Plan	Use SSM plan to satisfy recordkeeping requirements for identification of malfunction, correction action taken, and nature of repairs to CMS.	No, for new or reconstructed sources which commenced construction or reconstruction after September 9, 2019. For all other affected sources, Yes before December 30, 2020, and No thereafter. See 40 CFR 63.5515(c).
§ 63.10(d)(1)	General Reporting Requirements.	Requirement to report	Yes.
§ 63.10(d)(2)	Report of Performance Test Results.	When to submit to federal or state authority	Yes, except that Table 7 to this subpart specifies the submittal date for the Notification of Compliance Status Report.
§ 63.10(d)(3)	Reporting Opacity or VE Observations.	What to report and when	Yes, but only for flares for which EPA Method 22 observations are required as part of a flare compliance assessment.
§ 63.10(d)(4)	Progress Reports	Must submit progress reports on schedule if under compliance extension.	Yes.
§ 63.10(d)(5)(i)	Periodic SSM Reports	Contents and submission of periodic SSM reports.	No, for new or reconstructed sources which commenced construction or reconstruction after September 9, 2019. For all other affected sources, Yes before December 30, 2020, and No thereafter. See § 63.5580(c)(4) and Table 8 for malfunction reporting requirements.
§ 63.10(d)(5)(ii)	Immediate SSM Reports.	Contents and submission of immediate SSM reports.	No, for new or reconstructed sources which commenced construction or reconstruction after September 9, 2019. For all other affected sources, Yes before December 29, 2020, except that the immediate SSM report must be submitted as part of the next semiannual compliance report, as specified in Table 8 to this subpart, and No thereafter.
§ 63.10(e)(1) and (2)	Additional CMS Reports.	Must report results for each CEMS on a unit; written copy of performance evaluation; three copies of COMS performance evaluation.	Yes, except that § 63.10(e)(2)(ii) does not apply because subpart UUUU does not require COMS.
§ 63.10(e)(3)(i) through (iii).	Reports	Schedule for reporting excess emissions and parameter monitor exceedance (now defined as deviations).	No. Replaced with language in § 63.5580.

Citation	Subject	Brief description	Applies to Subpart UUUU
§ 63.10(e)(3)(iv)	Excess Emissions Reports.	Requirement to revert to quarterly submission if there is an excess emissions and parameter monitor exceedance (now defined as deviations); provision to request semi-annual reporting after compliance for 1 year; submit report by 30th day following end of quarter or calendar half; if there has not been an exceedance or excess emission (now defined as deviations), report contents is a statement that there have been no deviations.	No. Replaced with language in § 63.5580.
§ 63.10(e)(3)(v)	Excess Emissions Reports.	Must submit report containing all of the information in § 63.10(c)(5) through (13), § 63.8(c)(7) and (8).	No. Replaced with language in § 63.5580.
§ 63.10(e)(3)(vi) through (viii).	Excess Emissions Report and Summary Report.	Requirements for reporting excess emissions for CMS (now called deviations); requires all of the information in § 63.10(c)(5) through (13), § 63.8(c)(7) and (8).	No. Replaced with language in § 63.5580.
§ 63.10(e)(4)	Reporting COMS Data	Must submit COMS data with performance test data.	No. Subpart UUUU does not require COMS.
§ 63.10(f)	Waiver for Recordkeeping or Reporting.	Procedures for Administrator to waive	Yes.
§ 63.11	Control and Work Practice Requirements.	Requirements for flares and alternative work practice for equipment leaks.	Yes.
§ 63.12	State Authority and Delegations.	State authority to enforce standards	Yes.
§ 63.13	Addresses	Addresses where reports, notifications, and requests are sent.	Yes.
§ 63.14	Incorporations by Reference.	Test methods incorporated by reference	Yes.
§ 63.15	Availability of Information and Confidentiality.	Public and confidential information	Yes.
§ 63.16	Performance Track Provisions.	Requirements for Performance Track member facilities.	Yes.

[FR Doc. 2020–05901 Filed 7–1–20; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL REGISTER

Vol. 85 Thursday,

No. 128 July 2, 2020

Part III

Environmental Protection Agency

40 CFR Parts 52 and 81

Approval and Promulgation of Implementation Plans; Designation of Areas for Air Quality Planning Purposes; California; South Coast Moderate Area Plan and Reclassification as Serious Nonattainment for the 2012 $PM_{2.5}$ NAAQS; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R09–OAR–2019–0145; FRL–10010–50–Region 9]

Approval and Promulgation of Implementation Plans; Designation of Areas for Air Quality Planning Purposes; California; South Coast Moderate Area Plan and Reclassification as Serious Nonattainment for the 2012 $PM_{2.5}$ NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve or conditionally approve portions of a state implementation plan (SIP) revision submitted by California to address Clean Air Act (CAA or ''Act'') requirements for the 2006 and 2012 fine particulate matter ($PM_{2.5}$) national ambient air quality standards (NAAQS or ''standards'') in the Los Angeles-South Coast Air Basin (''South Coast'') $PM_{2.5}$ nonattainment area. Specifically, the EPA is proposing to approve all but the contingency measure element of the submitted SIP revision as meeting all applicable Moderate area requirements for the 2012 annual $PM_{2.5}$ NAAQS, and to conditionally approve the contingency measure element as meeting both the Moderate area contingency measure requirement for the 2012 annual $PM_{2.5}$ NAAQS and the Serious area contingency measure requirement for the 2006 24-hour $PM_{2.5}$ NAAQS. In addition, the EPA is proposing to approve 2019 and 2022 motor vehicle emissions budgets for use in transportation conformity analyses for the 2012 annual $PM_{2.5}$ NAAQS. The EPA is also proposing to reclassify the South Coast $PM_{2.5}$ nonattainment area, including reservation areas of Indian country and any other area of Indian country within it where the EPA or a tribe has demonstrated that the tribe has jurisdiction, as a Serious nonattainment area for the 2012 annual $PM_{2.5}$ NAAQS based on the EPA's determination that the area cannot practicably attain the standard by the applicable Moderate area attainment date of December 31, 2021. Upon final reclassification of the South Coast as a Serious area for this NAAQS, California will be required to submit a Serious area plan for the area that includes a demonstration of attainment by the applicable Serious area attainment date, which is no later than December 31, 2025, or by the most expeditious alternative date practicable, in accordance with the requirements of part D of title I of the CAA.

DATES: Any comments on this proposal must be received by August 3, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2019–0145 at *https://www.regulations.gov,* or via email to *graham.ashleyr@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, 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 (*e.g.,* audio or video) 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, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Ashley Graham, Air Planning Office (AIR–2), EPA Region IX, (415) 972–3877, *graham.ashleyr@epa.gov.*

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

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I. Background for Proposed Action

On October 17, 2006, the EPA strengthened the 24-hour (daily) NAAQS for particulate matter with a diameter of 2.5 microns or less ($PM_{2.5}$) by lowering the level from 65 micrograms (μg) per cubic meter (m^3) to 35 μg/m^3 (''2006 $PM_{2.5}$ NAAQS'').[1] On January 15, 2013, the EPA strengthened the primary annual NAAQS for $PM_{2.5}$ by lowering the level from 15.0 μg/m^3 to 12.0 μg/m^3 (''2012 $PM_{2.5}$ NAAQS'').[2] The EPA established these standards after considering substantial evidence from numerous health studies demonstrating that serious health effects are associated with exposures to $PM_{2.5}$ concentrations above these levels.

Epidemiological studies have shown statistically significant correlations between elevated $PM_{2.5}$ levels and premature mortality. Other important health effects associated with $PM_{2.5}$ exposure include aggravation of respiratory and cardiovascular disease (as indicated by increased hospital admissions, emergency room visits, absences from school or work, and restricted activity days), changes in lung function, and increased respiratory symptoms. Individuals particularly sensitive to $PM_{2.5}$ exposure include older adults, people with heart and lung disease, and children.[3] $PM_{2.5}$ can be emitted directly into the atmosphere as a solid or liquid particle (''primary $PM_{2.5}$'' or ''direct $PM_{2.5}$'') or can be formed in the atmosphere (''secondary $PM_{2.5}$'') as a result of various chemical reactions among precursor pollutants such as nitrogen oxides (NO_X), sulfur oxides (SO_X), volatile organic

[1] 71 FR 61144 and 40 CFR 50.13. The EPA first established NAAQS for $PM_{2.5}$ on July 18, 1997 (62 FR 38652), including annual standards of 15.0 μg/m^3 based on a 3-year average of annual mean concentrations and 24-hour (daily) standards of 65 μg/m^3 based on a 3-year average of 98th percentile 24-hour concentrations (40 CFR 50.7).

[2] 78 FR 3086 and 40 CFR 50.18. Unless otherwise noted, all references to the $PM_{2.5}$ standards in this notice are to the 2012 annual NAAQS of 12.0 μg/m^3 codified at 40 CFR 50.18.

[3] Id.

compounds (VOC), and ammonia (NH_3).[4]

Following promulgation of a new or revised NAAQS, the EPA is required by CAA section 107(d) to designate areas throughout the nation as attaining or not attaining the NAAQS. On November 13, 2009, the EPA designated the South Coast area as nonattainment for the 2006 $PM_{2.5}$ NAAQS.[5] The EPA classified the area as Moderate nonattainment on June 2, 2014 and reclassified it as Serious nonattainment for these NAAQS on January 13, 2016.[6] On January 15, 2015, the EPA designated and classified the South Coast area as Moderate nonattainment for the 2012 $PM_{2.5}$ NAAQS.[7] The South Coast area is also designated and classified as Moderate nonattainment for the 1997 annual and 24-hour $PM_{2.5}$ NAAQS.[8]

On April 27, 2017, the California Air Resources Board (CARB) submitted the ''Final 2016 Air Quality Management Plan (March 2017)'' to provide for attainment of both the 2006 $PM_{2.5}$ NAAQS and the 2012 $PM_{2.5}$ NAAQS in the South Coast (''2016 $PM_{2.5}$ Plan'' or ''Plan'').[9] On February 12, 2019, the EPA approved those portions of the 2016 $PM_{2.5}$ Plan that pertain to the requirements for implementing the 2006 $PM_{2.5}$ NAAQS, except for the contingency measure component of the Plan.[10]

The South Coast $PM_{2.5}$ nonattainment area is home to about 17 million people, has a diverse economic base, and contains one of the highest-volume port areas in the world. For a description of the geographic boundaries of the South Coast $PM_{2.5}$ nonattainment area, see 40 CFR 81.305. The local air district with primary responsibility for developing a plan to attain the $PM_{2.5}$ NAAQS in the South Coast area is the South Coast Air Quality Management District (SCAQMD or ''District''). The District works cooperatively with CARB in preparing these plans. Authority for regulating sources in the South Coast is split between the District, which has responsibility for regulating stationary and most area sources, and CARB, which has responsibility for regulating most mobile sources and some categories of consumer products.

II. Summary of the South Coast $PM_{2.5}$ Plan

We are proposing action on portions of a California SIP submission that address the Moderate area plan requirements for the 2012 annual $PM_{2.5}$ NAAQS and the Serious area contingency measure requirement for the 2006 24-hour $PM_{2.5}$ NAAQS in the South Coast $PM_{2.5}$ nonattainment area. The SCAQMD Governing Board adopted the ''Final 2016 Air Quality Management Plan (March 2017)'' on March 3, 2017, and CARB submitted this SIP revision to the EPA on April 27, 2017.[11] We refer to this SIP submission herein as the ''2016 $PM_{2.5}$ Plan'' or ''Plan.''

The 2016 $PM_{2.5}$ Plan is organized into eleven chapters, each addressing a specific topic. We summarize below each of the chapters relevant to the 2012 $PM_{2.5}$ NAAQS and the contingency measure requirement for the 2006 $PM_{2.5}$ NAAQS.[12] Chapter 1, ''Introduction,'' provides general background, including a discussion of the purpose of the Plan, historical air quality progress in the South Coast, and the District's approach to air quality planning. Chapter 2, ''Air Quality and Health Effects,'' discusses current air quality in comparison with federal health-based air pollution standards. Chapter 3, ''Base Year and Future Year Emissions,'' summarizes emissions inventories, estimates current emissions by source and pollutant, and projects future emissions with and without growth. Chapter 4, ''Control Strategy and Implementation,'' presents the control strategy, specific measures, and implementation schedules to attain the air quality standards by the specified attainment dates. Chapter 5, ''Future Air Quality,'' describes the modeling approach used in the Plan and summarizes the South Coast's future air quality projections with and without the control strategy. Chapter 6, ''Federal and State Clean Air Act Requirements,'' discusses specific federal and state requirements as they pertain to the South Coast, including anti-backsliding requirements for revoked standards. Chapter 11, ''Public Process and Participation,'' describes the District's public outreach effort associated with the development of the Plan. Finally, a glossary is provided at the end of the document, presenting definitions of terms commonly used in the Plan.

The Plan also includes the following technical appendices:

- Appendix I (''Health Effects'') presents a summary of scientific findings on the health effects of ambient air pollution.
- Appendix II (''Current Air Quality'') contains a detailed summary of the air quality in 2014, along with prior year trends, in both the South Coast and the Coachella Valley.
- Appendix III (''Base and Future Year Emission Inventory'') presents the 2012 base year emissions inventory and projected emissions inventories of air pollutants in future attainment years for both annual average and summer planning inventories.
- Appendix IV–A (''SCAQMD's Stationary and Mobile Source Control Measures'') describes SCAQMD's proposed stationary and mobile source control measures to attain the federal ozone and $PM_{2.5}$ standards.
- Appendix IV–B (''CARB's Mobile Source Strategy'') describes CARB's proposed 2016 strategy to attain health-based federal air quality standards.

[4] EPA, Air Quality Criteria for Particulate Matter, No. EPA/600/P–99/002aF and EPA/600/P–99/002bF, October 2004.

[5] 74 FR 58688 (codified at 40 CFR 81.305).

[6] 79 FR 31566 and 81 FR 1514. The EPA promulgated these $PM_{2.5}$ nonattainment area classifications in response to a 2013 decision of the Court of Appeals for the D.C. Circuit remanding the EPA's prior implementation rule for the $PM_{2.5}$ NAAQS and directing the EPA to promulgate implementation rules pursuant to subpart 4 of part D, title I of the Act. *Natural Resources Defense Council* v. *EPA,* 706 F.3d 428 (D.C. Cir. 2013).

[7] 80 FR 2206 (codified at 40 CFR 81.305).

[8] 70 FR 944 (January 5, 2005) (codified at 40 CFR 81.305). In November 2007, California submitted the 2007 $PM_{2.5}$ Plan to provide for attainment of the 1997 $PM_{2.5}$ standards in the South Coast. On November 9, 2011, the EPA approved all but the contingency measures in the 2007 $PM_{2.5}$ Plan (76 FR 69928), and on October 29, 2013, the EPA approved a revised contingency measure SIP for the area (78 FR 64402). On July 25, 2016, the EPA determined that the South Coast area had attained the 1997 annual and 24-hour $PM_{2.5}$ NAAQS based on 2011–2013 monitoring data, suspending any remaining attainment-related planning requirements for purposes of the 1997 $PM_{2.5}$ NAAQS in this area (81 FR 48350).

[9] Letter dated April 27, 2017, from Richard Corey, Executive Officer, CARB, to Alexis Strauss, Acting Regional Administrator, EPA Region IX (transmitting ''Final 2016 Air Quality Management Plan (March 2017)'').

[10] 84 FR 3305. As part of this action, the EPA found that, for purposes of the 2006 $PM_{2.5}$ NAAQS, the requirement for contingency measures to be undertaken if the area fails to make RFP under CAA section 172(c)(9) was moot as applied to the 2017 milestone year because CARB and the District had demonstrated to the EPA's satisfaction that the 2017 milestones in the plan had been met. The EPA took no action with respect to RFP contingency measures for the 2020 milestone year or attainment contingency measures for these NAAQS.

[11] Letter dated April 27, 2017, from Richard Corey, Executive Officer, CARB, to Alexis Strauss, Acting Regional Administrator, EPA Region IX, with enclosures.

[12] The following chapters in the Plan are not relevant to the 2006 or 2012 $PM_{2.5}$ NAAQS and were not reviewed as part of this action: Chapter 7, ''Current and Future Air Quality—Desert Nonattainment Areas,'' describes the air quality status of the Coachella Valley, including emissions inventories, designations, and current and future air quality. Chapter 8, ''Looking Beyond Current Requirements,'' assesses the South Coast air basin's status with respect to the 2015 8-hour ozone standard of 70 ppb. Chapter 9, ''Air Toxic Control Strategy,'' examines the ongoing efforts to reduce health risk from toxic air contaminants, co-benefits from reducing criteria pollutants, and potential future actions; and Chapter 10, ''Climate and Energy,'' provides a description of current and projected energy demand and supply issues in the South Coast air basin, and the relationship between air quality improvement and greenhouse gas mitigation goals.

• Appendix IV–C (''Regional Transportation Strategy and Control Measures'') describes the Southern California Association of Governments' (SCAG) ''Final 2016–2040 Regional Transportation Plan/Sustainable Communities Strategy'' and transportation control measures included in the 2016 $PM_{2.5}$ Plan.

• Appendix V (''Modeling and Attainment Demonstrations'') provides the details of the regional modeling for the attainment demonstration.

• Appendix VI (''Compliance with Other Clean Air Act Requirements'') provides the District's demonstration that the Plan complies with specific federal and California Clean Air Act requirements.

CARB adopted additional documents on March 23, 2017 that supplement the analyses and demonstrations adopted by the SCAQMD on March 3, 2017. In particular, the ''CARB Staff Report, ARB Review of 2016 AQMP for the South Coast Air Basin and Coachella Valley'' (''CARB Staff Report'') includes in Appendix D a weight of evidence analysis for the SCAQMD's attainment demonstration for the 24-hour and annual $PM_{2.5}$ NAAQS. Also, to supplement the contingency measure element of the 2016 $PM_{2.5}$ Plan, CARB submitted a letter dated January 29, 2019 containing the District's commitment to adopt a control measure by a date certain for purposes of satisfying CAA contingency measure requirements for the 2006 and 2012 $PM_{2.5}$ NAAQS.[13] The District later clarified its January 29, 2019 commitment in a letter dated February 12, 2020, and CARB submitted the District's clarified commitment together with related State commitments to the EPA by letter dated March 3, 2020.[14] We discuss these commitments as part of our evaluation of the contingency measure element of the 2016 $PM_{2.5}$ Plan, in section V.H.

We present our evaluation of the 2016 $PM_{2.5}$ Plan in Section V of this proposed rule.

III. Clean Air Act Requirements for Moderate $PM_{2.5}$ Nonattainment Area Plans

With respect to the statutory requirements for particulate matter (PM) attainment plans, the general nonattainment area planning requirements of title I, part D of the CAA are found in subpart 1, and the Moderate area planning requirements specifically for PM are found in subpart 4.

The EPA has a longstanding general guidance document that interprets the 1990 amendments to the CAA, commonly referred to as the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990 (''General Preamble'').[15] The General Preamble addresses the relationship between the subpart 1 and subpart 4 requirements and provides recommendations to states for meeting certain statutory requirements for PM attainment plans. As explained in the General Preamble, specific requirements applicable to Moderate area attainment plan SIP submissions for the PM NAAQS are set forth in subpart 4 of part D, title I of the Act, but such SIP submissions must also meet the general attainment planning provisions in subpart 1 of part D, title I of the Act, to the extent these provisions ''are not otherwise subsumed by, or integrally related to,'' the more specific subpart 4 requirements.[16]

To implement the $PM_{2.5}$ NAAQS, the EPA has also promulgated the ''Fine Particle Matter National Ambient Air Quality Standard: State Implementation Plan Requirements; Final Rule'' (hereinafter, the ''$PM_{2.5}$ SIP Requirements Rule'').[17] The $PM_{2.5}$ SIP Requirements Rule establishes regulatory requirements and provides additional guidance applicable to attainment plan submissions for the $PM_{2.5}$ NAAQS, including the 2006 24-hour and 2012 annual $PM_{2.5}$ NAAQS at issue in this action.

The general subpart 1 statutory requirements for attainment plans include: (i) The section 172(c)(1) requirement for reasonably available control measures (RACM)/reasonably available control technology (RACT) and attainment demonstrations; (ii) the section 172(c)(2) requirement to demonstrate reasonable further progress (RFP); (iii) the section 172(c)(3) requirement for emissions inventories; (iv) the section 172(c)(5) requirement for a nonattainment new source review (NNSR) permitting program; and (v) the section 172(c)(9) requirement for contingency measures.

The more specific subpart 4 statutory requirements for Moderate $PM_{2.5}$ nonattainment areas include: (i) The section 189(a)(1)(A) and 189(e) NNSR permit program requirements; (ii) the section 189(a)(1)(B) requirement for attainment demonstrations; (iii) the section 189(a)(1)(C) requirement for RACM; and (iv) the section 189(c) requirements for RFP and quantitative milestones. Under subpart 4, states with Moderate $PM_{2.5}$ nonattainment areas must provide for attainment in the area as expeditiously as practicable but no later than the latest permissible attainment date under CAA section 188(c), *i.e.,* December 31, 2021 for the 2012 $PM_{2.5}$ NAAQS in the South Coast.[18] In addition, under subpart 4, direct $PM_{2.5}$ and all precursors to the formation of $PM_{2.5}$ are subject to control unless the EPA approves a demonstration from the State establishing that a given precursor does not contribute significantly to $PM_{2.5}$ levels that exceed the $PM_{2.5}$ NAAQS in the area.[19]

IV. Completeness Review of the South Coast $PM_{2.5}$ Plan

CAA sections 110(a)(1) and (2) and 110(l) require each state to provide reasonable public notice and an opportunity for a public hearing prior to the adoption and submittal of a SIP or SIP revision to the EPA. To meet this requirement, every SIP submission should include evidence that adequate public notice was given and an opportunity for a public hearing was provided consistent with the EPA's implementing regulations in 40 CFR 51.102.

Both the District and CARB satisfied applicable statutory and regulatory requirements for reasonable public notice and hearing prior to adoption and

[13] Letter dated February 13, 2019, from Michael Benjamin, Air Quality Planning and Science Division, CARB, to Mike Stoker, Regional Administrator, EPA Region IX (transmitting letter dated January 29, 2019, from Wayne Nastri, Executive Officer, SCAQMD, to Richard Corey, Executive Officer, CARB). In its January 29, 2019 letter, the District committed to modify an existing rule or adopt a new rule to create a contingency measure that would be triggered if the area fails to meet an RFP requirement, to submit a quantitative milestone report, to meet a quantitative milestone, or to attain the 2006 24-hour or 2012 annual $PM_{2.5}$ NAAQS.

[14] Letter dated March 3, 2020, from Michael Benjamin, Air Quality Planning and Science Division, CARB, to Mike Stoker, Regional Administrator, EPA Region IX (transmitting letter dated February 12, 2020, from Wayne Nastri, Executive Officer, SCAQMD, to Richard Corey, Executive Officer, CARB). In its February 12, 2020 letter, the District specifically committed to modify Rule 445 (''Wood Burning Devices'') to lower the mandatory wood burning curtailment threshold in the rule following any of the EPA findings listed in 40 CFR 51.1014(a). In its March 3, 2020 letter, CARB committed to submit the revised District rule to the EPA as a SIP revision by a date certain.

[15] General Preamble, 57 FR 13498 (April 16, 1992).

[16] Id. at 13538.

[17] 81 FR 58010 (August 24, 2016).

[18] Generally, under CAA section 188(c), the latest permissible attainment date for a Moderate nonattainment area is the end of the sixth calendar year after the area's designation as nonattainment. Because the EPA designated and classified the South Coast as a Moderate nonattainment area for the 2012 $PM_{2.5}$ NAAQS effective April 15, 2015 (80 FR 2206, 2215), the latest permissible attainment date for these NAAQS in the South Coast is December 31, 2021.

[19] 40 CFR 51.1006 and 51.1009.

submission of the 2016 $PM_{2.5}$ Plan. The District conducted numerous public workshops, provided public comment periods, and held a public hearing prior to its adoption of the Plan on March 3, 2017.[20] CARB also provided the required public notice and opportunity for public comment prior to its March 23, 2017 public hearing and adoption of the Plan.[21] Each submission includes proof of publication of notices for the respective public hearings, and transcripts for the public hearings.[22] We find, therefore, that the 2016 $PM_{2.5}$ Plan meets the requirements for reasonable notice and public hearings in CAA sections 110(a) and 110(l).

CAA section 110(k)(1)(B) requires the EPA to determine whether a SIP submittal is complete within 60 days of receipt. This section also provides that any plan that the EPA has not affirmatively determined to be complete or incomplete will become complete by operation of law six months after the date of submission. The EPA's SIP completeness criteria are found in 40 CFR part 51, Appendix V. The 2016 $PM_{2.5}$ Plan, which CARB submitted on April 27, 2017, became complete by operation of law on October 27, 2017.

V. Review of the South Coast $PM_{2.5}$ Plan

A. Emissions Inventory

1. Requirements for Emissions Inventories

CAA section 172(c)(3) requires that each SIP include a comprehensive, accurate, current inventory of actual emissions from all sources of the relevant pollutant or pollutants in the nonattainment area. We refer to this inventory as the ''base year inventory.'' The EPA has established regulatory requirements for base year and other emissions inventories in the $PM_{2.5}$ SIP Requirements Rule[23] and issued guidance concerning emissions inventories for $PM_{2.5}$ nonattainment areas.[24]

The base year emissions inventory should provide a state's best estimate of actual emissions from all sources of the relevant pollutants in the area, *i.e.,* all emissions that contribute to the formation of a particular NAAQS pollutant. For the $PM_{2.5}$ NAAQS, the base year emissions inventory must include direct $PM_{2.5}$ emissions, separately reported filterable and condensable $PM_{2.5}$ emissions,[25] and emissions of all chemical precursors to the formation of secondary $PM_{2.5}$: NO_X, SO_2, VOC, and ammonia.[26] In addition, the emissions inventory base year for a Moderate $PM_{2.5}$ nonattainment area must be one of the three years for which monitored data were used to designate the area as nonattainment, or another technically appropriate year justified by the state in its Moderate area SIP submission.[27]

A state must include in its SIP submission documentation explaining how the emissions data were calculated. In estimating mobile source emissions, a state should use the latest emissions models and planning assumptions available at the time it develops the SIP submission. States are also required to use the EPA's ''Compilation of Air Pollutant Emission Factors'' (AP–42) road dust method for calculating re-entrained road dust emissions from paved roads.[28] [29] At the time the 2016 $PM_{2.5}$ Plan was developed, California was required to use EMFAC2014 to estimate tailpipe and brake and tire wear emissions of $PM_{2.5}$, NO_X, SO_2, and VOC from on-road mobile sources.[30]

In addition to the base year inventory submitted to meet the requirements of CAA section 172(c)(3), a state must also submit future ''baseline inventories'' for the projected attainment year, each RFP milestone year, and any other year of significance for meeting applicable CAA requirements.[31] By ''baseline inventories'' (referred to in the 2016 $PM_{2.5}$ Plan as ''baseline inventories'' or ''future baseline inventories''), we mean projected emissions inventories for future years that account for, among other things, the ongoing effects of economic growth and adopted emission control requirements. The SIP submission should include documentation to explain how the state calculated the emissions projections.

2. Emissions Inventories in the 2016 $PM_{2.5}$ Plan

The annual average planning inventories for direct $PM_{2.5}$ and all $PM_{2.5}$ precursors (NO_X, SO_X,[32] VOC, and ammonia) for the South Coast $PM_{2.5}$ nonattainment area, together with documentation for the inventories, are found in Chapter 3, Appendix III, and Appendix V of the Plan. Appendix V also contains additional inventory documentation specific to the air quality modeling inventories. These portions of the Plan contain annual average daily inventories of actual emissions for the 2012 base year, and projected inventories for the future 2019 RFP baseline year, the 2021 Moderate area attainment year, and the 2022 post-attainment RFP year.[33] The annual

[20] SCAQMD, Notice of Public Hearing, ''Proposed 2016 Air Quality Management Plan for the South Coast Air Quality Management District and Report on the Health Impacts of Particulate Matter Air Pollution in the South Coast Air Basin,'' December 14, 2016.

[21] CARB, ''Notice of Public Meeting to Consider Adopting the 2016 Air Quality Management Plan for Ozone and $PM_{2.5}$ for the South Coast Air Basin and the Coachella Valley,'' March 6, 2017.

[22] Memorandum dated March 6, 2017, from Denise Garzaro, Clerk of the Board, SCAQMD, to Arlene Martinez, Administrative Secretary, Planning, Rule Development, and Area Sources, Subject: ''SIP Documentation, January 24, 2017; and California Air Resources Board, Notice of Public Meeting to Consider Adopting the 2016 Air Quality Management Plan for Ozone and $PM_{2.5}$ for the South Coast Air Basin and the Coachella Valley.''

[23] 40 CFR 51.1008.

[24] 81 FR 58010, 58078–58079 and ''Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations,'' EPA, May 2017 (''Emissions Inventory Guidance''), available at *https://www.epa.gov/air-emissions-inventories/air-emissions-inventory-guidance-implementation-ozone-and-particulate.*

[25] The Emissions Inventory Guidance identifies the types of sources for which the EPA expects states to provide condensable PM emissions inventories. Emissions Inventory Guidance, section 4.2.1 (''Condensable PM Emissions''), 63–65.

[26] 40 CFR 51.1008.

[27] 40 CFR 51.1008(a)(1)(i).

[28] The EPA released an update to AP–42 in January 2011 that revised the equation for estimating paved road dust emissions based on an updated data regression that included new emissions tests results. (76 FR 6328, February 4, 2011). CARB used the revised 2011 AP–42 methodology in developing on-road mobile source emissions; see *http://www.arb.ca.gov/ei/areasrc/fullpdf/full7-9_2016.pdf.*

[29] AP–42 has been published since 1972 as the primary source of the EPA's emission factor information. It contains emission factors and process information for more than 200 air pollution source categories. A source category is a specific industry sector or group of similar emitting sources. The emission factors have been developed and compiled from source test data, material balance studies, and engineering estimates.

[30] The EMFAC model (short for EMission FACtor) is a computer model developed by CARB. The EPA approved and announced the availability of EMFAC2014 for use in SIP development and transportation conformity in California on December 14, 2015 (80 FR 77337). The EPA's approval of the EMFAC2014 emissions model for SIP and conformity purposes was effective on the date of publication in the **Federal Register**. On August 15, 2019, the EPA approved and announced the availability of EMFAC2017, the latest update to the EMFAC model for use by state and local governments to meet CAA requirements (84 FR 41717). EMFAC2017 was not available to the State and District at the time they were developing the 2016 $PM_{2.5}$ Plan.

[31] 40 CFR 51.1008(a)(2) and 51.1012(a)(2); see also EPA, ''Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations,'' May 2017, available at *https://www.epa.gov/sites/production/files/2017-07/documents/ei_guidance_may_2017_final_rev.pdf.*

[32] The 2016 $PM_{2.5}$ Plan generally uses ''sulfur oxides'' or ''SO_X'' in reference to SO_2 as a precursor to the formation of $PM_{2.5}$. We use SO_X and SO_2 interchangeably throughout this notice.

[33] The 2016 $PM_{2.5}$ Plan includes summer day inventories for ozone planning purposes, and inventories for Serious area planning purposes for

Continued

average daily inventory is used to evaluate sources of emissions for attainment of the 2012 $PM_{2.5}$ NAAQS.

Future emissions forecasts are primarily based on demographic and economic growth projections provided by SCAG. Baseline inventories reflect all District control measures adopted by December 2015 and CARB rules adopted by November 2015. Growth factors used to project these baseline inventories are derived mainly from data obtained from SCAG.[34]

Each emissions inventory is divided into two source classifications: Stationary sources (*i.e.,* point sources and area sources) and mobile sources (*i.e.,* on-road and non-road sources of emissions). Point sources in the South Coast air basin that emit four tons per year (tpy) or more of PM, NO_X, SO_X, or VOC report annual emissions to the District. Point source emissions for the 2012 base year emissions inventory are generally based on reported data from facilities using the District's Annual Emissions Reporting program.[35] Area sources include smaller emission sources distributed across the nonattainment area. CARB and the District estimate emissions for about 400 area source categories using established inventory methods, including publicly available emission factors and activity information. Activity data may come from national survey data such as from the Energy Information Administration or from local sources such as the Southern California Gas Company, paint suppliers, and District databases. Emission factors can be based on a number of sources including source tests, compliance reports, and the EPA's AP–42.

Emissions inventories are constantly being revised and improved. Between the finalization of the South Coast 2012 Air Quality Management Plan (''2012 AQMP'') and the development of the 2016 $PM_{2.5}$ Plan, the District improved and updated its emissions estimation methodologies for liquified petroleum gas combustion sources, natural gas combustion sources, Regional Clean Air Incentives Market (RECLAIM) NO_X emissions sources (based on 2015 program amendments), livestock waste management operations, gasoline dispensing facilities, composting operations, oil and gas production, and architectural coatings.

On-road emissions inventories are calculated using CARB's EMFAC2014 model and the travel activity data provided by SCAG in ''The 2016–2040 Regional Transportation Plan/Sustainable Communities Strategy.''[36] Re-entrained paved road dust emissions are calculated using the EPA's AP–42 road dust methodology.[37]

CARB provided emissions inventories for off-road equipment, including construction and mining equipment, industrial and commercial equipment, lawn and garden equipment, agricultural equipment, ocean-going vessels, commercial harbor craft, locomotives, cargo handling equipment, pleasure craft, and recreational vehicles. CARB uses several models to estimate emissions for more than one hundred off-road equipment categories.[38] Aircraft emissions are developed in conjunction with the airports in the region.

Table 1 provides a summary of the District's 2012 base year annual average emissions estimates for direct $PM_{2.5}$ and all $PM_{2.5}$ precursors. These inventories provide the basis for the control measure analysis and the RFP and impracticability demonstrations in the 2016 $PM_{2.5}$ Plan. For a more detailed discussion of the inventories, see Appendix III of the Plan.

TABLE 1—SOUTH COAST 2012 BASE YEAR EMISSIONS

[Annual average, tons per day]

	Direct $PM_{2.5}$	NO_X	SO_X	VOC	Ammonia
Stationary Sources	44	70	10	212	63
On-Road Mobile Sources	14	317	2	158	18
Off-Road Mobile Sources	8	153	6	100	0
Total	66	540	18	470	81

Source: 2016 $PM_{2.5}$ Plan, Table 3–2. Values may not be precise due to rounding.

Condensable Particulate Matter

The $PM_{2.5}$ SIP Requirements Rule states that ''[t]he inventory shall include direct $PM_{2.5}$ emissions, separately reported $PM_{2.5}$ filterable and condensable emissions, and emissions of the scientific $PM_{2.5}$ precursors, including precursors that are not $PM_{2.5}$ plan precursors pursuant to a precursor demonstration under § 51.1006.''[39] On June 15, 2018, the SCAQMD submitted a technical supplement to the SIP containing emissions estimates for both condensable and filterable $PM_{2.5}$ emissions from specified sources of direct $PM_{2.5}$ in the South Coast area.[40] The supplement provides filterable and condensable emissions estimates, expressed as annual average $PM_{2.5}$ emissions, for all of the identified source categories for the 2012 base year, the 2019 RFP year, the 2021 Moderate area attainment year, and the 2022 RFP year, as well as subsequent years.[41]

The 2016 $PM_{2.5}$ Plan relies on several SIP-approved rules that regulate direct PM emissions as part of the $PM_{2.5}$ control strategy, including Rule 445 (''Wood-Burning Devices''), as amended May 3, 2013; Rule 1138 (''Control of Emissions from Restaurant Operations''), adopted November 14, 1997; and Rule 1155 (''Particulate Matter (PM) Control Devices''), as amended May 2, 2014. As part of our action on any rules that regulate direct $PM_{2.5}$ emissions, we evaluate the emission limits in the rule to ensure that they appropriately address condensable PM, as required by 40 CFR 51.1008(a)(1)(iv). We note that the SIP-

both the 2006 and 2012 $PM_{2.5}$ NAAQS. The 2016 $PM_{2.5}$ Plan therefore includes annual average and summer day inventories for all years between 2017 and 2031, except 2029. 2016 $PM_{2.5}$ Plan, Appendix III, Attachment A.

[34] Id. at III–2–6.

[35] Information about the SCAQMD's Annual Emissions Reporting program is available at *http://www.aqmd.gov/home/rules-compliance/compliance/annual-emission-reporting.*

[36] SCAG's ''The 2016–2040 Regional Transportation Plan/Sustainable Communities Strategy'' is available at *http://scagrtpscs.net/Pages/FINAL2016RTPSCS.aspx.*

[37] CARB, Miscellaneous Process Methodology 7.9 Entrained Road Travel, Paved Road Dust, (Revised and updated, November 2016) available at *https://www.arb.ca.gov/ei/areasrc/fullpdf/full7-9_2016.pdf.*

[38] 2016 $PM_{2.5}$ Plan, III–1–24.

[39] 40 CFR 51.1008(a)(1)(iv).

[40] Letter dated June 15, 2018, from Philip Fine, Deputy Executive Officer, SCAQMD, to Amy Zimpfer, Associate Director, EPA Region IX, Subject: ''Condensable and Filterable Portions of $PM_{2.5}$ emissions in the 2016 AQMP.''

[41] Id., Appendix A.

approved version of Rule 1138 requires testing according to the District's protocol, which requires measurement of both condensable and filterable PM in accordance with SCAQMD Test Method 5.1.[42] We also note that the SIP-approved version of Rule 1155 requires measurement of both condensable and filterable PM in accordance with SCAQMD Test Methods 5.1, 5.2, or 5.3 as applicable.[43] [44]

3. The EPA's Evaluation and Proposed Action

The emissions inventories in the 2016 $PM_{2.5}$ Plan were made available to the public for comment and were subject to public hearing at both the District and State levels.[45]

The inventories in the 2016 $PM_{2.5}$ Plan are based on the most current and accurate information available to the State and District at the time the Plan and its inventories were being developed, including the latest EPA-approved version of California's mobile source emissions model that was available to the State and District at the time they were developing the Plan, EMFAC2014, and the EPA's most recent AP–42 methodology for paved road dust.[46] The inventories comprehensively address all source categories in the South Coast and were developed consistent with the EPA's regulations and inventory guidance. In accordance with 40 CFR 51.1008(a), the 2012 base year is one of the three years for which monitored data were used for designating the area, and it represents actual annual average emissions of all sources within the nonattainment area. Direct $PM_{2.5}$ and all $PM_{2.5}$ precursors are included in the inventories, and filterable and condensable direct $PM_{2.5}$ emissions are identified separately. For these reasons, we are proposing to approve the 2012 base year emissions inventory in the 2016 $PM_{2.5}$ Plan as meeting the requirements of CAA section 172(c)(3) and 40 CFR 51.1008. We are also proposing to find that the future year baseline inventories in the Plan satisfy the requirements of 40 CFR 51.1008(a)(2) and 51.1012(a)(2) and provide an adequate basis for the RACM, RFP, and impracticability demonstrations in the 2016 $PM_{2.5}$ Plan.[47]

B. $PM_{2.5}$ Precursors

1. Requirements for the Control of $PM_{2.5}$ Precursors

The provisions of subpart 4 of part D, title I of the CAA do not define the term ''precursor'' for purposes of $PM_{2.5}$, nor do they explicitly require the control of any specifically identified PM precursor. The statutory definition of ''air pollutant'' in CAA section 302(g), however, provides that the term ''includes any precursors to the formation of any air pollutant, to the extent the Administrator has identified such precursor or precursors for the particular purpose for which the term 'air pollutant' is used.'' The EPA has identified NO_X, SO_2, VOC, and ammonia as precursors to the formation of $PM_{2.5}$. Accordingly, the attainment plan requirements of subpart 4 apply to emissions of all four precursor pollutants and direct $PM_{2.5}$ from all types of stationary, area, and mobile sources, except as otherwise provided in the Act (*e.g.,* in CAA section 189(e)).

Section 189(e) of the Act requires that the control requirements for major stationary sources of direct PM_{10} (which includes $PM_{2.5}$) also apply to major stationary sources of PM_{10} precursors, except where the Administrator determines that such sources do not contribute significantly to PM_{10} levels that exceed the standard in the area. Section 189(e) contains the only express exception to the control requirements under subpart 4 (*e.g.,* requirements for RACM, RACT, best available control measures (BACM) and best available control technology (BACT), most stringent measures (MSM), and new source review (NSR)) for sources of direct $PM_{2.5}$ and $PM_{2.5}$ precursor emissions. Although section 189(e) explicitly addresses only major stationary sources, the EPA interprets the Act as authorizing it also to determine, under appropriate circumstances, that regulation of specific $PM_{2.5}$ precursors from other source categories in a given nonattainment area is not necessary. For example, under the EPA's longstanding interpretation of the control requirements that apply to stationary and mobile sources of PM_{10} precursors in the nonattainment area under CAA section 172(c)(1) and subpart 4,[48] a state may demonstrate in a SIP submission that control of a certain precursor pollutant is not necessary in light of its insignificant contribution to ambient PM_{10} levels in the nonattainment area.[49]

Under the $PM_{2.5}$ SIP Requirements Rule, a state may elect to submit to the EPA a ''comprehensive precursor demonstration'' for a specific nonattainment area to show that emissions of a particular precursor from all existing sources located in the nonattainment area do not contribute

[42] Rule 1138 (adopted November 14, 1997), paragraph (c)(1) and (g), SCAQMD Protocol paragraph 3.1, and SCAQMD Protocol, ''Determination of Particulate and Volatile Organic Compound Emissions from Restaurant Operations,'' November 14, 1997 (available at *https://www.regulations.gov/contentStreamer?documentId=EPA-R09-OAR-2017-0490-0068&contentType=pdf*). The EPA approved Rule 1138 into the SIP on July 11, 2011 (66 FR 36170).

[43] Rule 1155 (as amended May 2, 2014), paragraph (e)(6). The EPA approved Rule 1155 into the SIP on March 16, 2015 (80 FR 13495).

[44] SCAQMD Test Method 5.1, ''Determination of Particulate Matter Emissions from Stationary Sources Using a Wet Impingement Train,'' March 1989; SCAQMD Test Method 5.2, ''Determination of Particulate Matter Emissions from Stationary Sources Using Heated Probe and Filter,'' March 1989; and SCAQMD Test Method 5.3, ''Determination of Particulate Matter Emissions from Stationary Sources Using an in-Stack Filter,'' October 2005.

[45] SCAQMD Board Resolution 17–2, 3 and CARB Resolution 17–8, 4.

[46] SCAG's on-road emissions inventory includes power take off (PTO) as part of the heavy-duty truck category, whereas CARB's motor vehicle emissions budgets (MVEB) includes PTO as a standalone vehicle category. See email dated July 9, 2019, from Nesamani Kalandiyur, CARB, to Karina O'Connor, EPA. As a result, SCAG's on-road emissions estimates used in the air quality modeling are slightly lower than CARB's MVEBs and the modeled air quality concentrations in the 2016 $PM_{2.5}$ Plan are biased slightly low. Thus, the modeled concentrations are conservative and consistent with the District's conclusion that attainment by the Moderate area attainment date of December 31, 2021 is impracticable.

[47] The baseline emissions projections in the 2016 $PM_{2.5}$ Plan assume implementation of CARB's Zero Emissions Vehicle (ZEV) sales mandate and greenhouse gas (GHG) standards, based on the approved EMFAC2014 model and assumptions that were available at the time of the SIP's development. On September 27, 2019, the U.S. Department of Transportation and the EPA (the Agencies) issued a notice of final rulemaking for the *Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule Part One: One National Program* (SAFE I) that, among other things, withdrew the EPA's 2013 waiver of preemption of CARB's ZEV sales mandate and vehicle GHG standards. 84 FR 51310 (September 27, 2019). See also proposed SAFE rule at 83 FR 42986 (August 24, 2018). In response to SAFE I, CARB developed EMFAC off-model adjustment factors to account for anticipated changes in on-road emissions. On March 12, 2020, the EPA informed CARB that the EPA considers these adjustment factors to be acceptable for future use. See letter dated March 12, 2020 from Elizabeth J. Adams, EPA Region IX, to Steven Cliff, CARB. On April 30, 2020 (85 FR 24174), the Agencies issued a notice of final rulemaking titled: *The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021–2026 Passenger Cars and Light Trucks* (SAFE II), establishing the federal fuel economy and GHG vehicle emissions standards based on the August 2018 SAFE proposal. The effect of both SAFE final rules (SAFE I and SAFE II) on the on-road vehicle mix in the South Coast nonattainment area and on the resulting vehicular emissions is expected to be minimal during the timeframe addressed in this SIP revision. Therefore, we anticipate the SAFE final rules would not materially change the demonstration that it is impracticable for the South Coast 2012 $PM_{2.5}$ Moderate area to attain by the Moderate area attainment date of December 31, 2021.

[48] General Preamble, 13539–13542.

[49] Courts have upheld this approach to the requirements of subpart 4 for PM_{10}. See, *e.g., Assoc. of Irritated Residents* v. *EPA, et al.,* 423 F.3d 989 (9th Cir. 2005).

significantly to $PM_{2.5}$ levels that exceed the standard in the area.[50] If the EPA determines that the contribution of the precursor to $PM_{2.5}$ levels in the area is not significant and approves the demonstration, the state is not required to control emissions of the relevant precursor from existing sources in the attainment plan.[51]

We are evaluating the 2016 $PM_{2.5}$ Plan in accordance with the presumption embodied within subpart 4 that all $PM_{2.5}$ precursors must be addressed in the State's evaluation of potential control measures, unless the State adequately demonstrates that emissions of a particular precursor or precursors do not contribute significantly to ambient $PM_{2.5}$ levels that exceed the $PM_{2.5}$ NAAQS in the nonattainment area. In reviewing any determination by the State to exclude a $PM_{2.5}$ precursor from the required evaluation of potential control measures, we consider both the magnitude of the precursor's contribution to ambient $PM_{2.5}$ concentrations in the nonattainment area and the sensitivity of ambient $PM_{2.5}$ concentrations in the area to reductions in emissions of that precursor.

2. Control of $PM_{2.5}$ Precursors in the 2016 $PM_{2.5}$ Plan

The 2016 $PM_{2.5}$ Plan discusses the five primary pollutants that contribute to the mass of the ambient aerosol (*i.e.,* directly emitted $PM_{2.5}$, NO_X, SO_X, VOC, and ammonia), and states that various combinations of reductions in these pollutants could all provide a path to clean air.[52] The Plan assesses and presents the relative value of each ton of precursor emission reductions, considering the resulting ambient improvements in $PM_{2.5}$ air quality expressed in micrograms per cubic meter.[53] As presented in the weight of evidence discussion, trends in $PM_{2.5}$ and NO_X emissions suggest a direct response between lower emissions and improved air quality. The Community Multiscale Air Quality (CMAQ) model simulations in the 2016 $PM_{2.5}$ Plan provide a set of response factors for direct $PM_{2.5}$, NO_X, SO_X, and VOCs, based on improvements to ambient $PM_{2.5}$ levels resulting from reductions of each pollutant. The contribution of ammonia emissions is embedded as a component of the NO_X and SO_X factors because ammonium nitrate and ammonium sulfate are the resultant particulate species formed in the atmosphere.

The 2016 $PM_{2.5}$ Plan describes how reductions in NO_X, SO_X, VOC, and ammonia emissions contribute to attainment of the $PM_{2.5}$ standard in the South Coast area and contains the District's evaluation of available control measures for all four of these $PM_{2.5}$ precursor pollutants, in addition to direct $PM_{2.5}$, consistent with the regulatory presumptions under subpart 4. The 2016 $PM_{2.5}$ Plan also contains a discussion of the control requirements applicable to major stationary sources under CAA section 189(e).[54]

3. The EPA's Evaluation and Proposed Action

Based on a review of the information provided in the 2016 $PM_{2.5}$ Plan and other information available to the EPA, we agree with the State's conclusion that all four chemical precursors to the formation of $PM_{2.5}$ must be regulated for purposes of attaining the 2012 $PM_{2.5}$ NAAQS in the South Coast area. We discuss the State's evaluation of potential control measures for direct $PM_{2.5}$, NO_X, SO_X, VOC, and ammonia in section V.D.

C. Air Quality Modeling

1. Requirements for Air Quality Modeling

Section 189(a)(1)(B) of the CAA requires each state in which a Moderate area is located to submit a plan that includes a demonstration (including air quality modeling) either (i) that the plan will provide for attainment of the $PM_{2.5}$ NAAQS by the applicable attainment date, or (ii) that attainment by that date is impracticable. The 2016 $PM_{2.5}$ Plan includes a demonstration that attainment by the Moderate attainment date is impracticable.

The EPA's $PM_{2.5}$ modeling guidance[55] (''Modeling Guidance'' and ''Modeling Guidance Update'') recommends that a photochemical model, such as the Comprehensive Air Quality Model with Extensions (CAMx) or Community Multiscale Air Quality Model (CMAQ), be used to simulate a base case, with meteorological and emissions inputs reflecting a base case year, to replicate concentrations monitored in that year. The model application to the base year undergoes a performance evaluation to ensure that it satisfactorily corroborates the concentrations monitored in that year. The model may then be used to simulate emissions occurring in other years required for a plan, namely the base year (which may differ from the base case year) and future year.[56] The modeled response to the emission changes between those years is used to calculate relative response factors (RRFs) that are applied to the design value in the base year to estimate the projected design value in the future year for comparison against the NAAQS. Separate RRFs are estimated for each chemical species component of $PM_{2.5}$, and for each quarter of the year, to reflect their differing responses to seasonal meteorological conditions and emissions. Because each species is handled separately, before applying an RRF, the base year design value must be speciated using available chemical species measurements—that is, each day's measured $PM_{2.5}$ design value must be split into its species components. The Modeling Guidance provides additional detail on the recommended approach.[57]

The EPA has not issued modeling guidance specific to impracticability demonstrations but believes that a state seeking to make such a demonstration generally should provide air quality modeling similar to that required for an attainment demonstration.[58] The main difference is that for an impracticability demonstration, the implementation of the SIP control strategy (including

[50] 40 CFR 51.1006(a)(1).

[51] Id.

[52] 2016 $PM_{2.5}$ Plan, VI–F–1 and V–6–61.

[53] Id. at VI–A–15.

[54] Id., Appendix VI–F. In a separate rulemaking to approve revisions to SCAQMD's NNSR program, the EPA determined that the control requirements applicable under the SCAQMD SIP to major stationary sources of direct $PM_{2.5}$ also apply to major stationary sources of NO_X, SO_X, and VOC, and that major stationary sources of ammonia do not contribute significantly to $PM_{2.5}$ levels that exceed the $PM_{2.5}$ standards in the area. (80 FR 24821, May 1, 2015). This rulemaking addressed the control requirements of CAA section 189(e) only for NNSR purposes and not for attainment planning purposes under subparts 1 and 4 of part D, title I of the Act.

[55] Memorandum dated November 29, 2018, from Richard Wayland, Air Quality Assessment Division, Office of Air Quality Planning and Standards, EPA, to Regional Air Division Directors, EPA, Subject: ''Modeling Guidance for Demonstrating Air Quality Goals for Ozone, $PM_{2.5}$, and Regional Haze,'' (''Modeling Guidance''), and Memorandum dated June 28, 2011 from Tyler Fox, Air Quality Modeling Group, OAQPS, EPA, to Regional Air Program Managers, EPA, Subject: ''Update to the 24 Hour $PM_{2.5}$ NAAQS Modeled Attainment Test,'' (''Modeling Guidance Update'').

[56] In this section, we use the terms ''base case,'' ''base year'' or ''baseline,'' and ''future year'' as described in section 2.3 of the EPA's Modeling Guidance. The ''base case'' modeling simulates measured concentrations for a given time period, using emissions and meteorology for that same year. The modeling ''base year'' (which can be the same as the base case year) is the emissions starting point for the plan and for projections to the future year, both of which are modeled for the attainment demonstration. Modeling Guidance, 37–38. Note that CARB sometimes uses ''base year'' synonymously with ''base case'' and ''reference year'' instead of ''base year.''

[57] Modeling Guidance, section 4.4, ''What is the Modeled Attainment Tests for the Annual Average $PM_{2.5}$ NAAQS.''

[58] 81 FR 58010, 58048.

RACM) does not result in attainment of the standard by the Moderate area attainment date.

For an attainment demonstration, a thorough review of all modeling inputs and assumptions (including consistency with EPA guidance) is especially important because the modeling must ultimately support a conclusion that the plan (including its control strategy) will provide for timely attainment of the applicable NAAQS. In contrast, for an impracticability demonstration, the end point is a reclassification to Serious, which triggers the requirement for a new Serious area attainment plan with a new air quality modeling analysis, and a new control strategy.[59] Thus, the Serious area planning process would provide an opportunity to refine the modeling analysis and/or correct any technical shortcomings in the impracticability demonstration. Therefore, the burden of proof will generally be lower for an impracticability demonstration compared to an attainment demonstration.[60]

2. Air Quality Modeling in the 2016 $PM_{2.5}$ Plan

Air quality modeling is discussed in Chapter 5 and Appendix V of the 2016 $PM_{2.5}$ Plan. A brief description of the modeling and our evaluation of it follows. More detailed information about the modeling in the Plan is available in section III of our technical support document (TSD) for this proposed action.[61]

Annual $PM_{2.5}$ Modeling Approach

The District conducted CMAQ[62] simulations for each day in the 2012 base year. It generated site- and species-specific RRFs for the ammonium ion, nitrate ion, sulfate ion, organic carbon, elemental carbon, sea salt, and a combined grouping of other primary $PM_{2.5}$ material for each future year simulation, and calculated future year design values by multiplying the species- and site-specific RRFs by the corresponding quarterly mean component concentration. The District summed the quarterly mean components to determine quarterly mean $PM_{2.5}$ concentrations, which it subsequently averaged to determine the annual design values. The future year design values reflect the weighted quarterly average concentration from the projections of five years of data. The District projected future year annual $PM_{2.5}$ design values for the 2021 Moderate area attainment year and the 2025 Serious area attainment year, for the 2012 $PM_{2.5}$ standard of 12 μg/m³.[63]

Future Air Quality

Simulations of 2021 baseline emissions (no additional controls) and 2021 control emissions were conducted to assess future annual $PM_{2.5}$ levels in the South Coast air basin. The 2021 baseline simulation used emission levels projected from the 2012 base year that reflect all adopted control measures to be implemented by December 31, 2021. The 2021 control simulation reflects the effects of the control strategy on future $PM_{2.5}$ design values. Simulations of both the 2021 baseline and 2021 control emissions indicate that the 2012 annual $PM_{2.5}$ standard will not be met in the South Coast in 2021, even when all controls for direct $PM_{2.5}$ and $PM_{2.5}$ precursors are implemented. The projected 2021 control scenario design value is 12.3 μg/m³ at Mira Loma, which is typically the monitoring site that records the highest $PM_{2.5}$ levels in the South Coast air basin.

Table 2 shows future annual $PM_{2.5}$ air quality projections at the Mira Loma monitoring site and the four other $PM_{2.5}$ monitoring sites equipped with comprehensive particulate species characterization. Shown in the table are the base year design values for 2012 along with projections for 2021.

TABLE 2—FUTURE ANNUAL $PM_{2.5}$ AIR QUALITY PROJECTIONS AT SELECTED MONITORING SITES IN THE SOUTH COAST AIR BASIN

[μg/m³]

Monitoring site location	2012	2021 Control
Anaheim	10.6	9.1
Fontana	12.6	10.4
Los Angeles	12.4	10.6
Mira Loma	14.9	12.3
Rubidoux	13.2	10.9

Source: 2016 $PM_{2.5}$ Plan, Table 5–5 and Table V–6–6.

3. The EPA's Evaluation and Conclusion

The EPA evaluated the District's choice of model for the impracticability demonstration and the extensive discussion in the Plan about modeling procedures, tests, and performance analyses. We find the District's analyses consistent with EPA guidance on modeling for $PM_{2.5}$ attainment planning purposes. Based on these reviews, we find that the modeling in the Plan is adequate for the purposes of supporting the RFP demonstration and the demonstration of impracticability in the 2016 $PM_{2.5}$ Plan.

D. Reasonably Available Control Measures and Control Strategy

1. Requirements for RACM/RACT and Control Strategies

The general subpart 1 attainment plan requirement for RACM/RACT is described in CAA section 172(c)(1), which requires that attainment plan submissions ''provide for the implementation of all reasonably available control measures as expeditiously as practicable (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology)'' and provide for attainment of the NAAQS.

The attainment planning requirements specific to $PM_{2.5}$ under subpart 4 likewise impose upon states with nonattainment areas classified as Moderate an obligation to develop attainment plans that require RACM/RACT on sources of direct $PM_{2.5}$ and all $PM_{2.5}$ plan precursors. CAA section 189(a)(1)(C) requires that Moderate area $PM_{2.5}$ SIPs contain provisions to assure that RACM/RACT are implemented no later than four years after designation of the area. The EPA reads CAA section 172(c)(1) and 189(a)(1)(C) together to require that attainment plans for Moderate nonattainment areas provide for the implementation of RACM/RACT for existing sources of $PM_{2.5}$ and those $PM_{2.5}$ precursors subject to control in the nonattainment area as expeditiously as practicable but no later than four years after designation.[64]

The $PM_{2.5}$ SIP Requirements Rule defines RACM as ''any technologically and economically feasible measure that can be implemented in whole or in part within 4 years after the effective date of designation of a $PM_{2.5}$ nonattainment area and that achieves permanent and enforceable reductions in direct $PM_{2.5}$ emissions and/or $PM_{2.5}$ plan precursor emissions from sources in the area. RACM includes reasonably available control technology (RACT).''[65] The EPA has historically defined RACT as the lowest emission limitation that a particular stationary source is capable of meeting by the application of control

[59] CAA section 189(b)(1).

[60] 81 FR 58010, 58049.

[61] EPA, Region IX, Air Division, ''Technical Support Document, Proposed Action on the South Coast Moderate Area State Implementation Plan and Proposed Reclassification as Serious Nonattainment for the 2012 $PM_{2.5}$ Standard,'' April 2020.

[62] CMAQ Version 5.0.2.

[63] The District also projected future year annual $PM_{2.5}$ design values for 2023.

[64] This interpretation is consistent with guidance provided in the General Preamble, 13540.

[65] 81 FR 58010, 58035.

technology (*e.g.,* devices, systems, process modifications, or other apparatus or techniques that reduce air pollution) that is reasonably available considering technological and economic feasibility.[66]

Under the $PM_{2.5}$ SIP Requirements Rule, those control measures that otherwise meet the definition of RACM but ''can only be implemented in whole or in part during the period beginning 4 years after the effective date of designation of a nonattainment area and no later than the end of the sixth calendar year following the effective date of designation of the area'' must be adopted and implemented as ''additional reasonable measures.'' [67]

States must provide written justification in a SIP submission for eliminating potential control options from further review on the basis of technological or economic infeasibility.[68] An evaluation of technological feasibility may include consideration of factors such as a source's process and operating conditions, raw materials, physical plant layout, and non-air quality and energy impacts (*e.g.,* increased water pollution, waste disposal, and energy requirements).[69] An evaluation of economic feasibility may include consideration of factors such as cost per ton of pollution reduced (cost-effectiveness), capital costs, and operating and maintenance costs.[70] Absent other indications, the EPA presumes that it is reasonable for similar sources to bear similar costs of emission reductions. Economic feasibility of RACM/RACT is thus largely informed by evidence that other sources in a source category have in fact applied the control technology, process change, or measure in question in similar circumstances.[71]

Consistent with these requirements, SCAQMD must implement RACM, including RACT, for direct $PM_{2.5}$ emission sources no later than April 15, 2019, and must implement additional reasonable measures for these sources no later than December 31, 2021.

The CAA allows for approval of enforceable commitments that are limited in scope where circumstances exist that warrant the use of such commitments in place of adopted measures.[72] Specifically, section 110(a)(2)(A) of the CAA provides that each SIP ''shall include enforceable emission limitations and other control measures, means or techniques . . . as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of the Act.'' Section 172(c)(6) of the Act, which applies to nonattainment area SIPs, is virtually identical to section 110(a)(2)(A).[73] Commitments approved by the EPA under CAA section 110(k)(3) are enforceable by the EPA and citizens under CAA sections 113 and 304, respectively. Additionally, if a state fails to meet its commitments, the EPA may make a finding of failure to implement the SIP under CAA section 179(a)(4), which starts an 18-month period for the state to correct the non-implementation before mandatory sanctions are imposed.

Once the EPA determines that circumstances warrant consideration of an enforceable commitment to satisfy a CAA requirement, it considers three factors in determining whether to approve the enforceable commitment: (a) Does the commitment address a limited portion of the CAA requirement; (b) is the state capable of fulfilling its commitment; and (c) is the commitment for a reasonable and appropriate period of time.[74]

2. Control Strategy in the 2016 $PM_{2.5}$ Plan

For purposes of evaluating the 2016 $PM_{2.5}$ Plan, we have divided the measures relied on to satisfy the applicable control requirements into two categories: Baseline measures and control strategy measures.

As the term is used here, baseline measures are federal, State, and District rules and regulations adopted prior to December 2015 for District rules, and prior to November 2015 for CARB rules (*i.e.,* prior to the development of the 2016 $PM_{2.5}$ Plan) that continue to achieve emission reductions through the Moderate area attainment year of 2021 and beyond.[75] The Plan describes many of these measures in Chapter 4, Appendix III, Appendix IV–B, Appendix IV–C, and Appendix VI.[76] Reductions from these baseline measures are incorporated into the baseline inventory and reductions from the District measures in the plan are individually quantified in Appendix III, Table III–2–2B. According to the Plan, baseline measures provide most of the emission reductions projected to occur between the 2012 base year and the 2022 post-attainment milestone year.[77]

Control strategy measures are the new rules, rule revisions, commitments, and other measures that provide the additional increment of emission reductions needed beyond the baseline measures to provide for attainment, to demonstrate RFP, to meet the RACM/RACT requirement, or to provide for contingency measures. Beyond the reductions from the Plan's baseline measures as discussed above, the remaining reductions needed for RFP and attainment [78] are to be achieved through the District's enforceable commitments to achieve emission reductions in the South Coast nonattainment area. The Plan identifies the control measures that are expected to achieve those emission reductions, several of which are identified as ''additional reasonable measures'' because they are to be implemented

[66] General Preamble, 13541, and 57 FR 18070, 18073–18074.

[67] 40 CFR 51.1000, 51.1009(a)(4)(i)(B), and 51.1009(a)(4)(ii)(B).

[68] 40 CFR 51.1009(a)(3).

[69] 40 CFR 51.1009(a)(3); see also 57 FR 18070, 18073–18074.

[70] Id.

[71] 57 FR 18070, 18074.

[72] In the past, the EPA has approved enforceable commitments and courts have enforced these actions against states that failed to comply with those commitments. See, *e.g., American Lung Ass'n of N.J.* v. *Kean,* 670 F. Supp. 1285 (D.N.J. 1987), aff'd, 871 F.2d 319 (3rd Cir. 1989); *NRDC, Inc.* v. *N.Y. State Dept. of Env. Cons.,* 668 F. Supp. 848 (S.D.N.Y. 1987); *Citizens for a Better Env't* v. *Deukmejian,* 731 F. Supp. 1448, recon. granted in par, 746 F. Supp. 976 (N.D. Cal. 1990); *Coalition for Clean Air* v. *South Coast Air Quality Mgt. Dist.,* No. CV 97–6916–HLH, (C.D. Cal. Aug. 27, 1999).

[73] The language in sections 110(a)(2)(A) and 172(c)(6) is quite broad, allowing a SIP to contain any enforceable ''means or techniques'' that the EPA determines are ''necessary or appropriate'' to meet CAA requirements, such that the area will attain as expeditiously as practicable, but no later than the designated date. Furthermore, the express allowance for ''schedules and timetables'' demonstrates that Congress understood that all required controls might not be in place when a SIP is approved.

[74] The Fifth Circuit Court of Appeals upheld the EPA's interpretation of CAA sections 110(a)(2)(A) and 172(c)(6) and the Agency's use and application of the three-factor test in approving enforceable commitments in the 1-hour ozone SIP for Houston-Galveston. *BCCA Appeal Group et al.* v. *EPA et al.,* 355 F.3d 817 (5th Cir. 2003). More recently, the Ninth Circuit Court of Appeals upheld the EPA's approval of enforceable commitments in ozone and $PM_{2.5}$ SIPs for the San Joaquin Valley, based on the same three factor test. *Committee for a Better Arvin, et al.* v. *EPA,* 786 F.3d 1169 (9th Cir. 2015).

[75] These measures are typically rules that have compliance dates occuring after the adoption date of a plan and mobile source measures that achieve reductions as older engines are replaced through attrition (*e.g.,* through fleet turnover).

[76] See also, email dated September 12, 2019 from Kalam Cheung, SCAQMD, to Ashley Graham, EPA Region IX, attaching spreadsheet entitled ''Draft Rule Adoption since 2016 AQMP 20190809.xlsx.''

[77] 2016 $PM_{2.5}$ Plan, Chapter 4 and Appendix V.

[78] The 2016 $PM_{2.5}$ Plan contains a demonstration that attainment of the 2012 $PM_{2.5}$ NAAQS by the December 31, 2021 Moderate area attainment date is impracticable and identifies December 31, 2025 as the most expeditious date by which the South Coast area can attain this standard. 2016 $PM_{2.5}$ Plan, Chapter 5 and Appendix V.

after the RACM deadline (*i.e.,* after the four-year period following designation but before the Moderate area attainment date). Below we discuss the District's RACM/RACT evaluation, additional reasonable measures identified in the plan, and the District's commitments to achieve emission reductions through new control measures to attain the 2012 $PM_{2.5}$ NAAQS by the December 31, 2025 Serious area attainment date.

a. RACM/RACT Analysis in the 2016 $PM_{2.5}$ Plan

The 2016 $PM_{2.5}$ Plan's RACM/RACT evaluation for direct $PM_{2.5}$, NO_X, SO_X, VOC, and ammonia sources is presented in Appendix VI. The District, CARB, and SCAG, the local metropolitan planning organization (MPO), each undertook a process to identify and evaluate potential measures that could contribute to expeditious attainment of the 2012 $PM_{2.5}$ standard in the South Coast nonattainment area. We describe each of these processes below.

i. The District's RACM Analysis

The District's RACM demonstration for the 2012 $PM_{2.5}$ NAAQS focuses on stationary and area source controls and is described in Appendix VI–A of the 2016 $PM_{2.5}$ Plan.

In the years prior to the adoption of the 2016 $PM_{2.5}$ Plan, the District developed and implemented comprehensive plans (*e.g.,* the 2012 Air Quality Management Plan) to provide for attainment of the $PM_{2.5}$ and ozone NAAQS. These plans have resulted in the District's adoption of many new rules and amendments to existing rules for stationary and area sources. In addition, although the District does not have authority to directly regulate emissions from mobile sources, the District has implemented control strategies to indirectly reduce emissions from mobile sources. These regulations and strategies have yielded significant emission reductions from sources under the District's jurisdiction.

In the 2016 $PM_{2.5}$ Plan, the District conducted a multi-step process to identify additional candidate RACM measures that are technologically and economically feasible. As a first step in the RACM analysis, the District developed a detailed emissions inventory of the sources of direct $PM_{2.5}$ and $PM_{2.5}$ precursors. An up-to-date and comprehensive emissions inventory is essential to develop control measures that effectively reduce air pollution. Details on the methodology and development of the emissions inventory are discussed in Chapter 3 and Appendix III of the 2016 $PM_{2.5}$ Plan. A total of 75 major source categories are included in the base year emissions inventory.[79]

Based on these inventories, the District identified several source categories as key emission sources in the South Coast nonattainment area for the 2012 $PM_{2.5}$ NAAQS, including consumer products, livestock wastes, and numerous mobile source categories.[80] For the key stationary source categories under SCAQMD's jurisdiction, the District compared existing control measures with requirements in federal and state regulations and guidance, as well as with analogous rules in other air districts to identify potential control measures. Furthermore, to demonstrate that the SCAQMD considered all additional candidate measures that are available and technologically and economically feasible, the District conducted the following seven-step analysis:

(1) Held an Air Quality Technology Symposium to solicit new ideas for feasible control measures in the South Coast air basin;

(2) conducted a RACT analysis to identify SCAQMD rules that are less stringent than the EPA control technique guidelines (CTGs) or analogous rules in other air districts;

(3) reviewed EPA technical support documents for previously adopted/amended rules submitted for approval into the California SIP;

(4) reviewed control measures adopted during 2012–2015 in other areas (*i.e.,* Ventura County, San Francisco Bay Area, San Joaquin Valley, Sacramento Metropolitan, Dallas Fort-Worth, Houston-Galveston-Brazoria, New York, and New Jersey) to evaluate whether control technologies deemed available and cost-effective in those areas would be feasible for use in the South Coast air basin;

(5) reevaluated control measures that the District had found to be technologically or economically infeasible as part of the RACM analysis for the 2012 AQMP;

(6) reviewed the EPA's Menu of Control Measures (MCM);[81] and

(7) reviewed the EPA's March 2013 ''Strategies for Reducing Wood Smoke'' guidance document to identify regulatory options for reducing residential wood smoke.

Based on its RACM/RACT evaluation for stationary and area sources under its jurisdiction as described above, the District found that its current rules and regulations are generally equivalent to, or more stringent than, those developed by other air districts with respect to emissions of $PM_{2.5}$ and $PM_{2.5}$ precursors.[82] The District identified a list of potential control measures for reducing emissions further,[83] and evaluated these potential additional control measures to determine whether implementation of the measures would be technologically and economically feasible in the South Coast. In addition, the District considered other available control options that can only be implemented after the four-year deadline for RACM/RACT, but before the end of the sixth calendar year following designation, *i.e.,* additional reasonable measures.

The District identified four additional control measures with quantifiable emission reductions to be implemented for the purpose of meeting the 2012 $PM_{2.5}$ NAAQS. The Plan contains a commitment by the District to adopt and implement these or substitute measures as additional reasonable measures in 2020.[84] We discuss the District's commitment in further detail in section V.D.2.b.

The District has also included new commitments in the 2016 $PM_{2.5}$ Plan to achieve specific amounts of emission reductions from NO_X and ammonia sources in the South Coast area. Specifically, the District has committed to adopt and submit measures that will achieve 2.5 tons per day (tpd) of reductions in NO_X emissions and 0.3 tpd of reductions in ammonia emissions by 2020, and 20.5 tpd of reductions in NO_X emissions by 2022, as part of the control strategy for attaining the $PM_{2.5}$ NAAQS by 2025.[85] The District expects

[79] 2016 $PM_{2.5}$ Plan, Table VI–A–3.

[80] Id., Table VI–A–8.

[81] EPA, Menu of Control Measures, *http://www3.epa.gov/ttn/naaqs/pdfs/MenuOfControlMeasures.pdf,* as of December 1, 2015.

[82] 2016 $PM_{2.5}$ Plan, VI–A–36 to VI–A–37.

[83] Id., Table VI–A–11.

[84] SCAQMD, Governing Board Resolution No. 17–2 (March 3, 2017), 9, and 2016 $PM_{2.5}$ Plan, Table 4–7 and Table 4–8 (identifying BCM–04, BCM–10, CMB–02 and CMB–03 as new control measures to be implemented by 2020 for $PM_{2.5}$ purposes).

[85] SCAQMD, Governing Board Resolution No. 17–2 (March 3, 2017), 9; 2016 $PM_{2.5}$ Plan, Table 4–8; and email dated September 12, 2019 from Kalam Cheung, SCAQMD, to Ashley Graham, EPA Region IX, attaching spreadsheet entitled ''Draft Rule Adoption since 2016 AQMP 20190809.xlsx'' (''Control Strategy Updates''). Table 4–8 of the Plan identifies 5.8 tpd of NO_X reductions to be achieved by 2022 but is supplemented by the Control Strategy Updates, which identify 20.5 tpd of NO_X reductions to be achieved by 2022 as part of the District's aggregate tonnage commitment. Control Strategy Updates, ''Summary'' tab (''South Coast AQMD Reasonable Further Progress for 2012 Annual $PM_{2.5}$ Standard''). Table 4–8 of the Plan also identifies 0.3 tpd ammonia reductions and 28 tpd NO_X reductions to be achieved for purposes of attaining the $PM_{2.5}$ NAAQS by 2025 and 3.3 tpd $PM_{2.5}$ reductions to be achieved for contingency measure purposes in 2025.

to meet these emission reduction commitments by adopting new control measures and programs and strengthening existing control measures, such as those identified in Table 4–7 and Table 4–8 of the Plan and in a supplemental update to the control strategy submitted September 12, 2019 (''Control Strategy Updates'').[86] More information about the District's enforceable commitments and the specific control measures anticipated to meet them is included in section V.D.2.c of this proposed rule.

We provide below an evaluation of several State and District measures for key stationary and area source categories. We provide a more detailed evaluation of the District's regulations in our TSD,[87] together with recommendations for future improvements to these rules.

ii. State and District Measures for Stationary and Area Sources

Consumer Products

CARB and the SCAQMD both have well-established programs to regulate VOC emissions from consumer products used by both household and institutional consumers, including detergents; cleaning compounds; polishes; floor finishes; cosmetics; personal care products; home, lawn, and garden products; disinfectants; sanitizers; aerosol paints; and automotive specialty products. Specifically, CARB has adopted three regulations that establish VOC and reactivity limits for 129 consumer product categories.[88] The first regulation (Article 1) covers the categories of antiperspirants and deodorants. The second regulation (Article 2) covers numerous categories and is simply called the ''General Consumer Products Regulation.'' The third regulation (Article 3) covers categories of aerosol coatings. The EPA approved amendments to these regulations into the California SIP on October 17, 2014.[89]

The SCAQMD also regulates certain categories of consumer products, including architectural coatings, wood products, solvents and degreasers, consumer paint thinners, and inks.[90] As an example, we discuss South Coast's implementation of Rule 1113 (''Architectural Coatings'') below.

Based on our evaluation of the information about these programs in the 2016 $PM_{2.5}$ Plan, we agree with the State's and District's conclusion that these SIP-approved regulations implement RACM for the control of VOCs from consumer products.

Architectural Coatings

SCAQMD Rule 1113 (''Architectural Coatings''), amended February 5, 2016, establishes VOC content limits for paints and other architectural coating products and establishes workplace standards for architectural coating operations. The EPA approved Rule 1113, as amended, into the California SIP on November 29, 2018.[91]

In the 2016 $PM_{2.5}$ Plan, the District compared the requirements of Rule 1113, as amended September 6, 2013,[92] to analogous requirements implemented in other California air districts between 2000 and 2015. The District's evaluation included the requirements of Sacramento Metropolitan Air Quality Management District's Rule 442, as amended September 24, 2015. Based on this evaluation, the District concluded that Rule 1113, as amended September 6, 2013, is generally equivalent to the requirements in other air districts.

The District's February 5, 2016 amendment to Rule 1113 strengthened the rule by eliminating its exemption for small containers. According to a SCAQMD staff report, the small container exemption represented one percent of sales and an estimated twenty percent of total VOC emissions.[93] According to this report, the 2016 rule revision was expected to achieve an estimated VOC reduction of 0.88 tpd by January 1, 2019. The EPA approved this amended rule into the California SIP on November 29, 2018.[94]

Based on our evaluation of the information provided in the 2016 $PM_{2.5}$ Plan and additional information obtained during our review of the Plan, we agree with the SCAQMD's conclusion that Rule 1113 implements RACM for the control of VOCs from architectural coatings.

Confined Animal Facilities and Livestock Waste

SCAQMD Rule 1127 (''Emission Reductions from Livestock Waste''), adopted August 6, 2004, and Rule 223 (''Emission Reduction Permits for Large Confined Animal Facilities''), adopted June 2, 2006, together establish requirements to reduce emissions of ammonia, VOCs, and other pollutants emitted from confined animal facilities and related operations. The EPA approved Rule 1127 and Rule 223 into the California SIP on May 23, 2013 and July 13, 2015, respectively.[95]

Rule 1127 applies to dairy farms with 50 or more cows, heifers, and/or calves and to manure processing operations, such as composting operations and anaerobic digesters. The rule requires operators of dairy farms and manure processing operations to use specified best management practices to reduce pollutant emissions during the removal and disposal of manure from corrals, among other things. Rule 223 applies to large confined animal facilities (LCAFs) and prohibits owners/operators of such facilities from building, altering, replacing, or operating an LCAF without first obtaining a permit from the District. The permit application must include, among other things, an emissions mitigation plan that identifies the mitigation measures to be implemented at the facility. For each source category covered by the rule, owners/operators must implement a prescribed number of mitigation measures among a list of options or as approved by the District, CARB, and the EPA.

The District compared the key requirements of Rule 1127 and Rule 223 to analogous requirements implemented in other parts of California and in Idaho. Based on this evaluation, the District concludes that Rule 1127 and Rule 223 together establish requirements for confined animal facilities and related operations that are generally equivalent to the requirements in these other areas. The District also considered several additional control methods to further reduce ammonia emissions from livestock waste, including application of acidifiers (sodium bisulfate), dietary manipulation, feed additives, manure slurry injection, and microbial/manure additives. The 2016 $PM_{2.5}$ Plan contains a commitment by the District to adopt

[86] Control Strategy Updates, ''Summary'' tab (''South Coast AQMD Reasonable Further Progress for 2012 Annual $PM_{2.5}$ Standard'').

[87] EPA, Region IX, Air Division, ''Technical Support Document, Proposed Action on the South Coast Moderate Area State Implementation Plan and Proposed Reclassification as Serious Nonattainment for the 2012 $PM_{2.5}$ Standard,'' April 2020.

[88] These regulations are codified in the California Code of Regulations, Title 17, Division 3, Chapter 1, Subchapter 8.5—Consumer Products; Article 2—Consumer Products.

[89] 79 FR 62346.

[90] See, *e.g.,* South Coast Rule 1107 (''Coating of Metal Parts and Products''), approved into the SIP on November 24, 2008 (73 FR 70883); South Coast Rule 1122 (''Solvent Degreasers''), approved into the SIP on February 8, 2006 (71 FR 6350); and South Coast Rule 1130 (''Graphic Arts''), approved into the SIP on July 14, 2015 (80 FR 40915).

[91] 83 FR 61326.

[92] The EPA approved Rule 1113, as amended June 3, 2011, into the SIP on March 26, 2013. 78 FR 18244. Since then, the EPA has approved a more stringent version of Rule 1113, as amended February 5, 2016, into the SIP. 83 FR 61326 (November 29, 2018).

[93] SCAQMD Final Staff Report, ''Proposed Amended Rule 1113—Architectural Coatings,'' February 2016, 22.

[94] 83 FR 61326.

[95] 78 FR 30768 (May 23, 2013) and 80 FR 39966 (July 13, 2015).

an ammonia control measure for livestock waste in 2019.[96] The proposed measure is identified in the Plan as BCM–04.[97]

Based on our evaluation of the information provided in the 2016 $PM_{2.5}$ Plan, we agree with the SCAQMD's conclusion that Rule 1127 and Rule 223 together implement RACM for the control of ammonia and VOCs from confined animal facilities and related operations.

Residential Wood-Burning Devices

SCAQMD Rule 445 (''Wood-Burning Devices''), amended May 3, 2013, establishes requirements for the sale, operation, and installation of wood-burning devices within the South Coast air basin that are designed to reduce PM emissions from such devices. The EPA approved Rule 445, as amended, into the California SIP on September 26, 2013.[98]

Under Rule 445, persons who manufacture, sell, or install wood-burning devices, commercial firewood sellers, and property owners or tenants who operate wood-burning devices are subject to specific requirements concerning the types of wood-burning devices that may be manufactured, sold, or installed, the types of fuels that may be burned in such devices, and labeling requirements. Rule 445 also establishes a mandatory winter wood-burning curtailment whenever the Executive Officer declares that ambient $PM_{2.5}$ levels are forecasted to exceed 30 $\mu g/m^3$ at specified source receptor areas.[99]

The District compared the requirements of Rule 445 to several rules implemented elsewhere in California that are designed to limit PM emissions from residential wood-burning devices. Based on this review, the District concludes that Rule 445 is generally equivalent to these other rules. Rule 445 does not require the removal of old wood stoves upon resale of a home, as do rules implemented in several other areas, but it does contain a prohibition on the installation of any wood-burning device in new residential developments, except in developments where there is no existing infrastructure for natural gas service within 150 feet of the property line or those 3,000 or more feet above mean sea level. Several other air districts prohibit or limit the installation of non-certified wood-burning devices but allow for installation of EPA-certified devices in new developments.

The EPA approved Rule 445 as implementing BACM for the 2006 24-hour $PM_{2.5}$ NAAQS on February 12, 2019.[100] Since that time, at least two other California air districts have revised their wood-burning rules to incorporate more stringent requirements.[101] Given that these rules were amended well after both the date of CARB's submission of the Plan, April 27, 2017, and the statutory deadline for this plan submission, October 15, 2016,[102] we find it reasonable that the SCAQMD did not evaluate these additional control requirements as part of its RACM analysis in the 2016 $PM_{2.5}$ Plan. Full evaluation of the additional control requirements in these revised rules will, however, be required as part of the State/District's BACM demonstration for the 2012 $PM_{2.5}$ NAAQS, which will be due within 18 months after the effective date of a final rule reclassifying the South Coast area as Serious nonattainment for the 2012 $PM_{2.5}$ NAAQS.

Based on our evaluation of the information provided in the 2016 $PM_{2.5}$ Plan, we agree with the SCAQMD's conclusion that Rule 445 implements RACM for the control of $PM_{2.5}$ from residential wood-burning devices.

Paved and Unpaved Roads and Livestock Operations

Rule 1186 (''PM_{10} Emissions from Paved and Unpaved Roads, and Livestock Operations''), amended July 11, 2008, establishes requirements to reduce the entrainment of PM as a result of vehicular travel on paved and unpaved public roads and livestock operations. The EPA approved Rule 1186, as amended, into the California SIP on March 7, 2012.[103]

Under Rule 1186, owners and operators of paved roads with average daily vehicle trips exceeding certain thresholds must remove visible roadway accumulation within specified periods of time and provide curbing or paved shoulders of certain widths when constructing new or widened roads. Rule 1186 also requires local government agencies that own or maintain paved roads to procure only certified street sweeping equipment for routine street sweeping; establishes requirements for owners and operators of certain unpaved roads to pave, apply chemical stabilization, or install signs to reduce vehicular speeds; and requires owners and operators of livestock operations to cease hay grinding activities during certain times of day, if visible emissions extend more than 50 feet from a hay grinding source.

The District compared the key requirements of Rule 1186 to analogous requirements implemented in other parts of California and in Nevada. Based on this evaluation, the District concludes that Rule 1186 is generally equivalent to the requirements in these other areas. To further reduce $PM_{2.5}$ emissions in areas with high vehicular activity, the District also considered several additional control techniques, such as increasing the frequency of street sweeping with certified equipment and specifying the most effective track out prevention measures. The District concludes that an increase in the required frequency of street sweeping is not economically feasible at this time because most areas in the South Coast air basin already require regular street sweeping and a requirement to conduct more frequent street sweeping would achieve only minimal emission reductions.

Based on our evaluation of the information provided in the 2016 $PM_{2.5}$ Plan, we agree with the SCAQMD's conclusion that Rule 1186 implements RACM for the control of $PM_{2.5}$ from paved and unpaved roads and livestock operations.

Commercial Charbroiling

SCAQMD Rule 1138 (''Control of Emissions from Restaurant Operations''), adopted November 14, 1997, establishes control requirements to reduce PM and VOC emissions from chain-driven charbroilers at commercial cooking operations. The rule does not apply to under-fired charbroilers (UFCs). The EPA approved Rule 1138 into the California SIP on July 11, 2001.[104]

[96] SCAQMD, Governing Board Resolution No. 17–2 (March 3, 2017), 9 and 2016 $PM_{2.5}$ Plan, Table 4–7.

[97] 2016 $PM_{2.5}$ Plan, Table 4–7 and IV–A–202 to IV–A–209 (describing BCM–04).

[98] 78 FR 59249.

[99] The District has committed to adopt and submit revisions to Rule 445 to expand the geographic scope of the mandatory wood-burning curtailment provisions and to lower the curtailment threshold if the EPA makes any of the findings listed in 40 CFR 51.1014(a). Letter dated March 3, 2020, from Michael Benjamin, CARB, to Amy Zimpfer, EPA (enclosing letter dated February 12, 2020, from Wayne Nastri, SCAQMD, to Richard Corey, CARB). For more detail on the District's commitment, see section V.H of this proposed rule (''Contingency Measures'').

[100] 84 FR 3305.

[101] San Joaquin Valley Unified Air Pollution Control District Rule 4901, amended June 20, 2019, and Bay Area Air Quality Management District Rule 6–3, amended November 20, 2019.

[102] Section 189(a)(2) of the CAA requires submission of Moderate area plans within 18 months after nonattainment designations. Because the EPA designated the South Coast as a nonattainment area for the 2012 $PM_{2.5}$ NAAQS effective April 15, 2015 (80 FR 2206), California was required to submit a Moderate area plan for this area by October 15, 2016.

[103] 77 FR 13495.

[104] 66 FR 36170.

Under Rule 1138, chain-driven charbroilers that cook 875 pounds of meat or more per week are required to be equipped and operated with a catalytic oxidizer control device, and the combination charbroiler/catalyst must be tested and certified by the Executive Officer to reduce PM and VOC emissions. The District compared the requirements of Rule 1138 to several rules implemented in other parts of California and in other states that are designed to limit PM and/or VOC emissions from commercial charbroilers. Based on its review of analogous regulations implemented in these other areas, the District concludes that Rule 1138 is generally equivalent to those regulations.

Several times over the past 20 years and most recently in 2009, the District considered amending Rule 1138 to regulate PM emissions from UFCs, but to date the District has not identified control measures for UFCs that are both technologically and economically feasible for implementation in the South Coast. Although the Bay Area Air Quality Management District (BAAQMD) and New York City Department of Environmental Protection (NYDEP) have adopted rules that require controls for UFCs, neither agency has yet confirmed that any regulated sources that are subject to its rules have successfully installed and operated certified UFC control technologies.[105] Staff at the BAAQMD recently noted that electrostatic precipitators have been installed in commercial kitchens in San Francisco and San Jose but that the BAAQMD has not yet enforced control requirements for UFCs because no control technologies have yet been certified.[106] The 2016 $PM_{2.5}$ Plan contains a commitment by the District to adopt a control measure that requires controls on UFCs by 2025.[107] The proposed measure is identified in the Plan as BCM–01.[108]

Based on our evaluation of the information provided in the 2016 $PM_{2.5}$ Plan and additional information obtained during our review of the Plan, we agree with the SCAQMD's conclusion that Rule 1138 implements RACM for the control of $PM_{2.5}$ from commercial charbroilers.

Boilers, Steam Generators, and Process Heaters

SCAQMD Rule 1146 (''Emissions of NO_X from Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters''), Rule 1146.1 (''Emissions of NO_X from Small Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters''), and Rule 1146.2 (''Emissions of NO_X from Large Water Heaters and Small Boilers and Process Heaters) establish NO_X emission limits for boilers, steam generators, and process heaters. The EPA approved Rule 1146 and Rule 1146.1, as amended November 1, 2013, into the California SIP on September 25, 2014,[109] and approved Rule 1146.2, as amended May 5, 2006, into the California SIP on December 5, 2008.[110]

Rule 1146 applies to boilers, steam generators, and process heating units with ratings of more than 5 million British thermal units per hour (mmbtu/hr); Rule 1146.1 applies to units with ratings ranging from 2 to 5 mmbtu/hr; and Rule 1146.2 applies to units with ratings less than 2 mmbtu/hr. Each rule sets NO_X emission limits for different fuel types (*e.g.,* digester gas, landfill gas, refinery gas). Rule 1146 and Rule 1146.1 also establish CO emission limits.

The District compared the requirements of the SIP-approved versions of Rule 1146, Rule 1146.1, and Rule 1146.2 to several rules implemented elsewhere in California (*i.e.,* Sacramento, the San Joaquin Valley, and the San Francisco Bay Area) that limit NO_X and/or CO emissions from boilers, steam generators, process heaters and found that the SCAQMD rules are generally as stringent as or more stringent than other California air district rules for this source category. As part of the EPA's rulemakings to approve these rules into the SIP, the EPA concluded that the rules meet CAA requirements for enforceability, RACT, and SIP revisions.[111]

SCAQMD amended Rule 1146, Rule 1146.1, and Rule 1146.2 on December 7, 2018, to initiate the transition of the NO_X RECLAIM program to a command-and-control regulatory structure. Although these amended rules have not yet been approved into the California SIP, the rule amendments are estimated to achieve an additional 0.27 tpd of NO_X emission reductions by January 1, 2023.[112]

Based on our evaluation of the information provided in the 2016 $PM_{2.5}$ Plan and additional information obtained during our review of the Plan, we agree with the SCAQMD's conclusion that Rule 1146, Rule 1146.1, and Rule 1146.2 implement RACM for the control of NO_X from boilers, steam generators, and process heaters.

iii. State Measures for Mobile Sources

CARB's RACM analysis is contained in Attachment VI–A–3 (''California Mobile Source Control Program Best Available Control Measures/Reasonably Available Control Measures Assessment'') (''BACM/RACM assessment'') to Appendix VI–A of the 2016 $PM_{2.5}$ Plan.

CARB's BACM/RACM assessment provides a general description of CARB's existing mobile source programs. A more detailed description of CARB's mobile source control program, including a comprehensive table listing on- and off-road mobile source regulatory actions taken by CARB since 1985, is contained in Attachment VI–C–1 to Appendix VI–C of the 2016 $PM_{2.5}$ Plan. The BACM/RACM assessment contains CARB's evaluation of mobile source and other statewide control measures that reduce emissions of $PM_{2.5}$ and $PM_{2.5}$ precursors in California, including the South Coast air basin.

Mobile source categories for which CARB has primary responsibility for reducing emissions in California include most new and existing on- and off-road engines and vehicles and motor vehicle fuels. Given the need for significant emission reductions from mobile sources to meet the NAAQS in California nonattainment areas, CARB has established stringent control measures for on-road and off-road mobile sources and the fuels that power them.[113] California has unique authority

[105] Email dated July 11, 2019, from Stanley Tong, EPA Region IX, to Krishnan Balakrishnan, BAAQMD, Subject: ''Underfired charbroiler updates'' and email dated June 17, 2019, from Ronald Vaughn, NYDEP, to Stanley Tong, EPA Region IX, Subject: ''RE New Charbroiler Registrations NYC.'' See also 2016 $PM_{2.5}$ Plan, IV–A–186 to IV–A–190.

[106] Email dated January 9, 2020, from Virginia Lau, BAAQMD, to Stanley Tong, EPA Region IX, Subject: ''RE: Underfired charbroiler—Q: SJ discussion about BA rule.''

[107] SCAQMD, Governing Board Resolution No. 17–2 (March 3, 2017), 9 and 2016 $PM_{2.5}$ Plan, Table 4–7.

[108] 2016 $PM_{2.5}$ Plan, Table 4–7 and IV–A–186 to IV–A–192 (describing BCM–01).

[109] 79 FR 57442.

[110] 73 FR 74027.

[111] 79 FR 57442 (September 25, 2014) and 73 FR 74027 (December 5, 2008).

[112] SCAQMD Final Staff Report, ''Proposed Amended Rule 1146—Emissions of Oxides of Nitrogen from Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters; Proposed Amended Rule 1146.1—Emissions of Oxides of Nitrogen from Small Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters; Proposed Amended Rule 1146.2—Emissions of Oxides of Nitrogen from Large Water Heaters and Small Boilers and Process Heaters; and Proposed Rule 1100—Implementation Schedule for NOx Facilities,'' December 2018, EX–2, available at *http://www.aqmd.gov/docs/default-source/Agendas/Governing-Board/2018/2018-dec7-028.pdf?sfvrsn=6.*

[113] California regulations use the term ''off-road'' to refer to ''nonroad'' vehicles and engines.

under CAA section 209 (subject to a waiver by the EPA) to adopt and implement new emission standards for many categories of on-road vehicles and engines, and new and in-use off-road vehicles and engines. The EPA has approved such mobile source regulations for which waiver authorizations have been issued as revisions to the California SIP.[114]

CARB's mobile source program extends beyond regulations that are subject to the waiver or authorization process set forth in CAA section 209 to include standards and other requirements to control emissions from in-use heavy-duty trucks and buses, gasoline and diesel fuel specifications, and many other types of mobile sources. Generally, these regulations have also been submitted and approved as revisions to the California SIP.[115]

iv. Local Jurisdiction Transportation Control Measures

Transportation control measures (TCMs) are, in general, measures designed to reduce emissions from on-road motor vehicles through reductions in vehicle miles traveled (VMT) or traffic congestion. TCMs can reduce $PM_{2.5}$ emissions in both the on-road motor vehicle exhaust and paved road dust source categories by reducing VMT and vehicle trips. They can also reduce vehicle exhaust emissions by relieving congestion. EPA guidance states that where mobile sources contribute significantly to $PM_{2.5}$ violations, ''the state must, at a minimum, address the transportation control measures listed in CAA section 108(f) to determine whether such measures are achievable in the area considering energy, environmental, and economic impacts and other costs.'' [116]

Appendix IV–C, ''Regional Transportation Strategy and Control Measures,'' contains SCAG's RACM analysis for TCMs. Consistent with EPA guidance, SCAG addressed the TCMs listed in CAA section 108(f) following a four-step process: (1) SCAG described the process by which they and the applicable transportation agencies in the South Coast air basin identify, review, and make enforceable commitments to implement TCMs; (2) SCAG assembled and reviewed control measures implemented in other ozone nonattainment areas (both in California and in other states); (3) SCAG compared candidate measures with measures implemented in the South Coast air basin to date, as well as new TCMs in the current Plan; and (4) SCAG provided reasoned justification for any available measures that have yet to be implemented. Based on their review, SCAG determined that the TCMs currently being implemented in the South Coast air basin include all RACM and that none of the identified candidate measures are both technically and economically feasible and would advance the attainment date in the South Coast. Attachment B of Appendix IV–C of the Plan contains a complete listing of all candidate measures evaluated as potential RACM, including a description of each measure, an indication of whether the measure is currently being implemented in the SCAG region, and a reasoned justification for SCAG's rejection of any measures that it has not adopted.

b. Additional Reasonable Measures

As discussed above, the $PM_{2.5}$ SIP Requirements Rule defines control measures that otherwise meet the definition of RACM but can only be implemented during the period beginning four years after the effective date of designation but before the Moderate area attainment date as ''additional reasonable measures.'' [117]

The 2016 $PM_{2.5}$ Plan identifies four cost effective and technologically feasible control measures to be implemented in the year 2020.[118] These measures are BCM–04, BCM–10, CMB–03, and CMB–02. Because each of these measures is to be implemented in 2020, after the April 15, 2019 deadline for implementation of RACM/RACT but before the Moderate area attainment date of December 31, 2021, the District identifies these measures as ''additional reasonable measures'' for purposes of providing progress towards attainment of the 2012 $PM_{2.5}$ NAAQS.[119] Details regarding the cost effectiveness analysis and the schedule for implementation of each of these four measures are provided in Chapter 4, Appendix IV–A, and Appendix IV–B of the 2016 $PM_{2.5}$ Plan.

c. Enforceable Commitments

The 2016 $PM_{2.5}$ Plan includes commitments by the District to adopt and implement certain measures and to achieve specific emission reductions in the South Coast area for purposes of attaining the 2012 $PM_{2.5}$ NAAQS by 2025. Specifically, the SCAQMD has committed to (1) adopt, submit, and implement the control measures listed in Table 4–7 of the Plan by specified dates to achieve the total tonnages of emission reductions identified in Table 4–8 of the Plan, or substitute other measures as necessary to achieve those emission reductions, and (2) achieve the total tonnages of reductions of each pollutant by the dates specified in Table 4–8 of the Plan.[120] If the SCAQMD determines that a particular measure listed in Table 4–7 of the Plan is infeasible, in whole or in part, the SCAQMD's commitment is to substitute other measures that will achieve equivalent emission reductions in the same adoption or implementation timeframes.[121] The 2016 $PM_{2.5}$ Plan relies on these emission reduction commitments (also referred to as ''aggregate tonnage commitments'') as part of the control strategy for meeting the 2022 RFP milestones in the Plan and attaining the 2012 $PM_{2.5}$ NAAQS by the December 31, 2025 Serious area attainment date.[122]

The District expects to meet its emission reduction commitments by adopting new control measures and programs and by strengthening existing control measures, as identified in Table 4–7 and Table 4–8 of the Plan. These new or revised control measures include rules to regulate appliances in commercial and residential applications, livestock wastes, non-refinery flares, greenwaste composting, and restaurant burners and residential cooking.

3. The EPA's Evaluation and Proposed Action

a. RACM/RACT and Additional Reasonable Measures

We have reviewed the District's determination in the 2016 $PM_{2.5}$ Plan that its stationary and area source control measures represent RACM for $PM_{2.5}$ and $PM_{2.5}$ precursors. In our review, we also considered our previous evaluations of the District's rules in

[114] See, *e.g.,* 81 FR 39424 (June 16, 2016), 82 FR 14446 (March 21, 2017), and 83 FR 23232 (May 18, 2018).

[115] See, *e.g.,* the EPA's approval of standards and other requirements to control emissions from in-use heavy-duty diesel-powered trucks at 77 FR 20308 (April 4, 2012), revisions to the California on-road reformulated gasoline and diesel fuel regulations at 75 FR 26653 (May 12, 2010), and revisions to the California motor vehicle I/M program at 75 FR 38023 (July 1, 2010).

[116] Addendum to General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 59 FR 41998 (August 16, 1994) (hereafter ''Addendum''), 42013.

[117] 40 CFR 51.1000, 51.1009(a)(4)(i)(B), and 51.1009(a)(4)(ii)(B).

[118] 2016 $PM_{2.5}$ Plan, Table 4–8.

[119] Id., Table VI–A–13.

[120] SCAQMD Governing Board Resolution No. 17–2 (March 3, 2017), 9. The District clarified its aggregate tonnage commitments for the 2022 RFP milestone year in its Control Strategy Updates, ''Summary'' tab (''South Coast AQMD Reasonable Further Progress for 2012 Annual $PM_{2.5}$ Standard'').

[121] 2016 $PM_{2.5}$ Plan, Chapter 4, 4–53 and 4–54.

[122] Id. at 4–53 to 4–54 and Table 4–8.

connection with our approval of the SCAQMD's RACT SIP demonstration for the 2008 ozone NAAQS.[123] Based on this review, we believe the District's rules provide for the implementation of RACM for stationary and area sources of $PM_{2.5}$ and $PM_{2.5}$ precursors.

With respect to mobile sources, CARB's current program addresses the full range of mobile sources in the South Coast through regulatory programs for both new and in-use vehicles. With respect to transportation controls, we find that SCAG has a well-established TCM development program in which TCMs are continuously identified, reviewed, and evaluated throughout the transportation planning process. Overall, we believe that the programs developed and administered by CARB and SCAG provide for the implementation of RACM for $PM_{2.5}$ and $PM_{2.5}$ precursors in the South Coast nonattainment area.

Finally, the 2016 $PM_{2.5}$ Plan contains enforceable commitments to adopt and implement a number of additional reasonable measures by 2020, for purposes of meeting the 2022 RFP milestones in the Plan and attaining the 2012 $PM_{2.5}$ NAAQS by the December 31, 2025 Serious area attainment date.

For all of these reasons, we propose to find that the 2016 $PM_{2.5}$ Plan provides for the implementation of RACM and additional reasonable measures for all sources of direct $PM_{2.5}$ and $PM_{2.5}$ precursors as expeditiously as practicable, for purposes of the 2012 $PM_{2.5}$ NAAQS in the South Coast area, in accordance with the requirements of CAA section 189(a)(1)(C) and 40 CFR 51.1009.

b. Enforceable Commitments

In addition, we are proposing to approve the District's enforceable commitments to adopt and implement certain measures by specific dates and to achieve specific tonnages of emission reductions from these or appropriate substitute measures, by 2022, as part of the control strategy and RFP demonstration in the 2016 $PM_{2.5}$ Plan. These commitments to adopt and implement control measures and to achieve emission reductions, in the aggregate, by specified dates satisfy the EPA's 3-factor test for approval of such enforceable commitments.

The 2016 $PM_{2.5}$ Plan provides for the majority of the emission reductions necessary for making progress towards attainment to be achieved from baseline measures. These reductions come from a combination of District, State, and federal stationary and mobile source measures.[124] Over the past four decades, the District has adopted or revised almost 100 prohibitory rules that limit emissions of direct PM, NO_X, SO_2, VOC, and ammonia from stationary sources. The vast majority of these rules are currently SIP-approved and as such, their emission reductions are fully creditable in attainment-related SIPs. California has also adopted standards for many categories of on- and off-road vehicles and engines as well as standards for gasoline and diesel fuels. The State's mobile source measures are discussed in Section V.D.2.a.iii of this proposed rule. The remaining reductions needed for attainment are to be achieved through the District's enforceable commitments to achieve emission reductions in the South Coast through the anticipated defined control measures listed in Table 4–7 and Table 4–8 of the Plan.

With respect to the 2016 $PM_{2.5}$ Plan, circumstances warrant the consideration of enforceable commitments as part of the control strategy and RFP demonstration for the South Coast nonattainment area. As discussed below, a majority of the emission reductions that are needed to demonstrate RFP in the South Coast nonattainment area come from rules and regulations that were adopted prior the submittal of the Plan in April 2017 (*i.e.,* baseline measures). As a result of these already-adopted State and District measures, most sources in the South Coast nonattainment area were already subject to stringent rules prior to the development of the Plan, leaving fewer and more technologically challenging opportunities to reduce emissions. In the 2016 $PM_{2.5}$ Plan, the District identified potential control measures that could achieve the additional emission reductions needed to demonstrate RFP toward attainment by the Serious area attainment date. However, the timeline needed to develop, adopt, and implement these measures went beyond the October 15, 2016 statutory deadline for submitting the Plan. The District has made progress in adopting measures to meet its commitments but has not yet completely fulfilled them. Given these circumstances, the 2016 $PM_{2.5}$ Plan's reliance on enforceable commitments is warranted. We now consider the three factors the EPA uses to determine whether the use of enforceable commitments in lieu of adopted measures satisfies CAA planning requirements.

i. Commitments Are a Limited Portion of Required Reductions

For the first factor, we look to see if the commitment addresses a limited portion of a statutory requirement, such as the amount of emission reductions needed to demonstrate RFP in a nonattainment area. As discussed in greater detail in section V.G, the Plan demonstrates RFP for the 2019 RFP milestone year and 2022 post-attainment milestone year for purposes of the 2012 $PM_{2.5}$ Moderate area plan. For the 2019 milestone year, the plan demonstrates that RFP is achieved by emission reductions from baseline measures alone, whereas the RFP demonstration for the 2022 milestone year relies on emission reductions from new control measures committed to in the 2016 $PM_{2.5}$ Plan.[125] As shown in Table 3, of the emission reductions needed to meet the 2022 RFP milestone for the 2012 $PM_{2.5}$ NAAQS in the South Coast nonattainment area, 7 tpd of NO_X emission reductions need to be achieved by new or revised control strategy measures —that is, State and District baseline measures achieve all but 7 tpd of the NO_X emission reductions necessary to meet the RFP milestone for 2022. This represents approximately 3 percent of the NO_X reductions needed to meet the 2022 RFP milestone. Historically, the EPA has approved SIPs with enforceable commitments in the range of approximately 10 to 13 percent of the total reductions needed for attainment.[126] We find that the District's NO_X commitment addresses a limited proportion of the required emission reductions.

[123] 82 FR 43850 (September 20, 2017).

[124] Federal measures include the EPA's national emission standards for heavy duty diesel trucks (66 FR 5001 (January 18, 2001)), certain new construction and farm equipment (Tier 2 and 3 non-road engines standards (63 FR 56968 (October 23, 1998), and Tier 4 diesel non-road engine standards (69 FR 38958 (June 29, 2004)), and locomotives (63 FR 18978 (April 16, 1998) and 73 FR 37096 (June 30, 2008)). States are allowed to rely on reductions from federal measures in attainment and RFP demonstrations and for other SIP purposes.

[125] 2016 $PM_{2.5}$ Plan, Table VI–C–5A.

[126] See, *e.g.,* our approvals of the SJV PM_{10} plan at 69 FR 30005 (May 26, 2004), the SJV 1-hour ozone plan at 75 FR 10420 (March 8, 2010), the Houston-Galveston 1-hour ozone plan at 66 FR 57160 (November 14, 2001), the SJV $PM_{2.5}$ plan at 76 FR 69896 (November 9, 2011), and the South Coast $PM_{2.5}$ plan at 76 FR 69928 (November 9, 2011).

TABLE 3—REDUCTIONS NEEDED FOR RFP REMAINING AS COMMITMENTS BASED ON SIP-CREDITABLE MEASURES

h	$PM_{2.5}$	NO_X	SO_X	VOC	Ammonia
A. 2012 baseline emissions level	66.4	540	18.4	470	81.1
B. 2022 RFP target level	64.6	283	17.6	367	74.4
C. Total reductions needed from 2012 baseline levels to demonstrate RFP (A–B)	1.8	257	0.8	103	6.7
D. 2022 RFP baseline emissions level	64	290	17	362	73
E. Reductions from baseline measures (A–D)	2.4	250	1.4	108	8.1
F. Reductions needed from new/revised control strategy measures (D–B)	0	7	0	0	0
G. Percent of reductions needed to meet RFP from new control measures (F/C)	0	2.7%	0	0	0

Data Source: 2016 $PM_{2.5}$ Plan, Table 3–4B and Table VI–C–5A.

ii. The State Is Capable of Fulfilling Its Commitment

For the second factor, we consider whether the District is capable of fulfilling its commitments.

The District has made significant progress in meeting its enforceable commitments for the 2022 post-attainment RFP milestone year. It has adopted numerous baseline measures that are projected to achieve additional reductions of NO_X in future years as shown in Table 4. In addition to the measures discussed above, both CARB and the District have well-funded incentive grant programs to reduce emissions from the on- and off-road engine fleets. Reductions from these programs have yet to be quantified and/or credited in the RFP demonstration.

TABLE 4—SCAQMD CONTROL MEASURE UPDATES SINCE THE 2016 AIR QUALITY MANAGEMENT PLAN

Control measure	Rule	Adoption date	Final implementation date(s)	NO_X reduction (tpd)	VOC reduction (tpd)
CMB–02	Rule 1111—"Natural-Gas-Fired, Fan-Type Central Furnaces".	* 3/2/2018	1/1/2046	0.017	
CTS–01 (2012 AQMP)	Rule 1113—"Architectural Coatings"	2/5/2016	1/1/2019		0.88
CMB–03	Rule 1118.1—"Non-Refinery Flares"	1/4/2019	7/1/2024	0.2	
CMB–01, CMB–05	Rule 1134—"Stationary Gas Turbines"	4/5/2019	12/31/2023	2.8	
CMB–01, CMB–05	Rule 1135—"Electricity Generating Facilities"	11/2/2018	1/1/2024	1.8	0.014
CMB–01, CMB–05	Rule 1146, Rule 1146.1, Rule 1146.2—"Non-Refinery Boilers and Heaters".	12/7/2018	1/1/2023	0.27	
CTS–01	Rule 1168—"Adhesive and Sealant Applications"	10/6/2017	2017, 2019, 2023		1.4

Source: Email dated September 12, 2019 from Kalam Cheung, SCAQMD, to Ashley Graham, EPA Region IX, attaching spreadsheet entitled "Draft Rule Adoption since 2016 AQMP 20190809.xlsx."

* SCAQMD further amended Rule 1111 on July 6, 2018 and December 6, 2019.

Given the District's efforts to date and its continuing efforts to reduce emissions, we believe it is capable of meeting its enforceable commitments to achieve the reductions needed to meet its 2022 RFP milestones for the 2012 $PM_{2.5}$ NAAQS.

iii. The Commitment Is for a Reasonable and Appropriate Timeframe

For the third and last factor, we consider whether the commitment is for a reasonable and appropriate period of time.

In order to meet the commitments to adopt measures and reduce emissions to the levels needed to meet the area's 2022 RFP milestones for the 2012 $PM_{2.5}$ NAAQS in the South Coast nonattainment area, the 2016 $PM_{2.5}$ Plan includes ambitious rule development, adoption, and implementation schedules for a number of defined control measures. The District has committed to achieve 20.5 tpd of NO_X emission reductions by 2022 through adoption and implementation of these defined measures or substitute measures that achieve equivalent emission reductions. We believe that these timeframes are appropriate given the technological and economic challenges associated with the control measures that will be needed to achieve these reductions and the State's and District's required procedures for development and adoption of these measures. In addition, these reductions are not needed to meet the earlier 2019 RFP milestones. Thus, the commitment is for a reasonable and appropriate period of time.

Based on our consideration of these three factors, we are proposing to approve the District's commitments to adopt and implement specific control measures on the schedule identified in Table 4–7 and Table 4–8 of the 2016 $PM_{2.5}$ Plan to the extent that these commitments have not yet been fulfilled, and to achieve specific emission reductions by 2022, as given in these tables and in the Control Strategy Updates.

E. Major Stationary Source Control Requirements Under CAA Section 189(e)

CAA section 189(e) specifically requires that the control requirements applicable to major stationary sources of direct $PM_{2.5}$ also apply to major stationary sources of $PM_{2.5}$ precursors, except where the Administrator determines that such sources do not contribute significantly to $PM_{2.5}$ levels that exceed the standards in the area.[127] The control requirements applicable to major stationary sources of direct $PM_{2.5}$ in a Moderate $PM_{2.5}$ nonattainment area include, at a minimum, the requirements of a NNSR permit program meeting the requirements of CAA sections 172(c)(5) and 189(a)(1)(A). In the $PM_{2.5}$ SIP Requirements Rule, we established a deadline for states to

[127] General Preamble, 13539 and 13541–13542.

submit NNSR plan revisions to implement the $PM_{2.5}$ NAAQS 18 months after an area is initially designated and classified as a Moderate nonattainment area.[128]

California submitted NNSR SIP revisions for the South Coast to address the subpart 4 requirements for Moderate $PM_{2.5}$ nonattainment areas on December 29, 2014.[129] The EPA fully approved these SIP revisions on May 1, 2015.[130] California also submitted NNSR SIP revisions for the South Coast to address the subpart 4 requirements for Serious $PM_{2.5}$ nonattainment areas on May 8, 2017, and the EPA conditionally approved these SIP revisions on November 30, 2018.[131] The basis for the November 30, 2018 conditional approval was a commitment by CARB and the SCAQMD to submit a revised version of Rule 1325 by December 30, 2019. CARB submitted a revised version of Rule 1325 to the EPA on April 24, 2019, fulfilling this commitment.[132] Accordingly, in this action, the EPA is not addressing the NNSR control requirements that apply to major stationary sources of direct $PM_{2.5}$ and $PM_{2.5}$ precursors in the South Coast area under CAA section 189(e).

F. Demonstration That Attainment by the Moderate Area Attainment Date Is Impracticable

1. Requirements for Attainment/Impracticability of Attainment Demonstrations

CAA section 189(a)(1)(B) requires that each Moderate area attainment plan include a demonstration that the plan provides for attainment by the applicable Moderate area attainment date or, alternatively, that attainment by such date is impracticable. This provision explicitly requires that a demonstration of attainment be based on air quality modeling but does not require such modeling for an impracticability demonstration. Although the EPA expects that most impracticability demonstrations will also be supported by air quality modeling, it may be possible in some cases to support an impracticability demonstration with ambient $PM_{2.5}$ data and other relevant non-modeling information.[133]

CAA section 188(c) states, in relevant part, that the Moderate area attainment date ''shall be as expeditiously as practicable but no later than the end of the sixth calendar year after the area's designation as nonattainment . . .'' For the South Coast area, which was initially designated as nonattainment for the 2012 $PM_{2.5}$ standard effective April 15, 2015, the applicable Moderate area attainment date under section 188(c) for this standard is as expeditiously as practicable but no later than December 31, 2021.

In SIP submissions that demonstrate impracticability, the state should document how its required control strategy in the attainment plan represents the application of RACM/RACT and additional reasonable measures, at minimum, to existing sources. The EPA believes it is appropriate to require adoption of all available control measures that are reasonable, *i.e.,* technologically and economically feasible, in areas that do not demonstrate timely attainment, even where those measures cannot be implemented within the 4-year timeframe for implementation of RACM/RACT under CAA section 189(a)(1)(C). The impracticability demonstration will then be based on a showing that the area cannot attain by the applicable attainment date, notwithstanding implementation of the required controls.

2. Impracticability Demonstration in the 2016 $PM_{2.5}$ Plan

The 2016 $PM_{2.5}$ Plan includes a demonstration, based on air quality modeling, that even with the implementation of RACM/RACT and additional reasonable measures for all appropriate sources, attainment by December 31, 2021 is not practicable. The impracticability demonstration is included in Appendix VI–B of the 2016 $PM_{2.5}$ Plan.

Modeled annual average $PM_{2.5}$ concentrations are presented for five monitoring sites representing high $PM_{2.5}$ concentrations in the South Coast air basin. Annual $PM_{2.5}$ concentrations were modeled for the 2012 base year and 2021 attainment year. For 2021, the District examined both baseline and control scenarios. The demonstration is summarized in Table 5.

TABLE 5—IMPRACTICABILITY DEMONSTRATION—ANNUAL AVERAGE $PM_{2.5}$ DESIGN CONCENTRATIONS

[μg/m³]

Station	2012	2021 Baseline	2021 Controlled
Los Angeles	12.4	10.9	10.6
Anaheim	10.6	9.4	9.1
Rubidoux	13.2	11.2	10.9
Mira Loma	14.9	12.6	12.3
Fontana	12.6	10.6	10.4

Source: 2016 $PM_{2.5}$ Plan, Table VI–B–2.

3. The EPA's Evaluation and Proposed Action

The impracticability demonstration in the 2016 $PM_{2.5}$ Plan is based on air quality modeling that is generally consistent with applicable EPA guidance. We find the modeling adequate to support the impracticability demonstration in the plan. See section V.C of this notice.

We have also evaluated the RACM/RACT and additional reasonable measures demonstration and find that it provides for the expeditious implementation of all RACM/RACT and additional reasonable measures that may feasibly be implemented at this time, consistent with the requirements of CAA sections 172(c)(1) and 189(a)(1)(C) for the 2012 $PM_{2.5}$ NAAQS in the South Coast. See section V.D of this notice.

Finally, we have evaluated the demonstration in the 2016 $PM_{2.5}$ Plan that the implementation of the State/District's SIP control strategy, including

[128] 81 FR 58010, 58115.

[129] Letter dated December 29, 2014, from Richard W. Corey, Executive Officer, CARB, to Jared Blumenfeld, Regional Administrator, EPA Region 9.

[130] 80 FR 24821.

[131] 83 FR 61551.

[132] Letter dated April 24, 2019, from Richard W. Corey, Executive Officer, CARB, to Mike Stoker, Regional Administrator, EPA Region 9.

[133] 81 FR 58010, 58048 and 58049.

RACM/RACT and additional reasonable measures, is insufficient to bring the South Coast into attainment by December 31, 2021. In addition to the information in the 2016 $PM_{2.5}$ Plan, we have reviewed recent $PM_{2.5}$ monitoring data from the South Coast. These data show that annual $PM_{2.5}$ levels in the South Coast, with a current design value (2016–2018) of 14.7 μg/m^3, continue to be well above the 12.0 μg/m^3 level of the 2012 $PM_{2.5}$ standard, and the recent trends in annual $PM_{2.5}$ levels in the South Coast are not consistent with a projection of attainment by the end of 2021.[134]

Based on this evaluation, we propose to approve the State's demonstration in the 2016 $PM_{2.5}$ Plan that attainment of the 2012 $PM_{2.5}$ NAAQS in the South Coast by the Moderate area attainment date of December 31, 2021, is impracticable, consistent with the requirements of CAA section 189(a)(1)(B)(ii). On this basis, we also propose to reclassify the South Coast as a Serious nonattainment area, which would trigger requirements for the State to submit a Serious area plan consistent with the requirements of subparts 1 and 4 of part D, title I of the Act (see section VI of this notice).

G. Reasonable Further Progress and Quantitative Milestones

1. Requirements for Reasonable Further Progress and Quantitative Milestones

CAA section 172(c)(2) states that all nonattainment area plans shall require RFP. In addition, CAA section 189(c) requires that all $PM_{2.5}$ nonattainment area SIPs include quantitative milestones to be achieved every three years until the area is redesignated to attainment and which demonstrate RFP. Section 171(1) defines RFP as ''such annual incremental reductions in emissions of the relevant air pollutant as are required by [Part D] or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable [NAAQS] by the applicable date.'' Neither subpart 1 nor subpart 4 of part D, title I of the Act requires that a set percentage of emission reductions be achieved in any given year for purposes of satisfying the RFP requirement.

For purposes of the $PM_{2.5}$ NAAQS, the EPA has interpreted the RFP requirement to require that nonattainment area plans show annual incremental emission reductions sufficient to maintain generally linear progress toward attainment by the applicable deadline.[135] As discussed in EPA guidance in the Addendum to the General Preamble (''Addendum''),[136] requiring linear progress in reductions of direct $PM_{2.5}$ and any individual precursor in a $PM_{2.5}$ plan may be appropriate in situations where:

- The pollutant is emitted by a large number and range of sources,
- the relationship between any individual source or source category and overall air quality is not well known,
- a chemical transformation is involved (*e.g.,* secondary particulate significantly contributes to $PM_{2.5}$ levels over the standard), and/or
- the emission reductions necessary to attain the $PM_{2.5}$ standard are inventory-wide.[137]

The Addendum indicates that requiring linear progress may be less appropriate in other situations, such as:

- Where there are a limited number of sources of direct $PM_{2.5}$ or a precursor,
- where the relationships between individual sources and air quality are relatively well defined, and/or
- where the emission control systems utilized (*e.g.,* at major point sources) will result in a swift and dramatic emission reductions.

In nonattainment areas characterized by any of these latter conditions, RFP may be better represented as step-wise progress as controls are implemented and achieve significant reductions soon thereafter. For example, if an area's nonattainment problem can be attributed to a few major sources, EPA guidance indicates that ''RFP should be met by 'adherence to an ambitious compliance schedule' which is likely to periodically yield significant emission reductions of direct $PM_{2.5}$ or a $PM_{2.5}$ precursor.'' [138]

Attainment plans for $PM_{2.5}$ nonattainment areas should include detailed schedules for compliance with emission regulations in the area and provide corresponding annual emission reductions to be achieved by each milestone in the schedule.[139] In reviewing an attainment plan under subpart 4, the EPA considers whether the annual incremental emission reductions to be achieved are reasonable in light of the statutory objective of timely attainment. Although early implementation of the most cost-effective control measures is often appropriate, states should consider both cost-effectiveness and pollution reduction effectiveness when developing implementation schedules for control measures and may implement measures that are more effective at reducing $PM_{2.5}$ earlier, to provide greater public health benefits.[140]

The $PM_{2.5}$ SIP Requirements Rule establishes specific regulatory requirements for purposes of satisfying the Act's RFP requirements and provides related guidance in the preamble to the rule. Specifically, under the $PM_{2.5}$ SIP Requirements Rule, each $PM_{2.5}$ attainment plan must contain an RFP analysis that includes, at a minimum, the following four components: (1) An implementation schedule for control measures; (2) RFP projected emissions for direct $PM_{2.5}$ and all $PM_{2.5}$ plan precursors for each applicable milestone year, based on the anticipated control measure implementation schedule; (3) a demonstration that the control strategy and implementation schedule will achieve reasonable progress toward attainment between the base year and the attainment year; and (4) a demonstration that by the end of the calendar year for each milestone date for the area, pollutant emissions will be at levels that reflect either generally linear progress or stepwise progress in reducing emissions on an annual basis between the base year and the attainment year.[141] States should estimate the RFP projected emissions for each quantitative milestone year by sector on a pollutant-by-pollutant basis.[142] In an area that cannot practicably attain the $PM_{2.5}$ standard by the applicable Moderate area attainment date, full implementation of a control strategy that satisfies the Moderate area control requirements represents RFP towards attainment.[143]

Section 189(c) requires that attainment plans include quantitative milestones that demonstrate RFP. The purpose of the quantitative milestones is to allow for periodic evaluation of the area's progress towards attainment of the NAAQS consistent with RFP requirements. Because RFP is an annual emission reduction requirement and the quantitative milestones are to be achieved every three years, when a state demonstrates compliance with the quantitative milestone requirement, it will demonstrate that RFP has been achieved during each of the relevant three years. Quantitative milestones

[134] EPA, Design Value Spreadsheets, ''20200306_SouthCoastPM25Annual.xlsx'' and ''pm25_designvalues_20162018_final_12_03_19.xlsx.''

[135] Addendum to the General Preamble, 59 FR 41998, 42015 (August 16, 1994).

[136] Id.

[137] Id.

[138] Id.

[139] Id. at 42016.

[140] Id.

[141] 40 CFR 51.1012(a).

[142] 81 FR 58010, 58056.

[143] Id. at 58056, 58057.

should provide an objective means to evaluate progress toward attainment meaningfully, *e.g.,* through imposition of emission controls in the attainment plan and the requirement to quantify those required emission reductions. The CAA also requires states to submit milestone reports (due 90 days after each milestone), and these reports should include calculations and any assumptions made by the state concerning how RFP has been met, *e.g.,* through quantification of emission reductions to date.[144] The Act requires states to include RFP and quantitative milestones even for areas that cannot practicably attain.

The CAA does not specify the starting point for counting the three-year periods for quantitative milestones under CAA section 189(c). In the General Preamble and Addendum, the EPA interpreted the CAA to require that the starting point for the first three-year period be the due date for the Moderate area plan submission.[145] Consistent with this longstanding interpretation of the Act, the $PM_{2.5}$ SIP Requirements Rule requires that each plan for a Moderate $PM_{2.5}$ nonattainment area contain quantitative milestones to be achieved no later than milestone dates 4.5 years and 7.5 years from the date of designation of the area.[146] Because the EPA designated the South Coast area nonattainment for the 2012 $PM_{2.5}$ NAAQS effective April 15, 2015,[147] the applicable quantitative milestone dates for purposes of this NAAQS in the South Coast are October 15, 2019 and October 15, 2022. Following reclassification of the South Coast area as Serious for the 2012 $PM_{2.5}$ standard, later milestones would be addressed by the Serious area plan.[148]

2. Reasonable Further Progress Demonstration and Quantitative Milestones in the 2016 $PM_{2.5}$ Plan

The RFP plan and quantitative milestones are discussed in section VI–C of Appendix VI of the 2016 $PM_{2.5}$ Plan. The Plan estimates that emissions of direct $PM_{2.5}$, NO_X, SO_X, VOC, and ammonia will generally decline from the 2012 base year and states that emissions of each of these pollutants will remain below the levels needed to show ''generally linear progress'' through 2022, the Moderate area post-attainment milestone year for the 2012 $PM_{2.5}$ NAAQS.[149] The Plan's emissions inventory shows that direct $PM_{2.5}$, NO_X, SO_X, VOC, and ammonia are emitted by a large number and range of sources in the South Coast and that the emission reductions needed for each of these pollutants are inventory-wide.[150] Table VI–C–4 of the 2016 $PM_{2.5}$ Plan contains an implementation schedule for adopted District control measures,[151] Table VI–C–6 contains emission reduction commitments to be achieved each year from 2016 to 2025, and Table VI–C–5 (reproduced, in part,[152] in Table 6) contains RFP projected emissions for each quantitative milestone year. Based on these analyses, the District concludes that its adopted control strategy will achieve, for each pollutant, projected emission levels at or below the RFP and quantitative milestone target emission levels for 2019 and 2022 (see Table 7).[153]

TABLE 6—ANNUAL $PM_{2.5}$ BASELINE EMISSIONS FOR BASE YEAR AND MODERATE AREA PLAN MILESTONE YEARS

[Annual average tpd]

Pollutant	2012 Baseline	2019 (Quantitative milestone)	2022 (Quantitative milestone)
$PM_{2.5}$	66.4	63.9	64.1
NO_X	540	353	275
SO_X	18.4	16.6	17.0
VOC	470	376	348
Ammonia	81.1	74.0	72.6

Source: 2016 $PM_{2.5}$ Plan, Table VI–C–5.

TABLE 7—SUMMARY OF ANNUAL $PM_{2.5}$ RFP CALCULATIONS

Row	Calculation step	$PM_{2.5}$	NO_X	SO_X	VOC	Ammonia
1	2012 base year emissions (tpd)	66.4	540	18.4	470	81.1
2	Annual percent change needed to show linear progress (%).	0.27	4.8	0.43	2.2	0.83
3	2019 target needed to show linear progress (tpd)	65.2	360	17.8	398	76.4
4	2019 baseline emissions (tpd)	63.9	353	16.6	376	74.0
5	Projected shortfall (tpd)	0	0	0	0	0
6	Surplus in 2019 (tpd)	1.3	6.8	1.2	22.2	2.4
7	2022 target needed to show linear progress (%)	64.6	283	17.6	367	74.4
8	2022 emissions (tpd)*	64.1	275	17.0	348	72.6
9	Projected shortfall (tpd)	0	0	0	0	0
10	Surplus in 2022 (tpd)	0.56	8.0	0.59	18.5	1.7

*Based on controlled emissions with emission reductions committed to in the 2016 $PM_{2.5}$ Plan.
Source: 2016 $PM_{2.5}$ Plan, Table VI–C–5A.

The 2016 $PM_{2.5}$ Plan documents the State's conclusion that all RACM/RACT and additional reasonable measures for these pollutants are being implemented as expeditiously as practicable and identifies projected levels of direct

[144] Addendum, 42016–42017.

[145] General Preamble, 13539, and Addendum, 42016.

[146] 40 CFR 51.1013(a)(1).

[147] 80 FR 2206.

[148] Addendum, 42016.

[149] 2016 $PM_{2.5}$ Plan, Table VI–C–5 and Table VI–C–5A.

[150] Id., Chapter 4 and appendices IV–A, VI–B, and VI–C.

[151] See also email dated September 12, 2019 from Kalam Cheung, SCAQMD, to Ashley Graham, EPA Region IX, attaching spreadsheet entitled ''Draft Rule Adoption since 2016 AQMP 20190809.xlsx.''

[152] Table 6 identifies only emission levels for milestone years that must be addressed by the Moderate area plan.

[153] 2016 $PM_{2.5}$ Plan, VI–C–9.

$PM_{2.5}$, NO_X, SO_X, VOC, and ammonia emissions that reflect full implementation of the State, District, and SCAG's RACM/RACT and additional reasonable measure control strategy for these pollutants.[154] The control strategy that provides the basis for these emission projections is described in Chapter 4, Appendix IV, and Appendix VI of the 2016 $PM_{2.5}$ Plan.

Direct $PM_{2.5}$

The District has several stationary and area source rules that are projected to contribute to RFP and attainment of the $PM_{2.5}$ standards.[155] For example, Rule 444 (''Open Burning'') and Rule 445 (''Residential Wood Burning Devices'') were amended in 2013 to achieve $PM_{2.5}$ reductions during winter episodic conditions. The 2013 amendments to Rule 445 lowered the mandatory winter burning curtailment program threshold for residential wood burning and, in certain cases, extended the curtailment to the entire South Coast air basin, thereby further limiting emissions from one of the largest direct $PM_{2.5}$ combustion sources in the South Coast nonattainment area.[156] These rule amendments provide part of the incremental reductions in emissions of direct $PM_{2.5}$ needed from the 2012 base year to meet RFP requirements.[157] Measures to control sources of direct $PM_{2.5}$ are also presented in the Plan's RACM analyses and are reflected in the Plan's baseline emission projections.

The Plan highlights on-road and other mobile source control measures as the primary means for achieving direct $PM_{2.5}$ emission reductions. CARB's implementation of the Truck and Bus Regulation achieved $PM_{2.5}$ emission reductions beginning in 2012.[158] Lighter trucks and buses were required to replace 1995 and older engines with a 2010 model year by 2015. The 2010 model year engines include particulate filters. CARB's LEV II program includes PM emission limits by model year for 2016, and the LEV II program has stricter emission limits for 2017 and beyond. For off-road vehicles, CARB adopted the In-Use Off Road Diesel-Fueled Fleets Regulation (''Off-Road Regulation'') in 2007. The Off-Road Regulation requires owners to replace older vehicles or engines with newer, cleaner models to either (1) retire older vehicles or reduce their use, or (2) to apply retrofit exhaust controls. Off-road fleets are required to meet increasingly strict fleet average indices over time.[159] These indices reflect a fleet's overall emission rates of PM and NO_X for model year and horsepower combinations. Fleets were also banned from adding Tier 0 off-road engines as of January 1, 2014.[160] CARB implemented a similar ban on Tier 1 engines between January 1, 2014 (large fleets) and January 1, 2016 (small fleets).

Nitrogen Oxides

The District regulates numerous NO_X emission sources such as residential space and water heating devices, stationary internal combustion engines, and various sizes of boilers, steam generators, and process heaters used in industrial settings. The 2016 $PM_{2.5}$ Plan identifies the following South Coast regulations as measures that achieve ongoing NO_X reductions with compliance dates during the RFP years of the Plan: Rule 1111 (''Reductions of NO_X from Natural Gas-Fired, Fan-Type Central Furnaces''), Rule 1146.2 (''Emission of Oxides of Nitrogen from Large Water Heaters and Small Boilers and Process Heaters''), and Rule 1147 (''NO_X Reductions from Miscellaneous Sources'').[161] [162]

In addition to these baseline measures, the District has committed to adopt and implement several new measures to reduce NO_X emissions and ensure RFP toward attainment of the 2012 $PM_{2.5}$ NAAQS in the South Coast air basin. These measures may include CMB–01 (''Transition to Zero and Near-Zero Emission Technologies for Stationary Sources''), CMB–02 (''Emission Reductions from Replacement with Zero or Near-Zero NO_X Appliances in Commercial and Residential Applications''), CMB–03 (''Emission Reductions from Non-Refinery Flares''), CMB–04 (''Emission Reductions from Restaurant Burners and Residential Cooking''), ECC–02 (''Co-Benefits from Existing Residential and Commercial Building Energy Efficiency Measures''), ECC–03 (''Additional Enhancements in Reducing Residential Building Energy Use''), MOB–10 (''Extension of the SOON Provision for Construction/Industrial Equipment''), MOB–11 (''Extended Exchange Program''), and MOB–14 (''Emission Reductions from Incentive Programs'').[163]

For on-road and non-road mobile sources, which represent the largest sources of NO_X emissions in the nonattainment area, the 2016 $PM_{2.5}$ Plan lists numerous CARB regulations and discusses the key regulations that limit emissions of direct $PM_{2.5}$ as well as NO_X, SO_2, VOC, and ammonia from these sources.[164] For example, the regulations that apply to the three largest sources of NO_X in the South Coast—heavy-duty diesel trucks, light- and medium-duty passenger vehicles, and off-road equipment—are discussed in the 2016 $PM_{2.5}$ Plan at Appendix VI–C, Attachment VI–C–1, ''California Existing Mobile Source Control Program,'' and CARB's emission projections for these sources are presented in the Plan's emissions inventory.[165] The Plan also shows that NO_X emission levels in the 2019 and 2022 milestone years are projected to be below the levels needed to show generally linear progress toward attainment in 2025.[166]

The Truck and Bus Regulation and Drayage Truck Regulation became effective in 2011 and have rolling compliance deadlines based on truck engine model year. These and other regulations applicable to heavy-duty diesel trucks will continue to reduce emissions of diesel PM and NO_X through the RFP planning years.[167] For example, model year 1994 and 1995 heavy-duty diesel truck engines were required to be upgraded to meet the 2010 model year truck engine emission standards by 2016, and model year 1996–1999 engines must be upgraded by January 1, 2020.[168]

[154] Id. at VI–C–5 to VI–C–12; see also evaluation of RACM/RACT in section V.D of this proposed rule.

[155] Id., Table III–2–2B and Table 4–8.

[156] Id., Table III–1–2. See also 78 FR 59249 (September 26, 2013).

[157] Id., Table VI–C–4.

[158] The State's quantitative milestone report for the 2017 milestone for the 2006 $PM_{2.5}$ standards indicates that the requirement for heavier trucks to install diesel particulate filters was fully implemented by 2016. See SCAQMD, ''2017 Quantitative Milestone Report for the 2006 24-hour $PM_{2.5}$ National Ambient Air Quality Standard,'' March 2018 (''2017 QM Report''), 11.

[159] A fleet average index is an indicator of a fleet's overall emissions rate of PM and NO_X based on the horsepower and model year of each engine in the fleet.

[160] Tier 0 engines meet 1995 to 1999 emission standards, depending on engine size and horsepower. See *http://www.assocpower.com/eqdata/tech/US-EPA-Tier-Chart_1995-2004.php.*

[161] 2016 $PM_{2.5}$ Plan, Table VI–C–4. See also email dated September 12, 2019 from Kalam Cheung, SCAQMD, to Ashley Graham, EPA Region IX, attaching spreadsheet entitled ''Draft Rule Adoption since 2016 AQMP 20190809.xlsx.''

[162] Rule 1111 was mistakenly listed as Rule 1110 in the 2016 $PM_{2.5}$ Plan, Table VI–C–4. See 2017 QM Report, 6, footnote 1.

[163] 2016 $PM_{2.5}$ Plan, Table VI–C–6.

[164] Id., Appendix VI–C, Attachment VI–C–1.

[165] Id., Appendix III.

[166] Id., Table VI–C–5A.

[167] Id. at VI–C–20.

[168] Title 13, California Code of Regulations, Section 2025 (''Regulation to Reduce Emissions of Diesel Particulate Matter, Oxides of Nitrogen and Other Criteria Pollutants, from In-Use Heavy-Duty Diesel-Fueled Vehicles''), paragraphs (e), (f), and (g), effective December 14, 2011. See also 77 FR 20308, 20309–20310 (April 4, 2012) (final rule

Continued

CARB's Cleaner In-Use Off-road Equipment regulation was first approved in 2007 to reduce $PM_{2.5}$ and NO_X emissions from in-use off-road heavy-duty diesel vehicles in California such as those used in construction, mining, and industrial operations. The regulation reduces emissions of $PM_{2.5}$ and NO_X by targeting the existing fleet and imposing idling limits, restrictions on use of older vehicles, and requirements to retrofit or replace the oldest engines. For example, Tier 0 engines could not be added to fleets after January 1, 2014, and Tier 1 engines could not be added after January 1, 2016. The regulation was phased in between January 1, 2014 and January 1, 2019.[169]

Volatile Organic Compounds

As with other precursors, the District regulates stationary and area sources of VOCs, and CARB is largely responsible for regulating emissions from both on-road and off-road mobile sources. The 2016 $PM_{2.5}$ Plan highlights one adopted stationary source VOC rule that contributes to RFP: Rule 1114 (''Petroleum Refinery Coking Operations'').[170]

In addition to the baseline measures discussed above, the District intends to adopt and implement several measures to reduce NO_X emissions that may also result in VOC emission reductions and help ensure RFP toward attainment of the 2012 $PM_{2.5}$ NAAQS in the South Coast air basin. These measures include CMB–01 (''Transition to Zero and Near-Zero Emission Technologies for Stationary Sources''), CMB–03 (''Emission Reductions from Non-Refinery Flares''), ECC–02 (''Co-Benefits from Existing Residential and Commercial Building Energy Efficiency Measures''), ECC–03 (''Additional Enhancements in Reducing Residential Building Energy Use'').[171]

As with NO_X, the majority of VOC emission reductions that occur between the 2012 base year and the 2022 RFP year come from on-road mobile sources and other mobile sources that are under the State's jurisdiction.

Ammonia

Control measures for ammonia sources are described in Appendix VI of the 2016 $PM_{2.5}$ Plan. For example, South Coast Rule 223 and Rule 1127, which regulate confined animal facilities and manure waste from these facilities, control ammonia, as do the District's composting measures (*i.e.,* Rule 1133, Rule 1133.1, Rule 1133.2 and Rule 1133.3). These rules and the methods they use to control ammonia emissions are discussed at length in Appendix IV–A of the Plan, and their emission projections are presented collectively under farming operations (for confined animal feeding operations and manure) or waste disposal (for composting categories) in the Plan's emissions inventory.[172] We discuss our evaluation of these rules for purposes of satisfying RACM requirements in section V.D of this proposed rule.

As part of the control strategy for the 2016 $PM_{2.5}$ Plan, the District has committed to adopt and implement new or revised control measures to reduce ammonia emissions in the South Coast air basin. Potential measures include: (1) BCM–04 (''Emission Reductions from Manure Management Strategies''), which would reduce ammonia from fresh manure through acidifier application, dietary manipulation, feed additives, and other manure control strategies, including potentially lowering the threshold for large confined animal facilities under Rule 223; and (2) BCM–10 (''Emission Reductions from Greenwaste Composting''), which would reduce ammonia through emerging organic waste processing technology and potential restrictions on direct land application of uncomposted greenwaste.[173]

The District ascribes the projected reductions in ammonia during the period from 2012 to 2022 to decreases in farming operations in the South Coast air basin, reductions in emissions from mobile sources largely achieved by State regulations for on-road motor vehicles, and the District's commitments to adopt and implement new control measures such as BCM–04 and BCM–10.[174]

Sulfur Dioxide

Reductions of SO_2 in the South Coast nonattainment area during the period from 2012 to 2022 are mainly from mobile source reductions. The majority of the SO_2 reductions come from non-road mobile sources, primarily reductions from state regulation of ocean-going vessels.

Quantitative Milestones

The 2016 $PM_{2.5}$ Plan identifies a milestone year of 2019, which is 4.5 years after the effective date of the EPA's designation and classification of the South Coast as a Moderate nonattainment area for the 2012 $PM_{2.5}$ NAAQS, and a second milestone year of 2022, which is 7.5 years after the effective date of the designation. The Plan also identifies target RFP emission levels for direct $PM_{2.5}$, NO_X, SO_2, VOC, and ammonia for the 2019 milestone year and the 2022 post-attainment milestone year,[175] and emission reduction commitments to be achieved through 2022 in accordance with the control strategy in the Plan.[176]

3. The EPA's Evaluation and Proposed Action

The 2016 $PM_{2.5}$ Plan describes the adopted control measures for direct $PM_{2.5}$, NO_X, SO_2, VOC, and ammonia implemented during each year of the plan and demonstrates that these measures are being implemented as expeditiously as practicable. Additionally, the Plan presents basin-wide emission reduction commitments to attain the 2012 $PM_{2.5}$ NAAQS. The Plan contains projected RFP emission levels for direct $PM_{2.5}$ and all $PM_{2.5}$ precursors for the 2019 and 2022 milestone years based on the anticipated implementation schedule for the control strategy. Finally, the 2016 $PM_{2.5}$ Plan demonstrates that, by the end of the calendar year for each milestone date for the area, emissions of direct $PM_{2.5}$ and all $PM_{2.5}$ precursors will be reduced at rates representing generally linear progress towards attainment.[177] We agree with the State and District's conclusion that generally linear progress is an appropriate measure of RFP for the 2012 $PM_{2.5}$ NAAQS in the South Coast area given that $PM_{2.5}$ and its precursors are emitted by a large number and range of sources in the South Coast, the emission reductions needed for these

approving CARB's Truck and Bus Rule into California SIP).

[169] 2016 $PM_{2.5}$ Plan, Appendix VI–C, Attachment VI–C–1, VI–C–23 and VI–C–24.

[170] Id., Table VI–C–4. See also, email dated September 12, 2019 from Kalam Cheung, SCAQMD, to Ashley Graham, EPA Region IX, attaching spreadsheet entitled ''Draft Rule Adoption since 2016 AQMP 20190809.xlsx.''

[171] Id.

[172] 2016 $PM_{2.5}$ Plan, IV–A–98 to IV–A–103.

[173] SCAQMD, Governing Board Resolution No. 17–2 (March 3, 2017), 9 and 2016 $PM_{2.5}$ Plan, Table 4–7, identifying BCM–04 and BCM–10 as new control measures to be implemented by 2020 for $PM_{2.5}$ purposes.

[174] 2016 $PM_{2.5}$ Plan, Appendix III, Attachment A.

[175] 2016 $PM_{2.5}$ Plan, VI–C–9 and VI–C–10.

[176] Id., Table VI–C–6.

[177] In addition to the Moderate area plan and request for reclassification to Serious, the 2016 $PM_{2.5}$ Plan includes a Serious area attainment demonstration for the 2012 $PM_{2.5}$ NAAQS with a December 31, 2025 attainment date. The RFP demonstration in the 2016 $PM_{2.5}$ Plan represents generally linear progress between the 2012 base year and projected 2025 attainment year in the Serious area plan. Given that the Plan identifies December 31, 2025 as the most expeditious attainment date for the area, we find this date to be an appropriate end point for the RFP demonstration.

pollutants are inventory-wide,[178] and secondary particulates contribute significantly to ambient $PM_{2.5}$ levels in the South Coast area.[179]

Additionally, the 2016 $PM_{2.5}$ Plan identifies quantitative milestone dates that are consistent with the requirements of 40 CFR 51.1013(a)(4) and target emission levels for direct $PM_{2.5}$ and all $PM_{2.5}$ precursors to be achieved by these milestone dates through implementation of the control strategy. These target emission levels and associated control requirements provide for objective evaluation of the area's progress towards attainment of the 2012 $PM_{2.5}$ NAAQS.

For all of these reasons, we propose to approve the RFP demonstration in the 2016 $PM_{2.5}$ Plan as meeting the requirements of CAA section 172(c)(2) and 40 CFR 51.1012(a) and to determine that the quantitative milestones in the Plan satisfy the requirements of CAA section 189(c) and 40 CFR 51.1013.

On January 13, 2020, CARB submitted the ''2019 Quantitative Milestone Report for the 2012 annual $PM_{2.5}$ National Ambient Air Qualtiy Standard (January 2020)'' (''2019 QM Report'') to the EPA.[180] The 2019 QM Report includes a certification from the Governor's designee that the 2019 quantitative milestones for the South Coast $PM_{2.5}$ nonattainment area have been achieved and a demonstration that the adopted control strategy has been fully implemented. The 2019 QM Report also contains a demonstration of how the emission reductions achieved to date compare to those required or scheduled to meet RFP. The State and District conclude in the 2019 QM Report that the emission reductions needed to demonstrate RFP have been achieved and that the 2019 quantitative milestone has been met in the South Coast. On March 30, 2020, the EPA determined that the South Coast 2019 QM Report was adequate.[181] We invite the public to comment on this determination of adequacy.

H. Contingency Measures

1. Requirements for Contingency Measures

Under CAA section 172(c)(9), each SIP for a nonattainment area must include contingency measures to be implemented if an area fails to meet RFP (''RFP contingency measures'') or fails to attain the NAAQS by the applicable attainment date (''attainment contingency measures''). Under the $PM_{2.5}$ SIP Requirements Rule, $PM_{2.5}$ attainment plans must include contingency measures to be implemented following a determination by the EPA that the state has failed: (1) To meet any RFP requirement in the approved SIP; (2) to meet any quantitative milestone in the approved SIP; (3) to submit a required quantitative milestone report; or (4) to attain the applicable $PM_{2.5}$ NAAQS by the applicable attainment date.[182] Section 189(b)(1)(A) of the CAA, however, differentiates between attainment plans that provide for timely attainment and those that demonstrate that attainment is impracticable. Where a SIP includes a demonstration that attainment by the applicable attainment date is impracticable, the state need only submit contingency measures to be implemented if an area fails to meet RFP, to meet a SIP-approved quantitative milestone, or to submit a required quantitative milestone report.[183] Contingency measures must be fully adopted rules or control measures that are ready to be implemented quickly upon failure to meet RFP or failure of the area to meet the relevant NAAQS by the applicable attainment date.[184]

The purpose of contingency measures is to continue progress in reducing emissions while a state revises its SIP to meet the missed RFP requirement or to correct ongoing nonattainment. Neither the CAA nor the EPA's implementing regulations establish a specific level of emission reductions that implementation of contingency measures must achieve, but the EPA recommends that contingency measures should provide for emission reductions equivalent to approximately one year of reductions needed for RFP, calculated as the overall level of reductions needed to demonstrate attainment divided by the number of years from the base year to the attainment year. In general, we expect all actions needed to effect full implementation of the measures to occur within 60 days after the EPA notifies the state of a failure to meet RFP or to attain.[185]

To satisfy the requirements of 40 CFR 51.1014, the contingency measures adopted as part of a $PM_{2.5}$ attainment plan must consist of control measures for the area that are not otherwise required to meet other nonattainment plan requirements (*e.g.,* to meet RACM/RACT requirements) and must specify the timeframe within which their requirements become effective following any of the EPA determinations specified in 40 CFR 51.1014(a).

In a 2016 decision called *Bahr* v. *EPA* (''*Bahr*''),[186] the Ninth Circuit Court of Appeals rejected the EPA's interpretation of CAA section 172(c)(9) to allow approval of already implemented control measures as contingency measures. In *Bahr,* the Ninth Circuit concluded that contingency measures must be measures that are triggered only after the EPA determines that an area fails to meet RFP requirements or to attain by the applicable attainment date, not before. Thus, within the geographic jurisdiction of the Ninth Circuit, already implemented measures cannot serve as contingency measures under CAA section 172(c)(9).

To comply with section 172(c)(9), as interpreted in the *Bahr* decision, a state must develop, adopt, and submit a contingency measure to be triggered upon a failure to meet an RFP milestone, failure to meet a quantitative milestone requirement, or failure to attain the NAAQS by the applicable attainment date regardless of the extent to which already-implemented measures would achieve surplus emission reductions beyond those necessary to meet RFP or quantitative milestone requirements and beyond those predicted to achieve attainment of the NAAQS.

2. Contingency Measures in the 2016 $PM_{2.5}$ Plan

The 2016 $PM_{2.5}$ Plan addresses the contingency measure requirement in Chapter 4 of the Plan and in section H of the CARB Staff Report. Chapter 4 of the 2016 $PM_{2.5}$ Plan addresses contingency measures for failure to attain the 2006 $PM_{2.5}$ NAAQS by

[178] 2016 $PM_{2.5}$ Plan, Appendix IV–A, Appendix IV–B, and Appendix VI–A.

[179] Id. at V–6–61.

[180] Letter dated January 13, 2020, from Richard W. Corey, Executive Officer, CARB, to Mike Stoker, Regional Administrator, EPA Region IX, with enclosure.

[181] Letter dated March 30, 2020, from Andrew R. Wheeler, Administrator, EPA, to Richard W. Corey, Executive Officer, CARB, regarding 2019 Quantitative Milestone Report for the 2012 annual $PM_{2.5}$ National Ambient Air Quality Standards.

[182] 40 CFR 51.1014(a).

[183] The EPA does not interpret the requirement for failure-to-attain contingency measures to apply to a Moderate $PM_{2.5}$ nonattainment area that a state demonstrates cannot practicably attain the NAAQS by the statutory attainment date. Rather, the EPA believes it is appropriate for the state to identify and adopt attainment contingency measures as part of the Serious area attainment plan. 81 FR 58010, 58067 and Addendum, 42015.

[184] 81 FR 58010, 58066 and Addendum, 42015.

[185] 81 FR 58010, 58066. See also General Preamble, 13512, 13543–13544, and Addendum, 42014–42015.

[186] *Bahr* v. *EPA,* 836 F.3d 1218, 1235–1237 (9th Cir. 2016).

describing emission reductions to be achieved by an adopted measure, South Coast Rule 445 (''Wood-Burning Devices).[187] The 2016 $PM_{2.5}$ Plan does not specifically address contingency measures for failure to meet RFP or quantitative milestone requirements. The CARB Staff Report provides a brief statement acknowledging the *Bahr* decision and committing to work with the EPA and the District to provide additional documentation or develop any needed SIP revisions consistent with that decision.[188]

To supplement the contingency measure element of the 2016 $PM_{2.5}$ Plan, CARB submitted a letter dated January 29, 2019 enclosing the District's commitment to adopt a control measure by a date certain for purposes of satisfying CAA contingency measure requirements for the 2006 and 2012 $PM_{2.5}$ NAAQS.[189] By letter dated February 12, 2020, the District clarified its commitment by committing to develop, adopt, and submit to CARB, for submission to the EPA, a revised rule containing specific contingency provisions that would become effective if the EPA determines: (1) That the area failed to attain the 2006 24-hour $PM_{2.5}$ NAAQS or the 2012 annual $PM_{2.5}$ NAAQS by the applicable attainment date; (2) that the area failed to meet any RFP requirement; (3) that the area failed to meet any quantitative milestone; or (4) that the State failed to submit a required quantitative milestone report for the area.[190] The District submitted this clarified commitment, accompanied by a technical analysis of the emission reductions to be achieved by the contingency measure (''Technical Clarification''), to satisfy the attainment contingency measure requirement for the 2006 $PM_{2.5}$ NAAQS and the RFP contingency measure requirement for the 2012 $PM_{2.5}$ NAAQS in the South Coast nonattainment area.[191]

Specifically, the District has committed to revise an existing rule, Rule 445 (''Wood Burning Devices''), to establish more stringent requirements that would become effective if the EPA makes any of the four determinations (*i.e.,* ''findings of failure'') listed in 40 CFR 51.1014(a). The revisions are to lower the PM wood burning curtailment threshold to 29 $\mu g/m^3$ upon the first EPA finding of failure, and to lower the threshold to 28, 27, and 26 $\mu g/m^3$ upon a second, third, and fourth finding of failure, respectively. Under the revised rule, the mandatory winter burning curtailment would apply to the entire South Coast air basin. The District estimates that lowering the curtailment threshold to 29, 28, 27, and 26 $\mu g/m^3$ upon each finding of failure would achieve reductions in $PM_{2.5}$ emissions of 20.9, 20.9, 13.9, and 19.1 tpy, respectively.[192]

The District has committed to adopt this revised rule and submit it to CARB in time for CARB to submit the revised rule to the EPA by the earlier of the following dates: (1) One year after the date of the EPA's conditional approval of the contingency measures for the 2012 annual $PM_{2.5}$ standard, or (2) 60 days after the date the EPA makes a determination that the South Coast area has failed to attain the 2006 24-hour $PM_{2.5}$ standards but no later than one year after the date of the EPA's conditional approval of the contingency measures for these standards.[193] In its March 3, 2020 letter submitting the District's commitment to the EPA, CARB also committed to submit the revised rule to the EPA by the earlier of these two dates.[194]

3. The EPA's Evaluation and Proposed Action

Section 172(c)(9) requires contingency measures to address potential failure to achieve RFP milestones, failure to meet requirements concerning quantitative milestones, and failure to attain the NAAQS by the applicable attainment date. For purposes of evaluating the contingency measure element of the 2016 $PM_{2.5}$ Plan, we find it useful to distinguish between contingency measures to address potential failure to achieve RFP milestones or to meet quantitative milestone requirements (''RFP contingency measures'') and contingency measures to address potential failure to attain the NAAQS (''attainment contingency measures'').

2006 $PM_{2.5}$ Serious Area Contingency Measure Requirements

The EPA previously approved those portions of the 2016 $PM_{2.5}$ Plan that pertain to the requirements for implementing the 2006 $PM_{2.5}$ NAAQS in the South Coast, except for the contingency measure component of the Plan.[195] As part of that action, the EPA found that, for purposes of the 2006 $PM_{2.5}$ NAAQS, the requirement for RFP contingency measures was moot as applied to the 2017 milestone year because CARB and the District had demonstrated to the EPA's satisfaction that the 2017 quantitative milestones in the plan had been met.[196] The EPA took no action, however, with respect to RFP contingency measures for the 2020 milestone year or attainment contingency measures for the 2006 $PM_{2.5}$ NAAQS. Thus, the EPA is now proposing to act on these outstanding components of the 2016 $PM_{2.5}$ Plan for purposes of the 2006 $PM_{2.5}$ NAAQS.

The applicable quantitative milestone dates for the Serious area plan for the 2006 $PM_{2.5}$ NAAQS are December 31, 2017 and December 31, 2020.[197] We discuss below our evaluation of the 2016 $PM_{2.5}$ Plan and related State and District commitments for compliance with the 2020 RFP and attainment contingency measure requirements for the 2006 $PM_{2.5}$ NAAQS.

2012 $PM_{2.5}$ Moderate Area Contingency Measure Requirements

Because we are proposing to approve the State's demonstration that the South Coast area cannot practicably attain the 2012 $PM_{2.5}$ NAAQS by the applicable Moderate area attainment date of December 31, 2021, and to reclassify the area to Serious on this basis, attainment contingency measures are not required as part of the Moderate area plan for the 2012 $PM_{2.5}$ NAAQS. Upon reclassification of the South Coast area as a Serious area, California will be required to adopt attainment contingency measures as part of the Serious area attainment plan for the 2012 $PM_{2.5}$ NAAQS.

[187] 2016 $PM_{2.5}$ Plan, 4–51 to 4–52.

[188] The SCAQMD and CARB adopted the 2016 $PM_{2.5}$ Plan in March and April 2017, shortly after the Ninth Circuit issued its decision in *Bahr.*

[189] Letter dated February 13, 2019, from Michael Benjamin, Air Quality Planning and Science Division, CARB, to Mike Stoker, Regional Administrator, EPA Region IX (transmitting letter dated January 29, 2019, from Wayne Nastri, Executive Officer, SCAQMD, to Richard Corey, Executive Officer, CARB). In its January 29, 2019 letter, the District committed to modify an existing rule or adopt a new rule to create a contingency measure that would be triggered if the area fails to meet an RFP requirement, to submit a quantitative milestone report, to meet a quantitative milestone, or to attain the 2006 24-hour or 2012 annual $PM_{2.5}$ NAAQS.

[190] Letter dated February 12, 2020, from Wayne Nastri, Executive Officer, SCAQMD, to Richard Corey, Executive Officer, CARB (attaching ''Technical clarification regarding emission reductions associated with contingency measures for the 2006 24-hour $PM_{2.5}$ standard attainment and 2012 annual $PM_{2.5}$ standard Reasonable Further Progress,'' February 2020) (''Technical Clarification'').

[191] Id.

[192] Technical Clarification, 2.

[193] Letter dated February 12, 2020, from Wayne Nastri, Executive Officer, SCAQMD, to Richard Corey, Executive Officer, CARB.

[194] Letter dated March 3, 2020, from Michael T. Benjamin, Chief, Air Quality Planning and Science Division, CARB, to Amy Zimpfer, Associate Director, Air Division, EPA Region IX (transmitting letter dated February 12, 2020, from Wayne Nastri, Executive Officer, SCAQMD, to Richard Corey, Executive Officer, CARB).

[195] 84 FR 3305 (February 12, 2019).

[196] Id. and 83 FR 49872, 49890 (October 3, 2018) (referencing the EPA's September 7, 2018 adequacy determination).

[197] 40 CFR 51.1013(a)(4).

With respect to the RFP contingency measure requirement for the 2012 $PM_{2.5}$ NAAQS, the applicable quantitative milestone dates are October 15, 2019 and October 15, 2022. As explained in section V.G.3 of this proposed rule, on January 13, 2020, CARB submitted a quantitative milestone report demonstrating that the 2019 quantitative milestones in the 2016 $PM_{2.5}$ Plan have been achieved, and the EPA has determined that this milestone report is adequate. Because the State and District have demonstrated that the South Coast area has met its 2019 quantitative milestones, RFP contingency measures for the 2019 milestone year are no longer needed. The sole purpose of RFP contingency measures is to provide continued progress if an area fails to meet its RFP or quantitative milestone requirements. Failure to meet RFP or quantitative milestone requirements for 2019 would have required California to implement RFP contingency measures and, in certain cases, to revise the 2016 $PM_{2.5}$ Plan to assure that the area would achieve the next quantitative milestone (*i.e.,* for 2022).[198] In this case, however, the 2019 QM Report demonstrates that actual emission levels in 2019 were consistent with the approved 2019 RFP milestone year targets for direct $PM_{2.5}$ and all precursor pollutants (NO_X, SO_2, VOC, and ammonia) regulated in the 2016 $PM_{2.5}$ Plan. Accordingly, RFP contingency measures for 2019 no longer have meaning or purpose, and the EPA proposes to find that the requirement for them is now moot as applied to the South Coast. We discuss below our evaluation of the 2016 $PM_{2.5}$ Plan and related State and District commitments for compliance with the 2022 RFP contingency measure requirement for the 2012 $PM_{2.5}$ NAAQS.

The State's Contingency Measure Commitment

The District and CARB have committed to develop, adopt, and submit a revised District rule (Rule 445, ''Wood-Burning Devices'') to meet the attainment contingency measure requirement for the 2006 $PM_{2.5}$ NAAQS and the RFP contingency measure requirement for the 2012 $PM_{2.5}$ NAAQS. The specific revisions the District has committed to make (*i.e.,* increasing the stringency of the existing wood burning curtailment provisions in Rule 445) would satisfy the requirements in CAA section 172(c)(9) because they would be undertaken if the area fails to attain or fails to meet an RFP or quantitative milestone requirement, and would take effect without significant further action by the State or the EPA. The revised rule would also comply with the regulatory requirements in 40 CFR 51.1014 because it would contain contingency provisions that take effect if the EPA makes any of the four determinations listed in 40 CFR 51.1014(a), would consist of control requirements not otherwise included in the control strategy, and would specify the timeframe within which its contingency provisions become effective following any of the determinations listed in 40 CFR 51.1014(a).

We also considered the adequacy of the contingency measure (once adopted and submitted) from the standpoint of the magnitude of emission reductions the measure would provide (if triggered). Neither the CAA nor the EPA's implementing regulations for the $PM_{2.5}$ NAAQS establish a specific amount of emission reductions that implementation of contingency measures must achieve, but we generally expect that contingency measures should provide for emission reductions approximately equivalent to one year's worth of RFP. For the 2006 $PM_{2.5}$ NAAQS in the South Coast, one year's worth of reductions is approximately 0.36 of direct $PM_{2.5}$ reductions, 26.68 tpd of NO_X reductions, 0.26 tpd of SO_X reductions, 13.50 tpd of VOC reductions, and 1.02 tpd of ammonia reductions.[199] For the 2012 $PM_{2.5}$ NAAQS, one year's worth of reductions needed for RFP is approximately 0.18 tpd of direct $PM_{2.5}$ reductions, 25.71 tpd of NO_X reductions, 0.08 tpd of SO_X reductions, 10.33 tpd of VOC reductions, and 0.67 tpd of ammonia reductions.[200]

With respect to attainment contingency measures for the 2006 $PM_{2.5}$ NAAQS, the Technical Clarification contains the District's quantification of the expected emission reductions from the strengthened requirements to be adopted as contingency measures in Rule 445. The District estimates that lowering the curtailment threshold in Rule 445 by 1 $\mu g/m^3$ for each finding of failure (*i.e.,* to 29, 28, 27, and 26 $\mu g/m^3$) would achieve additional reductions in $PM_{2.5}$ emissions of 20.9, 20.9, 13.9, and 19.1 tpy (0.06, 0.06, 0.04, and 0.05 tpd), respectively, in 2020, the year after the attainment year for the 2006 $PM_{2.5}$ NAAQS.[201] Each of these reduction levels alone do not achieve one year's worth of RFP. However, the District's submittal provides the larger SIP planning context in which to judge the adequacy of the to-be-submitted District contingency measure by identifying surplus direct $PM_{2.5}$, NO_X, VOC, and ammonia emission reductions estimated to be achieved in 2020.[202] The surplus reflects already implemented regulations, including vehicle turnover, which refers to the ongoing replacement by individuals, companies, and government agencies of older, more polluting vehicles and engines with newer vehicles and engines designed to meet more stringent CARB mobile source emissions standards. The surplus also reflects additional emission reductions from regulations and programs that were adopted after the development of the 2016 $PM_{2.5}$ Plan. These include CARB's Heavy-Duty Vehicle Inspection Program, Periodic Smoke Inspection Program, and efforts to reduce emissions from Ocean-Going Vessels At-Berth, and the District's Airports Memorandum of Understanding, Metrolink Locomotives, Low Carbon Fuel Standard and Alternative Diesel Fuels Regulation, and Airborne Toxic Control Measure (ATCM) for Portable Engines and the Statewide Portable Equipment Registration Program.[203]

We have reviewed the surplus emissions estimates for 2020, as shown in the Technical Clarification, and find the calculations reasonable. We therefore agree with the District's conclusion that the 2016 $PM_{2.5}$ Plan provides surplus emission reductions beyond those necessary to demonstrate attainment by the December 31, 2019 Serious area attainment date for the 2006 $PM_{2.5}$ NAAQS in the South Coast. While such surplus emission reductions in the year after the 2019 attainment year do not represent contingency measures themselves, we consider them relevant in evaluating the adequacy of the contingency measures that the State has committed to in order to meet the requirements of section 172(c)(9). In light of the ongoing reductions in emissions of direct $PM_{2.5}$, NO_X, VOC, and ammonia achieved by the State and District measures identified in the Technical Clarification, the emission

[198] Under section 189(c)(3) of the CAA, if a state fails to submit a required quantitative milestone report or the EPA determines that the area has not met an applicable milestone, the EPA must require the state, within nine months after such failure or determination, to submit a plan revision that assures that the state will achieve the next milestone (or attain the NAAQS, if there is no next milestone) by the applicable date.

[199] Technical Clarification, Table 1.

[200] 2016 $PM_{2.5}$ Plan, Appendix III, Attachment A.

[201] Technical Clarification, 2–3.

[202] These emission reductions are surplus to those relied upon in the control strategy for attaining the 2006 $PM_{2.5}$ NAAQS in the 2016 $PM_{2.5}$ Plan because they occur after the December 31, 2019 attainment date and/or will be achieved through implementation of measures adopted after the Plan's adoption.

[203] Technical Clarification, 2–4.

reductions from the District contingency measure (revised Rule 445) would be sufficient to meet the attainment contingency measure requirement for the 2006 $PM_{2.5}$ NAAQS, even though the measure would achieve emission reductions lower than the EPA normally recommends for reductions from such a measure.

With respect to RFP contingency measures for the 2022 milestone year in the Moderate area plan for the 2012 $PM_{2.5}$ NAAQS, the District similarly explains in the Technical Clarification that continuing implementation of existing regulations and turn-over of older vehicles and equipment to cleaner vehicles and equipment will result in surplus emission reductions in the 2022 RFP milestone year.[204] In light of these ongoing reductions in emissions of direct $PM_{2.5}$, NO_X, VOC, and ammonia, the District contingency measure (revised Rule 445) would be sufficient to meet the 2022 RFP contingency measure requirement for the 2012 $PM_{2.5}$ NAAQS, even though the measure would not by itself achieve emission reductions equivalent to one year's worth of RFP. For the same reasons, the District contingency measure (revised Rule 445) would be sufficient to meet the 2020 RFP contingency measure requirement for the 2006 $PM_{2.5}$ NAAQS. We note that under the proposed revisions to Rule 445, if the EPA determines that the South Coast area has failed to attain the 2006 $PM_{2.5}$ NAAQS by the December 31, 2019 attainment date and thereby triggers the contingency measure provision to lower the mandatory burning curtailment to 29 $\mu g/m^3$, the State would not be required to submit a new contingency measure because the additional provisions to lower the curtailment threshold to 28, 27, and 26 $\mu g/m^3$ could be triggered upon subsequent failures and therefore would satisfy RFP contingency measure requirements for both the 2006 $PM_{2.5}$ NAAQS and the 2012 $PM_{2.5}$ NAAQS.

Finally, CARB has committed to submit the revised rule to the EPA within one year after a final action conditionally approving the contingency measure element of the 2016 $PM_{2.5}$ Plan, or within 60 days of a determination by the EPA that the South Coast area failed to attain the 2006 $PM_{2.5}$ NAAQS by the applicable attainment date, whichever occurs sooner. Section 110(k)(4) of the Act authorizes the EPA to conditionally approve a plan revision based on a commitment by the state to adopt specific enforceable measures by a date certain, but not later than one year after the date of approval of the plan revision. The outermost deadline in CARB's commitment (one year following conditional approval of the plan revision) is consistent with the submission deadline in CAA section 110(k)(4). If, however, the EPA determines that the South Coast area failed to attain the 2006 $PM_{2.5}$ NAAQS by the applicable attainment date (December 31, 2019), and the date 60 days after this determination is earlier than the 1-year deadline under section 110(k)(4), then CARB would be obligated under its commitment to submit the revised rule to the EPA by the earlier date. These deadlines ensure that, should the EPA determine that the South Coast area failed to timely attain the 2006 $PM_{2.5}$ NAAQS, contingency provisions will take effect within 60 days of the determination, consistent with longstanding EPA guidance.

For these reasons, we propose to conditionally approve the contingency measure element of the 2016 $PM_{2.5}$ Plan for the 2006 $PM_{2.5}$ NAAQS and the 2012 $PM_{2.5}$ NAAQS, as supplemented by commitments from the District and CARB to adopt and submit an additional contingency measure to meet the attainment and RFP contingency measure requirements of CAA section 172(c)(9) for these NAAQS. Our proposed approval is conditional because it relies upon commitments to adopt and submit a specific enforceable contingency measure (*i.e.,* a revised District rule with contingent provisions).

I. Motor Vehicle Emissions Budgets

1. Requirements for Motor Vehicle Emissions Budgets

Section 176(c) of the CAA requires federal actions in nonattainment and maintenance areas to conform to the SIP's goals of eliminating or reducing the severity and number of violations of the NAAQS and achieving timely attainment of the standards. Conformity to the SIP's goals means that such actions will not: (1) Cause or contribute to violations of a NAAQS, (2) worsen the severity of an existing violation, or (3) delay timely attainment of any NAAQS or any interim milestone.

Actions involving Federal Highway Administration (FHWA) or Federal Transit Administration (FTA) funding or approval are subject to the EPA's transportation conformity rule, codified at 40 CFR part 93, subpart A. Under this rule, metropolitan planning organizations (MPOs) in nonattainment and maintenance areas coordinate with state and local air quality and transportation agencies, the EPA, the FHWA, and the FTA to demonstrate that an area's regional transportation plans and transportation improvement programs conform to the applicable SIP. This demonstration is typically done by showing that estimated emissions from existing and planned highway and transit systems are less than or equal to the motor vehicle emissions budgets (MVEBs or ''budgets'') contained in all control strategy SIPs. An attainment, maintenance, or RFP SIP should include budgets for the attainment year, each required RFP milestone year, and the last year of the maintenance plan, as appropriate. Budgets are generally established for specific years and specific pollutants or precursors and must reflect all of the motor vehicle control measures contained in the attainment and RFP demonstrations.[205]

Under the $PM_{2.5}$ SIP Requirements Rule, each attainment plan submittal for a Moderate $PM_{2.5}$ nonattainment area must contain quantitative milestones to be achieved no later than 4.5 years and 7.5 years after the date the area was designated nonattainment.[206] The second of these milestone dates, October 15, 2022,[207] falls after the attainment date for the South Coast area, which is December 31, 2021. As the EPA explained in the preamble to the $PM_{2.5}$ SIP Requirements Rule, it is important to include a post-attainment year quantitative milestone to ensure that, if the area fails to attain by the attainment date, the EPA can continue to monitor the area's progress toward attainment while the state develops a new attainment plan.[208] Moderate area plans demonstrating that attainment by the Moderate area attainment date is impracticable must, therefore, include budgets for both of the milestone dates. States that submit impracticability demonstrations for Moderate areas under CAA section 189(a)(1)(B)(ii), however, are not required to submit budgets for the attainment year because the submitted SIP does not demonstrate attainment.[209]

$PM_{2.5}$ plans should identify budgets for direct $PM_{2.5}$, NO_X, and all other $PM_{2.5}$ precursors for which on-road emissions are determined to significantly contribute to $PM_{2.5}$ levels in the area for each RFP milestone year and the attainment year, if the plan demonstrates attainment. All direct $PM_{2.5}$ SIP budgets should include direct $PM_{2.5}$ motor vehicle emissions from

[204] Id. at 4–6.

[205] 40 CFR 93.118(e)(4)(v).

[206] 40 CFR 51.1013(a)(1).

[207] Because the South Coast area was designated nonattainment effective April 15, 2015, the first milestone date is October 15, 2019, and the second milestone date is October 15, 2022. 80 FR 2206.

[208] 81 FR 58010, 58058 and 58063–58064.

[209] Id. at 58055.

tailpipes, brake wear, and tire wear. With respect to $PM_{2.5}$ from re-entrained road dust and emissions of VOC, SO_2, and/or ammonia, the transportation conformity provisions of 40 CFR part 93, subpart A, apply only if the EPA Regional Administrator or the director of the state air agency has made a finding that emissions of these pollutants within the area are a significant contributor to the $PM_{2.5}$ nonattainment problem and has so notified the MPO and Department of Transportation (DOT), or if the applicable implementation plan (or implementation plan submission) includes any of these pollutants in the approved (or adequate) budget as part of the RFP, attainment, or maintenance strategy.[210] Additionally, as the EPA explained in its May 6, 2005 transportation conformity rule amendments for the $PM_{2.5}$ NAAQS, it is not necessary for a SIP to explicitly state that VOC, SO_2, and/or ammonia are insignificant precursors. Instead, states should consider the on-road contribution of all four precursors to the $PM_{2.5}$ problem as they develop their SIPs and establish emissions budgets for those precursors for which on-road emissions need to be addressed in order to attain the $PM_{2.5}$ standard as expeditiously as practicable. Conformity determinations must address all precursors for which the SIP establishes a budget and need not address those precursors for which the state has not established a budget because the emissions of that precursor are insignificant.[211]

By contrast, transportation conformity requirements apply with respect to emissions of NO_X unless both the EPA Regional Administrator and the director of the state air agency have made a finding that transportation-related emissions of NO_X within the nonattainment area are not a significant contributor to the $PM_{2.5}$ nonattainment problem and have so notified the MPO and DOT, or the applicable implementation plan (or implementation plan submission) does not establish an approved (or adequate) budget for such emissions as part of the RFP, attainment, or maintenance strategy.[212]

The criteria for insignificance determinations are provided in 40 CFR 93.109(f). In order for a pollutant or precursor to be considered an insignificant contributor, the control strategy SIP must demonstrate that it would be unreasonable to expect that such an area would experience enough motor vehicle emissions growth in that pollutant/precursor for a NAAQS violation to occur. Insignificance determinations are based on factors such as air quality, SIP motor vehicle control measures, trends and projections of motor vehicle emissions, and the percentage of the total SIP inventory that is comprised of motor vehicle emissions. The EPA's rationale for providing for insignificance determinations is described in the July 1, 2004 revision to the Transportation Conformity Rule.[213]

The EPA's process for determining the adequacy of a budget consists of three basic steps: (1) Notifying the public of a SIP submittal; (2) providing the public the opportunity to comment on the budget during a public comment period; and, (3) making a finding of adequacy or inadequacy. The EPA can notify the public by either posting an announcement that the EPA has received SIP budgets on the EPA's adequacy website (40 CFR 93.118(f)(1)), or through a **Federal Register** notice of proposed rulemaking when the EPA reviews the adequacy of an implementation plan budget simultaneously with its review and action on the SIP itself (40 CFR 93.118(f)(2)).

For budgets to be approvable, they must meet, at a minimum, the EPA's adequacy criteria (40 CFR 93.118(e)(4)). To meet these requirements, the budgets must be consistent with the attainment and RFP requirements and reflect all of the motor vehicle control measures contained in the attainment and RFP demonstrations.[214]

2. Motor Vehicle Emissions Budgets in the 2016 $PM_{2.5}$ Plan

The 2016 $PM_{2.5}$ Plan includes budgets for direct $PM_{2.5}$, NOx, and VOC for 2019 and 2022 (RFP milestone year and post-attainment quantitative milestone year, respectively).[215] The budgets were calculated using EMFAC2014, the latest approved version of the EMFAC model for estimating emissions from on-road vehicles operating in California that was available at the time the plan was prepared, and SCAG's latest modeled VMT and speed distributions from the ''2016 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS)'' adopted in April 2016.[216] The budgets reflect annual average emissions because those emissions are linked with the District's RFP demonstration for the 2012 $PM_{2.5}$ NAAQS.

The direct $PM_{2.5}$ budgets include tailpipe, brake wear, and tire wear emissions as well as paved road dust, unpaved road dust, and road construction dust emissions.[217] The Plan includes budgets for NOx and VOC because they are regulated precursors under the Plan, but the Plan does not include budgets for SO_2 or ammonia. The budgets included in the 2016 $PM_{2.5}$ Plan are shown in Table 8.

TABLE 8—MVEBS FOR THE SOUTH COAST FOR THE 2012 $PM_{2.5}$ STANDARD

[Annual average tpd]

	2019 (RFP year)			2022 (post attainment year)		
	$PM_{2.5}$	NO_X	VOC	$PM_{2.5}$	NO_X	VOC
Baseline emissions: Exhaust, brake and tire wear	10.82	168.13	82.52	10.25	126.26	68.22
Paved road dust	8.15	.....	.....	8.38	.....	.....
Unpaved road dust	0.59	.....	.....	0.59	.....	.....
Road construction	0.25	.....	.....	0.27	.....	.....
Total	19.81	168.13	82.52	19.48	126.26	68.22

[210] 40 CFR 93.102(b)(3), 93.102(b)(2)(v), and 93.122(f); see also Conformity Rule preambles at 69 FR 40004, 40031–40036 (July 1, 2004), 70 FR 24280, 24283–24285 (May 6, 2005) and 70 FR 31354 (June 1, 2005).

[211] 70 FR 24280, 24287 (May 6, 2005).

[212] 40 CFR 93.102(b)(2)(iv).

[213] 69 FR 40004 (July 1, 2004).

[214] 40 CFR 93.118(e)(4)(iii), (iv) and (v). For more information on the transportation conformity requirements and applicable policies on MVEBs, please visit our transportation conformity website at: *http://www.epa.gov/otaq/stateresources/transconf/index.htm.*

[215] 2016 $PM_{2.5}$ Plan, Appendix VI–D and Table VI–D–3.

[216] See footnote 30, supra.

[217] 2016 $PM_{2.5}$ Plan, Table VI–D–3.

TABLE 8—MVEBS FOR THE SOUTH COAST FOR THE 2012 $PM_{2.5}$ STANDARD—Continued

[Annual average tpd]

	2019 (RFP year)			2022 (post attainment year)		
	$PM_{2.5}$	NO_X	VOC	$PM_{2.5}$	NO_X	VOC
Conformity budget	20	169	83	20	127	69

Source: 2016 $PM_{2.5}$ Plan, Table VI–D–3. Budgets are rounded up to the nearest whole number.

In the submittal letter for the 2016 $PM_{2.5}$ Plan, CARB requested that we limit the duration of our approval of the budgets to the period before the effective date of the EPA's adequacy finding for any subsequently submitted budgets.[218]

3. The EPA's Evaluation and Proposed Action

We have evaluated the budgets in the 2016 $PM_{2.5}$ Plan against our adequacy criteria in 40 CFR 93.118(e)(4) as part of our review of the budgets' approvability (see Table 10 in section IV of the EPA's TSD for this proposal) and will complete the adequacy review concurrent with our final action on the 2016 $PM_{2.5}$ Plan. The EPA is not required under its transportation conformity rule to find budgets adequate prior to proposing approval of them.[219]

Based on the information about SO_2 and ammonia emissions in the 2016 $PM_{2.5}$ Plan, we propose to find that it is not necessary to establish MVEBs for transportation-related emissions of SO_2 and ammonia to attain the 2012 $PM_{2.5}$ standard in the South Coast. As discussed in the May 6, 2005 final transportation conformity rule that addresses the requirements for $PM_{2.5}$ precursors,[220] on-road emissions of SO_2 and ammonia typically are a small portion of the total emissions for these precursors. In the May 6, 2005 final rule, the EPA stated that with adopted fuel regulations, projections of on-road emissions of SO_2 would be less than one percent of total SO_2 emissions in 2020. This was based on an analysis of projected on-road SO_2 emissions in 372 counties that potentially could have been designated as nonattainment for the 1997 annual $PM_{2.5}$ NAAQS based on 1999–2001 air quality data.[221] In the South Coast, on-road emissions of SO_2 and ammonia are projected to account for approximately 10 and 18 percent of total SO_2 and ammonia emissions, respectively, in 2020.[222] The projected contribution of total SO_2 emissions to $PM_{2.5}$ concentrations in the South Coast is in the range of 10 to 13 percent, and the projected contribution of total ammonia emissions to $PM_{2.5}$ concentrations in the area is in the range of 6 to 8 percent, in 2021.[223] CARB implements stringent standards for sulfur content in reformulated gasoline and diesel fuel,[224] both of which effectively limit the SO_2 contribution from motor vehicles in the South Coast. Given that transportation-related emissions of SO_2 or ammonia are not significant contributors to the nonattainment problem in this area, it is not necessary for the 2016 $PM_{2.5}$ Plan to include SO_2 or ammonia budgets.

For the reasons discussed in section V.F of this proposed rule, we are proposing to approve the State's demonstration that it is impracticable to attain the 2012 $PM_{2.5}$ standard in the South Coast by the applicable Moderate area attainment date of December 31, 2021 and are proposing to reclassify the area as Serious. Because the 2016 $PM_{2.5}$ Plan does not demonstrate attainment, we do not address in this proposal any budgets for the Moderate area attainment year of 2021.

For the reasons discussed in section V.G of this proposed rule, we are proposing to approve the RFP demonstration in the 2016 $PM_{2.5}$ Plan. The 2019 and 2022 budgets, as shown in Table 8 of this proposed rule, are consistent with applicable requirements for RFP, are clearly identified and precisely quantified, and meet all other applicable statutory and regulatory requirements including the adequacy criteria in 93.118(e)(4) and (5). For these reasons, the EPA proposes to approve the budgets listed in Table 8. We provide a more detailed discussion in section IV of the TSD, which can be found in the docket for today's action.

We have previously approved MVEBs for the 1997 and 2006 annual and 24-hour $PM_{2.5}$ NAAQS.[225] The budgets that the EPA is proposing to approve apply only for purposes of the 2012 $PM_{2.5}$ NAAQS and would not affect the status of the previously-approved budgets for the 1997 or 2006 $PM_{2.5}$ NAAQS and related trading mechanisms, which remain in effect for those $PM_{2.5}$ NAAQS.

In general, only budgets in approved SIPs can be used for transportation conformity purposes. However, section 93.118(e) of the transportation conformity rule allows budgets in a SIP submission to apply for conformity purposes before the SIP submission is approved under certain circumstances. First, there must not be any other approved SIP budgets that have been established for the same year, pollutant, and CAA requirement. Second, the EPA must find that the submitted SIP budgets are adequate for transportation conformity purposes. To be found adequate, the submission must meet the conformity adequacy requirements of 40 CFR 93.118(e)(4) and (5).

The transportation conformity rule allows for replacement of previously approved budgets by submitted MVEBs that the EPA has found adequate, if the EPA has limited the duration of its prior approval to the period before it finds replacement budgets adequate.[226] However, the EPA will consider a state's request to limit the duration of an MVEB approval only if the request includes the following elements:

- An acknowledgement and explanation as to why the budgets under

[218] Letter dated April 27, 2017, from Richard W. Corey, Executive Officer, CARB, to Alexis Strauss, Acting Regional Administrator, EPA Region IX, 3.

[219] Under the Transportation Conformity regulations, the EPA may review the adequacy of submitted MVEBs simultaneously with the EPA's approval or disapproval of the submitted implementation plan. 40 CFR 93.118(f)(2).

[220] 70 FR 24280, 24283–24285.

[221] Id. at 24283.

[222] 2016 $PM_{2.5}$ Plan, Appendix III, Attachment A (identifying 2020 total SO_X emissions estimate of 16.67 tpd in the South Coast, of which 1.75 tpd (approximately 10 percent) is attributed to on-road motor vehicles, and 2020 total ammonia emissions estimate of 73.25 tpd, of which 13.21 tpd (approximately 18 percent) is attributed to on-road motor vehicles).

[223] Id., Table V–6–6 (identifying projected 2021 $PM_{2.5}$ annual design values by component species, including SO_4 and NH_4).

[224] California Code of Regulations, title 13, sections 2262 and 2282, 74 FR 33196, 33199 (July 10, 2009) (noting that CARB's sulfur content standard for diesel fuel is more stringent than the requirements of the federal ultra-low sulfur diesel program at 40 CFR 80.29), and 75 FR 26653 (May 12, 2010) (final rule approving revisions to the California reformulated gasoline and diesel fuel regulations).

[225] 76 FR 69928, 69951 (November 9, 2011) and 84 FR 3305, 3307 (February 12, 2019).

[226] 40 CFR 93.118(e)(1).

consideration have become outdated or deficient;

- A commitment to update the budgets as part of a comprehensive SIP update; and
- A request that the EPA limit the duration of its approval to the period before the EPA finds new budgets to be adequate for transportation conformity purposes.[227]

In the submittal letter for the 2016 $PM_{2.5}$ Plan, CARB requested that we limit the duration of our approval of the budgets to the period before the effective date of the EPA's adequacy finding for any subsequently submitted budgets.[228] In a letter dated March 3, 2020, CARB clarified their request to limit the budgets and included an explanation as to why the budgets under consideration will become outdated. In short, CARB has requested that we limit the duration of the approval of the budgets because the EPA's approval of EMFAC2017 [229] on August 15, 2019 has rendered the budgets outdated. CARB explains that the budgets from the 2016 $PM_{2.5}$ Plan, for which we are proposing approval in today's action, will need to be revised using EMFAC2017 within the transportation conformity grace period established in our approval of EMFAC2017 to provide for a new conformity determination for the South Coast regional transportation plan and program. In addition, CARB states that, without the ability to replace the budgets using the budget adequacy process, the benefits of using the updated data may not be realized for a year or more after the updated SIP (with the EMFAC2017-derived budgets) is submitted, due to the length of the SIP approval process. We find that CARB's explanation for limiting the duration of the approval of the budgets is appropriate and provides us with a reasonable basis on which to limit the duration of the approval of the budgets.

We note that CARB has not committed to update the budgets as part of a comprehensive SIP update, but as a practical matter, CARB must submit a SIP revision that includes updated demonstrations as well as the updated budgets to meet the adequacy criteria in 40 CFR 93.118(e)(4); [230] and thus, we do not need a specific commitment for such a plan at this time. For the reasons provided above, and in light of CARB's explanation for why the budgets will become outdated and should be replaced upon an adequacy finding for updated budgets, we propose to limit the duration of our approval of the budgets in the 2016 $PM_{2.5}$ Plan until new budgets have been found adequate.

VI. Reclassification as Serious Nonattainment and Serious Area SIP Requirements

A. Reclassification as Serious and Applicable Attainment Date

Section 188 of the Act outlines the process for classification of $PM_{2.5}$ nonattainment areas and establishes the applicable attainment dates. Under the plain meaning of the terms of section 188(b)(1) of the Act, the EPA has general authority to reclassify at any time before the applicable attainment date any area that the EPA determines cannot practicably attain the standard by such date. Accordingly, section 188(b)(1) of the Act is a general expression of delegated rulemaking authority. In addition, subparagraphs (A) and (B) of section 188(b)(1) mandate that the EPA reclassify ''appropriate'' PM_{10} nonattainment areas at specified time frames (*i.e.,* by December 31, 1991 for the initial PM_{10} nonattainment areas, and within 18 months after the SIP submittal due date for subsequent nonattainment areas). These subparagraphs do not restrict the EPA's general authority but simply specify that, at a minimum, it must be exercised at certain times.[231]

We have reviewed the air quality modeling and impracticability demonstration in the 2016 $PM_{2.5}$ Plan and, based on our review, agree with the District's conclusion that implementation of the State/District's SIP control strategy, including RACM/RACT and additional reasonable measures, is insufficient to bring the South Coast into attainment by the December 31, 2021 Moderate area attainment deadline. See sections V.C and V.F of this notice. In addition, we have reviewed recent $PM_{2.5}$ monitoring data for the South Coast available in the EPA's Air Quality System (AQS) database. These data show that 24-hour $PM_{2.5}$ levels in the South Coast continue to be above 12 μg/m³, the level of the 2012 $PM_{2.5}$ standard, and the recent trends in the South Coast's annual $PM_{2.5}$ levels are not consistent with a projection of attainment by the end of 2021.[232]

In accordance with section 188(b)(1) of the Act, the EPA is proposing to reclassify the South Coast area from Moderate to Serious nonattainment for the 2012 $PM_{2.5}$ standard of 12 μg/m³, based on the EPA's determination that the South Coast area cannot practicably attain the standard by the applicable attainment date of December 31, 2021.

Under section 188(c)(2) of the Act, the attainment date for a Serious area ''shall be as expeditiously as practicable but no later than the end of the tenth calendar year beginning after the area's designation as nonattainment . . .'' The EPA designated the South Coast area as nonattainment for the 2012 $PM_{2.5}$ standard effective April 15, 2015.[233] Therefore, upon final reclassification of the South Coast area as a Serious nonattainment area, the latest permissible attainment date under section 188(c)(2) of the Act, for purposes of the 2012 $PM_{2.5}$ standard in this area, will be December 31, 2025.

Under section 188(e) of the Act, a state may apply to the EPA for a single extension of the Serious area attainment date by up to 5 years, which the EPA may grant if the state satisfies certain conditions. Before the EPA may extend the attainment date for a Serious area under section 188(e), the state must: (1) Apply for an extension of the attainment date beyond the statutory attainment date; (2) demonstrate that attainment by the statutory attainment date is impracticable; (3) demonstrate that it has complied with all requirements and commitments pertaining to the area in the implementation plan; (4) demonstrate to the satisfaction of the Administrator that the plan for the area includes the most stringent measures that are included in the implementation plan of any state or are achieved in practice in any state, and can feasibly be implemented in the area; and (5) submit a demonstration of attainment by the most expeditious alternative date practicable.[234]

[227] See, *e.g.,* 67 FR 69139 (November 15, 2002), limiting our prior approval of MVEBs in certain California SIPs.

[228] See letter dated April 27, 2017, from Richard W. Corey, Executive Officer, CARB, to Alexis Strauss, Acting Regional Administrator, EPA Region IX, 3.

[229] EMFAC2017 updates vehicle mix and emissions data of the previously approved version of the model, EMFAC2014.

[230] Under 40 CFR 93.118(e)(4), the EPA will not find a budget in a submitted SIP to be adequate unless, among other criteria, the budgets, when considered together with all other emission sources, are consistent with applicable requirements for RFP and attainment. 40 CFR 93.118(e)(4)(iv).

[231] For a general discussion of the EPA's interpretation of the reclassification provisions in section 188(b)(1) of the Act, see the General Preamble, 13537–13538.

[232] EPA, Design Value Spreadsheets, ''20200306_SouthCoastPM25Annual.xlsx'' and ''pm25_designvalues_20162018_final_12_03_19.xlsx.''

[233] 80 FR 2206.

[234] For a discussion of the EPA's interpretation of the requirements of section 188(e), see Addendum, 42002; 65 FR 19964 (April 13, 2000) (proposed action on PM_{10} Plan for Maricopa County, Arizona); 67 FR 48718 (July 25, 2002) (final action on PM_{10} Plan for Maricopa County, Arizona); and *Vigil* v. *EPA,* 366 F.3d 1025, amended at 381 F.3d 826 (9th Cir. 2004) (remanding EPA action on PM_{10} Plan for

Continued

B. Clean Air Act Requirements for Serious $PM_{2.5}$ Nonattainment Area Plans

Upon reclassification as a Serious nonattainment area for the 2012 $PM_{2.5}$ NAAQS, California will be required to submit additional SIP revisions to satisfy the statutory requirements that apply to Serious $PM_{2.5}$ nonattainment areas, including the requirements of subpart 4 of part D, title I of the Act.

The Serious area SIP elements that California will be required to submit are as follows:

1. Provisions to assure that the best available control measures (BACM),[235] including best available control technology (BACT) for stationary sources, for the control of direct $PM_{2.5}$ and $PM_{2.5}$ precursors shall be implemented no later than 4 years after the area is reclassified (CAA section 189(b)(1)(B));

2. a demonstration (including air quality modeling) that the plan provides for attainment as expeditiously as practicable but no later than December 31, 2025, or where the state is seeking an extension of the attainment date under section 188(e), a demonstration that attainment by December 31, 2025 is impracticable and that the plan provides for attainment by the most expeditious alternative date practicable and no later than December 31, 2030 (CAA sections 189(b)(1)(A), 188(c)(2), and 188(e));

3. plan provisions that require reasonable further progress (RFP) (CAA 172(c)(2));

4. quantitative milestones that are to be achieved every three years until the area is redesignated attainment and that demonstrate RFP toward attainment by the applicable date (CAA section 189(c));

5. provisions to assure that control requirements applicable to major stationary sources of $PM_{2.5}$ also apply to major stationary sources of $PM_{2.5}$ precursors, except where the state demonstrates to the EPA's satisfaction that such sources do not contribute significantly to $PM_{2.5}$ levels that exceed the standard in the area (CAA section 189(e));

6. a comprehensive, accurate, current inventory of actual emissions from all sources of $PM_{2.5}$ and $PM_{2.5}$ precursors in the area (CAA section 172(c)(3));

7. contingency measures to be implemented if the area fails to meet RFP or to attain by the applicable attainment date (CAA section 172(c)(9)); and

8. a revision to the NNSR program to lower the applicable ''major stationary source'' [236] thresholds from 100 tpy to 70 tpy (CAA section 189(b)(3)) and to satisfy the subpart 4 control requirements for major stationary sources of $PM_{2.5}$ precursors (CAA section 189(e)).

As discussed in section V.E of this proposed rule, California submitted NNSR SIP revisions for the South Coast to address the subpart 4 NNSR requirements for Serious $PM_{2.5}$ nonattainment areas on May 8, 2017, and the EPA conditionally approved these NNSR SIP revisions on November 30, 2018.[237] The State fulfilled the commitment that provided the basis for the EPA's conditional approval of these NNSR SIP revisions by submitting a revised version of Rule 1325 (''Federal $PM_{2.5}$ New Source Review Program'') on April 24, 2019.

Finally, reclassification of the South Coast area as Serious nonattainment for the 2012 $PM_{2.5}$ standard would lower the de minimis threshold under the CAA's General Conformity requirements (40 CFR part 93, subpart B) from 100 tpy to 70 tpy for $PM_{2.5}$ and $PM_{2.5}$ precursors.[238] In this case, however, reclassification would have no impact on the applicable General Conformity de minimis thresholds, because the South Coast area is already subject to the 70 tpy de minimis threshold for $PM_{2.5}$ and all $PM_{2.5}$ precursors as a result of the EPA's previous action reclassifying the area as Serious nonattainment for the 2006 $PM_{2.5}$ NAAQS.[239]

C. Statutory Deadline for Submittal of the Serious Area Plan

For an area reclassified as a Serious nonattainment area before the applicable attainment date under CAA section 188(b)(1), section 189(b)(2) requires the state to submit the required BACM provisions ''no later than 18 months after reclassification of the area as a Serious Area'' and to submit the required attainment demonstration ''no later than 4 years after reclassification of the area to Serious.'' Section 189(b)(2) establishes outer bounds on the SIP submission deadlines as necessary or appropriate to assure consistency among the required submissions and to implement the statutory requirements.

The Act provides the state with up to 18 months after final reclassification of an area to Serious to submit the required BACM provisions. Because an up-to-date emissions inventory serves as the foundation for a state's BACM/BACT determination, the $PM_{2.5}$ SIP Requirements Rule requires the state to submit the emissions inventory required under CAA section 172(c)(3) within 18 months after the effective date of final reclassification.[240] Similarly, because an effective evaluation of BACM/BACT measures requires evaluation of the precursor pollutants that must be controlled to provide for expeditious attainment in the area, if the state chooses to submit an optional precursor insignificance demonstration to support a determination to exclude a $PM_{2.5}$ precursor from the required control measure evaluations for the area, the EPA requires that the state submit any such demonstration by this same date. An 18-month timeframe for submission of these plan elements is consistent with both the timeframe for submission of BACM/BACT provisions under CAA section 189(b)(2) and the timeframe for submission of subpart 1 plan elements under section 172(b) of the Act.[241]

The $PM_{2.5}$ SIP Requirements Rule also establishes a specific deadline for submission of the attainment demonstration and attainment-related plan elements following discretionary reclassification, which is the earlier of (1) four years from the date of reclassification, or (2) the end of the eighth calendar year after designation.[242] In this case, the earlier of these two dates will be the end of the eighth calendar year after designation—*i.e.,* December 31, 2023. The attainment-related plan elements required within the same timeframe as the attainment demonstration are: (1) The RFP demonstration required under section 172(c)(2); (2) the quantitative milestones

Maricopa County, Arizona but generally upholding the EPA's interpretation of CAA section 188(e)).

[235] The EPA defines BACM as, among other things, the maximum degree of emission reduction achievable for a source or source category, which is determined on a case-by-case basis considering energy, environmental, and economic impacts. (Addendum, 42010 and 42014). BACM must be implemented for all categories of sources in a Serious $PM_{2.5}$ nonattainment area unless the State adequately demonstrates that a particular source category does not contribute significantly to nonattainment of the $PM_{2.5}$ standard. (Id. at 42011, 42012).

[236] For any Serious area, the terms ''major source'' and ''major stationary source'' include any stationary source that emits or has the potential to emit at least 70 tpy of PM_{10} (CAA sections 189(b)(3)).

[237] 83 FR 61551 (establishing December 30, 2019 deadline for the State to correct identified rule deficiencies). Previously, the EPA fully approved NNSR SIP revisions from California to address the NNSR requirements for Moderate $PM_{2.5}$ nonattainment areas. 80 FR 24821 (May 1, 2015).

[238] 40 CFR 93.153(b), 81 FR 58010, 58126.

[239] 81 FR 1514.

[240] 81 FR 58010, 58077.

[241] Section 172(b) requires the EPA to establish, concurrent with nonattainment area designations, a schedule extending no later than 3 years from the date of the nonattainment designation for states to submit plans or plan revisions meeting the applicable requirements of sections 110(a)(2) and 172(c) of the CAA.

[242] 81 FR 58010, 58077.

required under section 189(c); (3) any additional control measures necessary to meet the requirements of section 172(c)(6); and (4) the contingency measures required under section 172(c)(9). Although section 189(b)(2) generally provides for up to four years after a discretionary reclassification for the state to submit the required attainment demonstration, given the timing of this reclassification action less than two years before the Moderate area attainment date, it is appropriate in this case for the EPA to establish an earlier SIP submission deadline to assure timely implementation of the statutory requirements.

Finally, the $PM_{2.5}$ SIP Requirements Rule establishes a regulatory requirement that the state submit revised NNSR program requirements no later than 18 months after final reclassification.[243] The Act does not specify a deadline for the state's submission of SIP revisions to meet NNSR program requirements to lower the ''major stationary source'' threshold from 100 tpy to 70 tpy (CAA section 189(b)(3)) and to address the control requirements for major stationary sources of $PM_{2.5}$ precursors (CAA section 189(e)) [244] following reclassification of a Moderate $PM_{2.5}$ nonattainment area as Serious nonattainment under subpart 4. Pursuant to the EPA's gap-filling authority in CAA section 301(a) and to effectuate the statutory control requirements in section 189 of the Act, the $PM_{2.5}$ SIP Requirements Rule requires the state to submit these NNSR SIP revisions, as well as any necessary analysis of and additional control requirements for major stationary sources of $PM_{2.5}$ precursors, no later than 18 months after the effective date of final reclassification of the South Coast area as Serious nonattainment for the 2012 $PM_{2.5}$ standard. This due date will ensure that necessary control requirements for major sources are established in advance of the required attainment demonstration. An 18-month timeframe for submission of the NNSR SIP revisions also aligns with the statutory deadline for submission of BACM and BACT provisions and the broader analysis of $PM_{2.5}$ precursors for potential controls on existing sources in the area.

Accordingly, if we finalize our proposal to reclassify the South Coast as a Serious nonattainment area for the 2012 $PM_{2.5}$ NAAQS, California will be required to submit the emissions inventory required under CAA section 172(c)(3), the BACM/BACT provisions required under CAA section 189(b)(1)(B), and any NNSR SIP revisions required to satisfy the requirements of CAA sections 189(b)(3) and 189(e) for the 2012 $PM_{2.5}$ NAAQS no later than 18 months after the effective date of a final reclassification action. Additionally, California will be required to submit the Serious area attainment demonstration and all attainment-related plan elements no later than the end of the eighth calendar year after designation—*i.e.,* by December 31, 2023. We note that the 2016 $PM_{2.5}$ Plan submitted on April 27, 2017, includes a Serious area attainment demonstration, an emissions inventory, attainment-related plan elements, and BACM/BACT provisions, which the EPA intends to evaluate and act on through subsequent rulemakings, as appropriate.

VII. Reclassification of Areas of Indian Country

When the South Coast area was designated nonattainment for the 2012 $PM_{2.5}$ NAAQS, five Indian tribes were located within the boundaries of the nonattainment area. These tribes include the Cahuilla Band of Mission Indians of the Cahuilla Reservation, the Morongo Band of Mission Indians, the Ramona Band of Cahuilla, the San Manuel Band of Mission Indians, and the Soboba Band of Luiseno Indians. At that time, the main body of land belonging to the Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation was expressly excluded from the South Coast 2012 $PM_{2.5}$ nonattainment area. However, since designations, the tribe acquired the Meadowbrook parcel, which is located approximately 30 miles northwest of the northern boundary of the Reservation and is located within the 2012 $PM_{2.5}$ nonattainment area.

We have considered the relevance of our proposal to reclassify the South Coast area as Serious nonattainment for the 2012 $PM_{2.5}$ standard for each tribe located within the South Coast area. We believe that the same facts and circumstances that support the proposal for the non-Indian country lands also support the proposal for reservation areas of Indian country [245] and any other areas of Indian country where the EPA or a tribe has demonstrated that the tribe has jurisdiction located within the South Coast nonattainment area. The EPA is therefore proposing to exercise our authority under CAA section 188(b)(1) to reclassify areas of Indian country geographically located in the South Coast nonattainment area. Section 188(b)(1) broadly authorizes the EPA to reclassify a nonattainment area—including any Indian country located within such an area—that the EPA determines cannot practicably attain the relevant standard by the applicable attainment date.

Directly-emitted $PM_{2.5}$ and its precursor pollutants (NO_X, SO_2, VOC, and ammonia) are emitted throughout a nonattainment area and can be transported throughout that nonattainment area. Therefore, boundaries for nonattainment areas are drawn to encompass both areas with direct sources of the pollutant problem as well as nearby areas in the same airshed. Initial classifications of nonattainment areas are coterminous with, that is, they match exactly, their boundaries. The EPA believes this approach best ensures public health protection from the adverse effects of $PM_{2.5}$ pollution. Therefore, it is generally counterproductive from an air quality and planning perspective to have a disparate classification for a land area located within the boundaries of a nonattainment area, such as the reservation areas of Indian country contained within the South Coast $PM_{2.5}$ nonattainment area. Violations of the 2012 $PM_{2.5}$ standard, which are measured and modeled throughout the nonattainment area, as well as shared meteorological conditions, would dictate the same conclusion. Furthermore, emissions increases in portions of a $PM_{2.5}$ nonattainment area that are left classified as Moderate could counteract the effects of efforts to attain the standard within the overall area because less stringent requirements would apply in those Moderate portions relative to those that would apply in the portions of the area reclassified to Serious.

Uniformity of classification throughout a nonattainment area is thus a guiding principle and premise when an area is being reclassified. In this

[243] Id. at 58078.

[244] Section 189(e) requires that the control requirements applicable to major stationary sources of $PM_{2.5}$ also apply to major stationary sources of $PM_{2.5}$ precursors, except where the state demonstrates to the EPA's satisfaction that such sources do not contribute significantly to $PM_{2.5}$ levels that exceed the standard in the area.

[245] ''Indian country'' as defined at 18 U.S.C. 1151 refers to: ''(a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.''

particular case, we are proposing to determine, based on the State's demonstration and current ambient air quality trends, that the entire South Coast nonattainment area, including all reservations areas of Indian country and any other area located within the South Coast where a tribe has jurisdiction, cannot practicably attain the 2012 $PM_{2.5}$ standard by the applicable Moderate area attainment date of December 31, 2021.

In light of the considerations outlined above that support retention of a uniformly-classified $PM_{2.5}$ nonattainment area, and our proposal to find that it is impracticable for the area to attain by the applicable attainment date, we propose to reclassify the entire South Coast nonattainment area, including reservation areas of Indian country and any other area of Indian country located within it where the EPA or a tribe has demonstrated that the tribe has jurisdiction, as Serious nonattainment for the 2012 $PM_{2.5}$ standard.

Generally, the effect of reclassification is to lower the applicable ''major source'' threshold for purposes of the NNSR program and the Title V operating permit program from 100 tpy to 70 tpy,[246] thus subjecting more new or modified stationary sources to these requirements. Reclassification also lowers the de minimis threshold under the CAA's General Conformity requirements from 100 tpy to 70 tpy.[247] In this case, however, reclassification would not change the ''major source'' thresholds because, as a result of the EPA's January 2016 reclassification of the South Coast area as a ''Serious'' nonattainment area for the 2006 $PM_{2.5}$ NAAQS, the area is already subject to the 70 tpy major source threshold for Serious $PM_{2.5}$ nonattainment areas in CAA section 189(b)(3).[248] Likewise, reclassification would have no impact on the applicable General Conformity de minimis thresholds, because the South Coast area is already subject to the 70 tpy de minimis threshold for $PM_{2.5}$ and all $PM_{2.5}$ precursors as a result of the EPA's previous reclassification of the area as Serious for the 2006 $PM_{2.5}$ NAAQS.[249]

The EPA has contacted tribal officials to invite government-to-government consultation on this rulemaking effort.[250] The EPA specifically solicits additional comment on this proposed rule from tribal officials. We note that although eligible tribes may seek EPA approval of relevant tribal programs under the CAA, none of the affected tribes will be required to submit an implementation plan as a result of this reclassification.

VIII. Summary of Proposed Actions and Request for Public Comment

Under CAA section 110(k)(3), the EPA is proposing to approve the following elements of the 2016 $PM_{2.5}$ Plan submitted by California to address the CAA's Moderate area planning requirements for the 2012 $PM_{2.5}$ NAAQS in the South Coast nonattainment area:

1. The 2012 base year emissions inventories as meeting the requirements of CAA section 172(c)(3);
2. the reasonably available control measures/reasonably available control technology demonstration as meeting the requirements of CAA sections 172(c)(1) and 189(a)(1)(C);
3. the demonstration that attainment by the Moderate area attainment date of December 31, 2021 is impracticable as meeting the requirements of CAA section 189(a)(1)(B)(ii);
4. the reasonable further progress demonstration as meeting the requirements of CAA section 172(c)(2);
5. the quantitative milestones as meeting the requirements of CAA section 189(c);
6. the motor vehicle emissions budgets for 2019 and 2022 as shown in Table 8 of this proposed rule because they are derived from an approvable RFP demonstration and meet the requirements of CAA section 176(c) and 40 CFR part 93, subpart A; and
7. the SCAQMD's commitments to adopt and implement specific rules and measures in accordance with the schedule provided in Chapter 4 of the 2016 $PM_{2.5}$ Plan to achieve the emission reductions shown therein, and to submit these rules and measures to CARB for transmittal to the EPA as a revision to the SIP, as stated on page 9 of SCAQMD Governing Board Resolution 17–2.

The EPA is also proposing to conditionally approve the contingency measure element of the 2016 $PM_{2.5}$ Plan as meeting the requirements of CAA section 172(c)(9) for the 2006 $PM_{2.5}$ NAAQS and the 2012 $PM_{2.5}$ NAAQS.

Finally, pursuant to CAA section 188(b)(1), the EPA is proposing to reclassify the South Coast $PM_{2.5}$ nonattainment area, including reservation areas of Indian country and any other area where the EPA or a tribe has demonstrated that a tribe has jurisdiction within the South Coast area, as Serious nonattainment for the 2012 $PM_{2.5}$ standard based on the agency's determination that the South Coast area cannot practicably attain the standard by the Moderate area attainment date of December 31, 2021. Upon final reclassification as a Serious area, California will be required to submit, within 18 months after the effective date of the reclassification, provisions to assure that BACM shall be implemented no later than 4 years after the date of reclassification. California will also be required to submit, by December 31, 2023, a Serious area plan that satisfies the requirements of part D of title I of the Act. This plan must include a demonstration that the South Coast area will attain the 2012 $PM_{2.5}$ standard as expeditiously as practicable but no later than December 31, 2025, or by the most expeditious alternative date practicable and no later than December 31, 2030, in accordance with the requirements of CAA sections 189(b) and 188(e).

We note that the 2016 $PM_{2.5}$ Plan submitted on April 27, 2017, includes a Serious area attainment demonstration, an emissions inventory, attainment-related plan elements, and BACM/BACT provisions, which the EPA intends to evaluate and act on through subsequent rulemakings, as appropriate.

In addition, because the EPA is proposing to similarly reclassify reservation areas of Indian country and any other area of Indian country where the EPA or a tribe has demonstrated that the tribe has jurisdiction within the South Coast $PM_{2.5}$ nonattainment area as Serious nonattainment for the 2012 $PM_{2.5}$ standard, consistent with our proposed reclassification of the surrounding non-Indian country lands, the EPA has invited consultation with interested tribes concerning this issue. Although eligible tribes may seek the EPA's approval of relevant tribal programs under the CAA, none of the affected tribes will be required to submit an implementation plan as a result of this reclassification.

We will accept comments from the public on these proposals for the next 30 days. The deadline and instructions for submission of comments are provided in the **DATES** and **ADDRESSES** sections at the beginning of this preamble.

IX. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air

[246] CAA sections 189(b)(3) and 501(2)(B).

[247] 40 CFR part 93, subpart B.

[248] 81 FR 1514.

[249] Id. and 40 CFR 93.153(b).

[250] We sent letters dated January 22, 2020 to tribal officials offering government-to-government consultation.

Act. Accordingly, this proposed action merely proposes to approve, or conditionally approve, state plans as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

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

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

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Environmental protection, Air pollution control, Particulate matter.

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

Dated: June 5, 2020.

John Busterud,

Regional Administrator, Region IX.

[FR Doc. 2020–12690 Filed 7–1–20; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL REGISTER

Vol. 85 Thursday,
No. 128 July 2, 2020

Part IV

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Chapter 1
Federal Acquisition Regulations; Final Rules

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR–2020–0051, Sequence No. 3]

Federal Acquisition Regulation; Federal Acquisition Circular 2020–07; Introduction

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Summary presentation of final rules.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rules agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) in this Federal Acquisition Circular (FAC) 2020–07. A companion document, the *Small Entity Compliance Guide (SECG),* follows this FAC.

DATES: For effective dates see the separate documents published in the RULES section of this issue of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: The analyst whose name appears in the table below in relation to the FAR case. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.*

RULE LISTED IN FAC 2020–07

Item	Subject	FAR case	Analyst
I	Requirements for DD Form 254, Contract Security Classification Specification	2015–002	Glover.
II	Increased Micro-Purchase and Simplified Acquisition Thresholds	2018–004	Jackson.
III	Evaluation Factors for Multiple-Award Contracts	2017–010	Jackson.
IV	Modifications to Cost or Pricing Data Requirements	2018–005	Delgado.
V	Orders Issued Via Fax or Electronic Commerce	2018–022	Glover.
VI	Technical Amendments.		

ADDRESSES: The FAC, including the SECG, is available via the internet at *https://www.regulations.gov.*

SUPPLEMENTARY INFORMATION: Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these FAR rules, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2020–07 amends the FAR as follows:

Item I—Requirements for DD Form 254, Contract Security Classification Specification (FAR Case 2015–002)

This final rule amends the FAR to provide procedures for use of the DD Form 254, Contract Security Classification Specification, and the use of the Procurement Integrated Enterprise Environment (PIEE) for electronic submission to streamline the submission process. It requires use of the DD Form 254 by DoD components, and by nondefense agencies that have industrial security services agreements with DoD, and requires the use of the National Industrial Security Program Contracts Classification System module of the PIEE, unless the nondefense agency has an existing DD Form 254 information system.

Item II—Increased Micro-Purchase and Simplified Acquisition Thresholds (FAR Case 2018–004)

This final rule increases the micro-purchase threshold (MPT) from $3,500 to $10,000, increases the simplified acquisition threshold (SAT) from $150,000 to $250,000, and increases the special emergency procurement authority in paragraph (2) from $300,000 to $500,000. The rule also clarifies certain procurement terms, as well as aligns some non-statutory thresholds with the MPT and SAT. It implements section 217(b) of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017 and sections 805, 806, and 1702(a) of the NDAA for FY 2018.

This final rule will likely have a positive significant economic impact on a substantial number of small entities.

Item III—Evaluation Factors for Multiple-Award Contracts (FAR Case 2017–010)

DoD, GSA, and NASA are issuing a final rule amending the FAR to implement section 825 of the National Defense Authorization Act for Fiscal Year 2017 (Pub. L. 114–328). The final rule modifies the requirement to consider price or cost as an evaluation factor for the award of certain multiple-award task order contracts issued by DoD, NASA, and the Coast Guard. Specifically, the rule provides that, at the Government's discretion, solicitations for multiple-award contracts for the same or similar services that state the Government intends to award a contract to each qualifying offeror do not require price or cost as an evaluation factor for contract award. This exception does not apply to solicitations for multiple-award contracts that provide for sole source orders pursuant to 8(a) of the Small Business Act (15 U.S.C. 637(a)). When price or cost is not evaluated during contract award, the contracting officer shall consider price or cost as a factor for the award of each order under the contract. Section 825 also amends 10 U.S.C. 2304c(b) to add exemptions for the use of competitive procedures when placing an order under a multiple-award contract.

Item IV—Modifications to Cost or Pricing Data Requirements (FAR Case 2018–005)

This final rule increases the threshold for requesting certified cost or pricing data from $750,000 to $2 million for contracts entered into after June 30, 2018. For earlier contracts, contractors may request a modification to use the new clause Alternates, with the new $2 million threshold for subcontracts awarded on or after July 1, 2018. The rule implements section 811 of the National Defense Authorization Act for Fiscal Year 2018, Public Law 115–91.

This final rule will not have a significant economic impact on a substantial number of small entities.

Item V—Orders Issued Via Fax or Electronic Commerce (FAR Case 2018–022)

This final rule amends a FAR clause to permit the issuance of task or delivery orders via facsimile or electronic commerce and clarify when an order is considered ''issued'' when using these methods. As a result, contracting officers will no longer need to include supplemental ordering language in the contract when anticipating the use of fax or electronic commerce to issue task or delivery orders. The authority to issue orders orally must still be separately authorized in the contract. A common understanding of when a task or delivery order is considered issued, in such situations, will be applied Governmentwide.

Item VI—Technical Amendments

Editorial changes are made at FAR 5.205, 9.109–4, 27.405–3, 52.209–13, and 52.212–5.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Federal Acquisition Circular (FAC) 2020–07 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator of National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2020–07 is effective July 2, 2020 except for Items I, III, IV and V, which are effective August 3, 2020, and item II, which is effective August 31, 2020.

Kim Herrington,

Acting Principal Director, Defense Pricing and Contracting, Department of Defense.

Jeffrey A. Koses,

Senior Procurement Executive/Deputy CAO, Office of Acquisition Policy, U.S. General Services Administration.

William G. Roets, II,

Acting Assistant Administrator, Office of Procurement, National Aeronautics and Space Administration.

[FR Doc. 2020–12761 Filed 7–1–20; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 2, 4, 52, and 53

[FAC 2020–07; FAR Case 2015–002; Item I; Docket No. FAR–2015–0002; Sequence No. 1]

RIN 9000–AN40

Federal Acquisition Regulation: Requirements for DD Form 254, Contract Security Classification Specification

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to require electronic submission of the DD Form 254, Contract Security Classification Specification.

DATES: *Effective:* August 3, 2020.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis E. Glover, Sr., Procurement Analyst, at 202–501–1448 or *curtis.glover@gsa.gov* for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755. Please cite FAR Case 2015–002.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 84 FR 33201 on July 12, 2019, proposing to amend the FAR to update and clarify the requirements for using the DD Form 254, Contract Security Classification Specification. This rule amends the FAR, in part, to provide procedures for use of the DD Form 254 and the requirement to use the Procurement Integrated Enterprise Environment (PIEE), to—

- Streamline the submission process for the existing DD Form 254 and enable businesses to submit an electronic form once, instead of repeated paper submissions;
- Require use of the DD Form 254 by nondefense agencies that have industrial security services agreements with DoD, and DoD components, to specify the security classification for a contract involving access to information classified as ''Confidential,'' ''Secret,'' or ''Top Secret;''
- Require agency preparation of the DD Form 254 using the National Industrial Security Program Contracts Classification System module of the PIEE unless a nondefense agency has an existing DD Form 254 information system.

Five respondents submitted comments on the proposed rule.

II. Discussion and Analysis

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the public comments in the development of the final rule. A discussion of the comments is provided as follows:

A. Summary of Significant Changes

There were no changes from the proposed rule as a result of the public comments received. There were minor editorial changes made to the proposed rule, see Section C below.

B. Analysis of Public Comments

1. Commercial and Government Entity (CAGE) Code Reporting

Comment: Two respondents expressed concern regarding the use of ''Unique CAGE code''; stating that in some instances a facility will have multiple locations with the same CAGE codes. Clarification of the term ''unique'' CAGE code was requested.

Response: In accordance with the National Industrial Security Program Operating Manual (NISPOM) DoD 5220.22–M and FAR 52.204–16(g), each contractor and subcontractor location of performance listed on a DD Form 254 is required to have a unique CAGE code; and registration in the System for Award Management (SAM) is not required for contractor and subcontractor performance locations solely for the purposes of the DD Form 254. FAR 52.204–16, Commercial and Government Entity (CAGE) Code Reporting, as prescribed at FAR 4.1804(a), is amended to add paragraph (g) to require subcontractors requiring access to classified information under a contract to be identified with a CAGE code on the DD Form 254. Contractors shall ensure that a subcontractor requiring access to classified information provide its CAGE code with its name and location address or otherwise include it prominently in the proposal. In addition, each location of subcontractor performance must be listed on the DD Form 254 and is required to reflect a corresponding unique CAGE code for each listed location unless the work is being performed at a Government facility, in

which case the agency location code shall be used. The CAGE code must be for that name and location address. The CAGE code is required prior to award. Each listed location must have a unique CAGE code classifying only a single location.

Comment: Two respondents opposed the removal of the current CAGE code requirement and stressed the continued need to not increase risk of sharing classified information with an uncleared facility or one where the clearance is no longer active or authorized.

Response: The rule does not decrease the security professional's ability to verify security clearance and safeguarding levels as directed by NISPOM via the National Industrial Security System (NISS). The rule will require electronic submission of the DD Form 254, Contract Security Classification Specification.

2. DD Form 254

Comment: Two respondents recommended submission of the DD Form 254 by company name with an ''option'' to file by CAGE code and if possible link the form to the website for storage and potential reuse to avoid uploading as part of an application ''process'' via the contractor's tools and processes for DD Form 254 submission.

Response: The intent of the rule is for use of the DD Form 254 for each specific contractual requirement requiring access to classified information. While the NISS website does not currently link to the DD Form 254 repository, Defense Counterintelligence and Security Agency will evaluate that capability during future assessment of requirements.

3. Support for the Rule

Comment: Two respondents acknowledged that streamlining the DD Form 254 for electronic submission via the National Industrial Security Program (NISP) Contracts Classification System is beneficial as well as clarification of the SAM requirements.

Response: The Government acknowledges the benefits with establishment of the rule to provide streamlined submission process procedures for use of the DD Form 254 through the PIEE, to enable businesses to submit an electronic form once, instead of repeated paper submissions.

4. Paperwork Reduction Act Applicability

Comment: One respondent conveyed concerns regarding the Paperwork Reduction Act burdens associated with the use of DD Form 254.

Response: The Paperwork Reduction Act (44 U.S.C. chapter 35) applies; however, the proposed changes to the FAR do not impose additional information collection requirements to the paperwork burden previously approved under the Office of Management and Budget (OMB) Control Number 0704–0567, entitled ''Department of Defense Contract Security Classification Specification''.

5. Out of Scope

Comment: One respondent commented on a variety of topics unrelated to the rule.

Response: Comments are out of scope.

C. Other Changes

There were minor administrative revisions to the format of the provision FAR 52.204–16, Commercial and Government Entity Code Reporting, and the clause FAR 52.204–18, Commercial and Government Entity Code Maintenance, including deleting use of the alternates at FAR 52.204–16(g) and FAR 52.204–18(f), incorporating the paragraphs at FAR 52.204–16(g) and FAR 52.204–18(f) into the base clause for clarity. Additionally, there were minor clarifying edits to the FAR text at FAR 4.402(d)(1) and (2), FAR 4.403(c)(1), and 52.204–16(b) and (g). As a result of conforming changes, revisions to FAR 4.1804 will no longer be required.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT) and for Commercial Items, Including Commercially Available Off-the-Shelf (COTS) Items

This rule does not create any new provisions or clauses, nor does it change the applicability of any existing provisions or clauses included in solicitations and contracts valued at or below the SAT, or for commercial items, including COTS items.

IV. Executive Orders 12866 and 13563

E.O.s 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

V. Executive Order 13771

This rule is not subject to E.O. 13771, Reducing Regulation and Controlling Regulatory Costs, because this rule is not a significant regulatory action under E.O. 12866.

VI. Regulatory Flexibility Act

DoD, GSA, and NASA have prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The FRFA is summarized as follows:

This final rule is to revise the FAR to update and clarify the requirements for using the DD Form 254, Contract Security Classification Specification. The Government uses the DD Form 254 to convey security requirements to contractors when contract performance requires access to classified information. Prime contractors also use the DD Form 254 to convey security requirements to subcontractors that require access to classified information to perform on a subcontract. Subcontractors may also use the DD Form 254 if access to classified information is required to convey security requirements to additional subcontractors.

There were no significant issues raised by the public comments in response to the initial regulatory flexibility analysis.

The final rule will apply to small businesses awarded contracts or subcontracts by Executive agencies covered by the National Industrial Security Program that require access to classified information. Currently, the Defense Security Service monitors approximately 13,500 contractor facilities that are cleared for access to classified information. Approximately 9,000 facilities are considered less-complex, which includes small businesses and smaller security operations. Subject matter experts estimate that 5,400 (60 percent) of the 9,000 less-complex facilities are small businesses.

The final rule does not impose any Paperwork Reduction Act reporting, recordkeeping, or other compliance requirements on any small entities. The rule does not impose any new reporting, recordkeeping or other compliance requirements. The rule does not duplicate, overlap, or conflict with any other Federal rules.

DoD, GSA, and NASA were unable to identify any alternatives to the rule which would reduce the impact on small entities and still meet the requirements of the rule.

Interested parties may obtain a copy of the FRFA from the Regulatory Secretariat Division. The Regulatory Secretariat Division has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

VII. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) applies; however, the changes to the FAR do not impose

additional information collection requirements to the paperwork burden previously approved under the Office of Management and Budget (OMB) Control Number 0704–0567, entitled ''Department of Defense Contract Security Classification Specification''.

The rule addresses use of CAGE codes on the DD Form 254, however, it does not impact information collection requirements concerning the CAGE code, OMB Control Number 9000–0185, Commercial and Government Entity Code.

List of Subjects in 48 CFR Parts 1, 2, 4, 52, and 53

Government procurement.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 1, 2, 4, 52, and 53 as set forth below:

■ 1. The authority citation for 48 CFR parts 1, 2, 4, 52, and 53 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

■ 2. In section 1.106 amend the table following by adding an entry for ''DD Form 254'' at the end of the table to read as follows:

1.106 OMB approval under the Paperwork Reduction Act.

FAR segment	OMB control No.
* * * * *	
DD Form 254	0706–0567

PART 2—DEFINITIONS OF WORDS AND TERMS

■ 3. In section 2.101, amend paragraph (b) by adding in alphabetical order the defined term ''Commercial and Government Entity (CAGE) code'' to read as follows:

2.101 Definitions.

* * * * *

Commercial and Government Entity (CAGE) code means—

(1) An identifier assigned to entities located in the United States or its outlying areas by the Defense Logistics Agency (DLA) Commercial and Government Entity (CAGE) Branch to identify a commercial or government entity by unique location; or

(2) An identifier assigned by a member of the North Atlantic Treaty Organization (NATO) or by the NATO Support and Procurement Agency (NSPA) to entities located outside the United States and its outlying areas that the DLA Commercial and Government Entity (CAGE) Branch records and maintains in the CAGE master file. This type of code is known as a NATO CAGE (NCAGE) code.

* * * * *

PART 4—ADMINISTRATIVE AND INFORMATION MATTERS

■ 4. Amend section 4.402 by—

■ a. Removing from paragraph (b) introductory text ''and the Director of Central Intelligence,'' and adding ''the Director of National Intelligence, and the Secretary of Homeland Security'' in its place;

■ b. Removing from paragraph (b)(2) ''Industrial Security Regulation (DOD 5220.22–R).'' and adding ''DoD Manual 5220.22, Volume 2, ''National Industrial Security Program: Industrial Security Procedures for Government Activities.''' in its place; and

■ c. Redesignating paragraph (d) as (e), and adding a new paragraph (d) to read as follows:

4.402 General.

* * * * *

(d) Nondefense agencies that have industrial security services agreements with DoD, and DoD components, shall use the DD Form 254, Contract Security Classification Specification, to provide security classification guidance to U.S. contractors, and subcontractors as applicable, requiring access to information classified as ''Confidential'', ''Secret'', or ''Top Secret''.

(1) Provided that the data submittal is unclassified, the DD Form 254 shall be completed electronically in the NISP Contract Classification System (NCCS), which is accessible via the Procurement Integrated Enterprise Environment (PIEE) at *https://wawf.eb.mil.* Nondefense agencies with an existing DD Form 254 information system may use that system.

(2)(i) A contractor, or subcontractor (if applicable), requiring access to classified information under a contract shall be identified with a Commercial and Government Entity (CAGE) code on the DD Form 254 (see subpart 4.18 for information on obtaining and validating CAGE codes).

(ii) Each location of contractor or subcontractor performance listed on the DD Form 254 is required to reflect a corresponding unique CAGE code for each listed location unless the work is being performed at a Government facility, in which case the agency location code shall be used. Each subcontractor location requiring access to classified information must be listed on the DD Form 254.

(iii) Contractor and subcontractor performance locations listed on the DD Form 254 are not required to be separately registered in the System for Award Management (SAM) solely for the purposes of a DD Form 254 (see subpart 4.11 for information on registering in SAM).

* * * * *

■ 5. Amend section 4.403 by removing from paragraph (c) introductory text ''contract as follows'' and adding ''contract as identified in the requirement documentation as follows'' in its place, and revising paragraph (c)(1) to read as follows:

4.403 Responsibilities of contracting officers.

* * * * *

(c) * * *

(1) Nondefense agencies that have industrial security services agreements with DoD, and DoD components, shall use the Contract Security Classification Specification, DD Form 254. The contracting officer, or authorized agency representative, is the approving official for the DD Form 254 associated with the prime contract and shall ensure the DD Form 254 is properly prepared, distributed by and coordinated with requirements and security personnel in accordance with agency procedures, see 4.402(d)(1).

* * * * *

4.1801 [Amended]

■ 6. Amend section 4.1801 by removing the defined term ''Commercial and Government Entity (CAGE) code''.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 7. Amend section 52.204–16 by—

■ a. Revising the date of the provision;

■ b. Removing from the end of paragraph (a)(1) ''entity; or'' and adding ''entity by unique location; or'' in its place;

■ c. Revising paragraph (b);

■ d. In paragraph (c)(2) removing the word ''offeror'' and adding ''Offeror'' in its places;

■ e. Revising paragraph (e); and

■ f. Adding paragraph (g).

The revisions and addition read as follows:

52.204–16 Commercial and Government Entity Code Reporting.

* * * * *

Commercial and Government Entity Code Reporting (Aug 2020)

* * * * *

(b) The Offeror shall provide its CAGE code with its offer with its name and location address or otherwise include it prominently in its proposal. The CAGE code must be for that name and location address. Insert the word ''CAGE'' before the number. The CAGE code is required prior to award.

* * * * *

(e) When a CAGE code is required for the immediate owner and/or the highest-level owner by Federal Acquisition Regulation (FAR) 52.204–17 or 52.212–3(p), the Offeror shall obtain the respective CAGE code from that entity to supply the CAGE code to the Government.

* * * * *

(g) If the solicitation includes FAR clause 52.204–2, Security Requirements, a subcontractor requiring access to classified information under a contract shall be identified with a CAGE code on the DD Form 254. The Contractor shall require a subcontractor requiring access to classified information to provide its CAGE code with its name and location address or otherwise include it prominently in the proposal. Each location of subcontractor performance listed on the DD Form 254 is required to reflect a corresponding unique CAGE code for each listed location unless the work is being performed at a Government facility, in which case the agency location code shall be used. The CAGE code must be for that name and location address. Insert the word ''CAGE'' before the number. The CAGE code is required prior to award.

(End of provision)

■ 8. Amend section 52.204–17 by revising the title and the date of the provision and removing from paragraph (a)(1) ''entity; or'' and adding ''entity by unique location; or'' in its place.

The revision reads as follows:

52.204–17 Ownership or Control of Offeror.

* * * * *

Ownership or Control of Offeror (Aug 2020)

* * * * *

■ 9. Amend section 52.204–18 by—

■ a. Revising the date of the clause;

■ b. Removing from paragraph (a)(1) ''entity; or'' and adding ''entity by unique location; or'' in its place;

■ c. Revising the first sentence of paragraph (b); and

■ d. Adding paragraph (f).

The revisions and addition read as follows:

52.204–18 Commercial and Government Entity Code Maintenance.

* * * * *

Commercial and Government Entity Code Maintenance (Aug 2020)

* * * * *

(b) Contractors shall ensure that the CAGE code is maintained throughout the life of the contract for each location of contract, including subcontract, performance. * * *

* * * * *

(f) If the contract includes Federal Acquisition Regulation clause 52.204–2, Security Requirements, the contractor shall ensure that subcontractors maintain their CAGE code(s) throughout the life of the contract.

(End of clause)

■ 10. Amend section 52.204–20 by—

■ a. Revising the date of the provision; and

■ b. Removing from paragraph (a)(1) ''entity; or'' and adding ''entity by unique location; or'' in its place.

The revision reads as follows:

52.204–20 Predecessor of Offeror.

* * * * *

Predecessor of Offeror (Aug 2020)

* * * * *

PART 53—FORMS

■ 11. Amend section 53.204–1 by revising the introductory text to read as follows:

53.204–1 Safeguarding classified information within industry (DD Form 254, DD Form 441).

The following forms, which are prescribed by the Department of Defense, shall be used by DoD components and those nondefense agencies with which DoD has agreements to provide industrial security services for the National Industrial Security Program if contractor access to classified information is required, as specified in subpart 4.4 and the clause at 52.204–2:

* * * * *

53.300 [Amended]

■ 12. In section 53.300 amend the table in paragraph (b) in the table 53–2 by removing from Form DD 254 url, *http://www.dtic.mil/whs/directives/forms/eforms/dd0254.pdf* and adding *https://www.esd.whs.mil/Portals/54/Documents/DD/forms/dd/dd0254.pdf;* and removing from Form DD 441 url, *http://www.dtic.mil/whs/directives/forms/eforms/dd0441_2017.pdf* and adding *https://www.esd.whs.mil/Portals/54/Documents/DD/forms/dd/dd0441_2020.pdf* in their places, respectively.

[FR Doc. 2020–12762 Filed 7–1–20; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 3, 9, 13, 16, 22, 25, and 52

[FAC 2020–07; FAR Case 2018–004; Item II; Docket No. FAR–2018–0011; Sequence No. 1]

RIN 9000–AN65

Federal Acquisition Regulation: Increased Micro-Purchase and Simplified Acquisition Thresholds

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement a section of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017 and several sections of the NDAA for FY 2018 that increase the micro-purchase threshold (MPT), increase the simplified acquisition threshold (SAT), and clarify certain procurement terms, as well as align some non-statutory thresholds with the MPT and SAT.

DATES: *Effective:* August 31, 2020.

FOR FURTHER INFORMATION CONTACT: Mr. Michael O. Jackson, Procurement Analyst, at 202–208–4949 or *michaelo.jackson@gsa.gov* for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755. Please cite FAC 2020–07, FAR Case 2018–004.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published a proposed rule on October 2, 2019, at 84 FR 52420, to implement section 217(b) of the NDAA for FY 2017 (Pub. L. 114–328) and sections 805, 806, and 1702(a) of the NDAA for FY 2018 (Pub. L. 115–91).

Section 217(b) amends 41 U.S.C. 1902 to increase the MPT for acquisitions from institutions of higher education or related or affiliated nonprofit entities, or from nonprofit research organizations or independent research institutes, from $3,500 to $10,000, or a higher amount as determined appropriate by the head of the agency and consistent with clean

audit findings under 31 U.S.C. Chapter 75, an internal institutional risk assessment, or State law.

Section 806 increases the MPT in 41 U.S.C. 1902(a) to $10,000.

Section 805 increases the SAT to $250,000.

Section 1702(a) amends section 15(j)(1) of the Small Business Act (15 U.S.C. 644(j)(1)) to replace specific dollar thresholds with the terms ''micro-purchase threshold'' and ''simplified acquisition threshold.''

These FAR changes also replace non-statutory, stated numerical dollar thresholds that are intended to correspond with the MPT and SAT, with the text ''micro-purchase threshold'' and ''simplified acquisition threshold.'' Referencing some stated thresholds by name instead of by a specific dollar value will ease maintenance of regulations, given the likelihood of future changes to the threshold amounts. Text clarifying the use of the approval thresholds, based on the increase of the SAT, for sole source justifications executed under the simplified procedures for certain commercial items has been added to FAR subpart 13.5.

Six respondents submitted comments on the proposed rule.

II. Discussion and Analysis

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the public comments in the development of the final rule. A discussion of the comments is provided as follows:

A. Summary of Changes

There are no changes as a result of comments on the proposed rule.

B. Analysis of Public Comments

Comment: Several respondents expressed support for the rule.

Response: The Councils acknowledge the public support for the rule.

Comment: One respondent questioned whether the FAR text change at FAR 22.1803 was made in error. This respondent also questioned whether the change should have been at FAR 22.1303 in lieu of FAR 22.1803. The respondent noted that there are two more sections in FAR part 22 that reflect the amount of $150,000, and if they should have been updated to the ''simplified acquisition threshold.''

Response: The change at FAR 22.1803 was not in error; the change from simplified acquisition threshold to $150,000 was intentional. The sections cited by the respondent are not based on the SAT statute but on other statutes: 38 U.S.C. 4212 and 40 U.S.C. 3701(b)(3)(iii). The Councils have no other changes for FAR part 22.

Comment: One respondent commented that the rule proposes a change to the prime contract coverage threshold for E-Verify (FAR 22.1803) from the simplified acquisition threshold to $150,000, thereby not exempting contracts between $150,000 and $250,000, from E-Verify. The respondent stated that by setting the prime contract threshold below the SAT, particularly when the threshold was previously set at the SAT, goes against the spirit of 41 U.S.C. 1905(b)(2).

Response: The Administration has stated its broad desire to ''require the use of the electronic status-verification system (''E-Verify'') to ensure the maintenance of a legal workforce in the United States.'' See: *https://www.whitehouse.gov/briefings-statements/president-donald-j-trumps-letter-house-senate-leaders-immigration-principles-policies/.* Exempting contracts between $150,000 and $250,000 would run counter to the stated policy objective.

C. Other Changes

Some changes included in the proposed rule are not required in the final rule as a result of publication of the final rule under FAR Case 2018–007 in FAC 2020–06 on May 6, 2020, effective June 5, 2020.

III. Expected Impact of the Final Rule and Proposed Cost Savings

DoD, GSA, and NASA have performed a regulatory cost analysis on this rule. The following is a summary of the estimated public and Government cost savings. This rule impacts any business, large or small, that prepares quotes exceeding $3,500 ($5,000 for DoD) and not exceeding $10,000 (or higher for select educational institutions); proposals exceeding $150,000 and not exceeding $250,000; and proposals exceeding $300,000 and not exceeding $500,000, in support of humanitarian or peacekeeping operations. This rule does not add any new solicitation provisions or contract clauses. Rather, it reduces burden on contractors by increasing the thresholds at which various regulatory burdens apply.

Increasing the MPT and SAT means additional awards could be made under the MPT and additional awards could be made under the SAT. The additional awards at or below the MPT would not require provisions or clauses, except as provided in FAR 13.202 and FAR 32.1110, and the additional awards at or below the SAT would be awarded without provisions and clauses which are prescribed only above the SAT. In addition to including fewer regulations in applicable awards, the rule allows more awards based on quotes in lieu of a formal proposal, thereby reducing the contractor's bid and proposal costs. Costs associated with contractor financing could also be reduced by increasing the number of micro-purchases, for which the Governmentwide purchase card is the preferred method of purchase and payment (see FAR 13.201(b)).

To determine the dollar amounts and entities affected, data was pulled from the Federal Procurement Data System (FPDS) from fiscal years 2015–2018. For the micro-purchase value change, there was an annual average in total impacted contract awards of $2,442,317 for small businesses and $1,359,916 for other than small businesses for contracts with values exceeding $3,500 ($5,000 for DOD), but less than or equal to $10,000 (or higher, for educational institutions). For the simplified acquisition threshold change, there was an annual average in total impacted contract awards of $300,073,039 for small businesses and $161,715,144 for other than small businesses for contracts with values exceeding $150,000, but less than or equal to $250,000 (from $300,000 to $500,000 for contingency, humanitarian, or peacekeeping awards).

Commercial item awards, as well as orders placed through indefinite-quantity contract orders and other large contracting schedule orders, were removed from this calculation to determine the cost reduction on offerors and contractors. Commercial items were removed from this calculation because the simplified threshold for commercial item awards is set at $7 million, so the increased SAT threshold would not impact compliance or business procedures for contractors with awards conducted through commercial item procedures. To calculate the burden reduction on Government by raising these thresholds, indefinite-quantity contracts were included, as the threshold changes would impact Government acquisition procedures.

The Federal Acquisition Streamlining Act (FASA) made a number of laws inapplicable to items procured under the SAT. This was meant to save both the Government and service providers money while also expediting the entire contract process. This rule decreases the number of regulatory requirements agencies need to include in awards.

Because this rule reduces bid and proposal costs and other administrative burdens and since it does not implement any new requirements on

offerors, this rule is considered to be deregulatory.

The following is a summary of the estimated public and Government cost savings calculated in perpetuity in 2016 dollars at a 7 percent discount rate:

Summary	Public	Government	Total
Present Value Cost Savings	−$662,413,271	−$2,216,678,757	−$2,879,092,029
Annualized Cost Savings	−46,368,929	−155,167,513	−201,536,442
Annualized Value Cost Savings as of 2016 if Year 1 is 2020	−37,850,858	−126,662,911	−164,513,770

To access the full Regulatory Cost Analysis for this rule, go to the Federal eRulemaking Portal at *www.regulations.gov,* search for ''FAR Case 2018–004,'' click ''Open Docket,'' and view ''Supporting Documents.''

IV. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, Including Commercially Available Off-the-Shelf (COTS) Items

The rule applies to contracts at or below the simplified acquisition threshold, and to contracts for commercial items, including COTS items. However, it does not add any new solicitation provisions or contract clauses, and it reduces burden on contractors by increasing the thresholds at which various regulatory burdens apply.

V. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is an economically significant regulatory action and, therefore, was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is a major rule under 5 U.S.C. 804.

VI. Congressional Review Act

This rule is subject to the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*) and was transmitted to the Congress and to the Comptroller General for review in accordance with such provisions.

VII. Executive Order 13771

This final rule is considered to be an E.O. 13771 deregulatory action. The total annualized value of the cost savings, discounted at a 7 percent rate relative to year 2016 over a perpetual time horizon, is −$164,513,770. Details on the estimated cost savings can be found in Section III of this preamble.

VIII. Regulatory Flexibility Act

DoD, GSA, and NASA have prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The FRFA is summarized as follows:

This rule is required to implement section 217(b) of the NDAA for FY 2017 (Pub. L. 114–328) and sections 805, 806, and 1702(a) of the NDAA for FY 2018 (Pub. L. 115–91). This final rule increases the MPT, increases the SAT, clarifies certain procurement terms, as well as aligns non-statutory, stated dollar thresholds that are intended to correspond with the MPT and SAT, with word-based thresholds to ensure continued alignment with the current increase to these thresholds and any future change to the threshold amounts.

There were no significant issues raised by the public in response to the initial regulatory flexibility analysis.

This rule applies to all entities who do business with the Federal Government. This rule will likely have a positive significant economic impact on a substantial number of small entities. According to data from the Federal Procurement Data System (FPDS), there were 505 contracts awarded in FY 2018 with a value exceeding $3,500 ($5,000 for DOD), but less than or equal to $10,000 wherein contractors would have a change in compliance requirements. Of the 505 new awards, 358 (71 percent) of these actions were awarded to 198 unique small business entities.

Data from FPDS also indicates that in FY 2018, there were no (0) small business entities that had additional contract actions for educational or related institutions for contracts with a value exceeding $10,000, but less than or equal to $15,000 (equivalent to the upper bound of the expected micro-purchase value for these types of institutions) wherein contractors would have a change in compliance requirements.

Data from FPDS also indicates there were 3,653 new contracts awarded in FY 2018 with a value exceeding 150,000, but less than or equal to $250,000 wherein contractors would have a change in compliance requirements. Of these, 2,621 (72 percent) of these actions were awarded to 1,680 unique small business entities.

As mentioned previously, commercial items were removed from this calculation because the simplified threshold for commercial item awards is set at $7 million, so the increased SAT threshold would not impact compliance or business procedures for contractors with awards conducted through commercial item procedures.

Data from the FPDS further indicates that for contingency, humanitarian, or peacekeeping contract actions, there were 11 new total contracts awarded in FY 2018 with a value exceeding $300,000 but less than or equal to $500,000 wherein contractors would have a change in compliance requirements. Of these, 4 (36 percent) of these actions were awarded to 4 unique small business entities.

This rule changes the small business set aside threshold under FAR 19.502; instead of being from greater than $3,500 to less than or equal to $150,000, the threshold will be from greater than $10,000 to less than or equal to $250,000. This is expected to increase the number of small business entities able to do business with the Government; for contracts affected by this threshold change, (please see full regulatory cost analysis for explanation of excepted contract types), in FY 2018, there were 3,653 records exceeding $150,000 and less than or equal to $250,000, while there were 505 records exceeding $3,500 ($5,000 for DOD) and less than or equal to $10,000.

As of September 30, 2017, there were 637,791 active entity registrations in SAM. Of those active entity registrations, 452,310 (71 percent) completed all four modules of the registration, in accordance with the definition ''Registered in the System for Award Management (SAM)'' at FAR 52.204–7(a), including Assertions (where they enter their size metrics and select their NAICS Codes) and Reps & Certs (where they certify to the information they provided and the size indicator by NAICS). Of the possible 452,310 active SAM entity registrations, 338,207 (75 percent) certified to meeting the size standard of small for their primary NAICS Code. Therefore, this rule may be beneficial to 338,207 small business entities that submit solicitation responses that may now fall under the MPT or SAT and have streamlined procedures as a result of this rule.

The rule does not include additional reporting or record keeping requirements.

There are no available alternatives to the rule to accomplish the desired objective of the statute.

Interested parties may obtain a copy of the FRFA from the Regulatory Secretariat Division. The Regulatory Secretariat Division has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

IX. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 2, 3, 9, 13, 16, 22, 25, and 52

Government procurement.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 2, 3, 9, 13, 16, 22, 25, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 2, 3, 9, 13, 16, 22, 25, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 2—DEFINITIONS OF WORDS AND TERMS

■ 2. Amend section 2.101, in paragraph (b) by—

■ a. In the definition ''Micro-purchase threshold'' removing from the introductory text ''$3,500'' and adding ''$10,000'' in its place, removing from paragraph (2) the word ''and'' at the end of the sentence, removing from paragraph (3)(ii) ''States.'' and adding ''States; and'' in its place, and adding paragraph (4); and

■ b. In the definition ''Simplified acquisition threshold'' removing from the introductory text ''$150,000'' and adding ''$250,000'' in its place, and removing from paragraph (2) ''$300,000'' and adding ''$500,000'' in its place.

The addition reads as follows:

2.101 Definitions.

* * * * *

(b) * * *

Micro-purchase threshold * * *

(4) For acquisitions of supplies or services from institutions of higher education (20 U.S.C. 1001(a)) or related or affiliated nonprofit entities, or from nonprofit research organizations or independent research institutes—

(i) $10,000; or

(ii) A higher threshold, as determined appropriate by the head of the agency and consistent with clean audit findings under 31 U.S.C. chapter 75, Requirements for Single Audits; an internal institutional risk assessment; or State law.

* * * * *

PART 3—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

3.502–3 [Amended]

■ 3. Amend section 3.502–3 by removing ''the simplified acquisition threshold'' and adding ''$150,000'' in its place.

PART 9—CONTRACTOR QUALIFICATIONS

9.104–5 [Amended]

■ 4. Amend section 9.104–5 by removing from paragraph (a)(2) ''$3,500'' and adding ''$10,000'' in its place.

9.406–2 [Amended]

■ 5. Amend section 9.406–2 by removing from paragraph (b)(1)(v) ''$3,500'' and adding ''the threshold at 9.104–5(a)(2)'' in its place.

9.407–2 [Amended]

■ 6. Amend section 9.407–2 by removing from paragraph (a)(7) ''$3,500'' and adding ''the threshold at 9.104–5(a)(2)'' in its place.

PART 13—SIMPLIFIED ACQUISITION PROCEDURES

■ 7. Amend section 13.005 by revising paragraph (a) to read as follows:

13.005 List of laws inapplicable to contracts and subcontracts at or below the simplified acquisition threshold.

(a) The following laws are inapplicable to all contracts and subcontracts (if otherwise applicable to subcontracts) at or below the simplified acquisition threshold pursuant to 41 U.S.C. 1905:

(1) 41 U.S.C. 8102(a)(1) (Drug-Free Workplace), except for individuals.

(2) 10 U.S.C. 2306(b) and 41 U.S.C. 3901(b) (Contract Clause Regarding Contingent Fees).

(3) 10 U.S.C. 2313 and 41 U.S.C. 4706 (Authority to Examine Books and Records of Contractors).

(4) 10 U.S.C. 2402 and 41 U.S.C. 4704 (Prohibition on Limiting Subcontractors Direct Sales to the United States).

(5) 15 U.S.C. 631 note (HUBZone Act of 1997), except for 15 U.S.C. 657a(b)(2)(B), which is optional for the agencies subject to the requirements of the Act.

(6) 31 U.S.C. 1354(a) (Limitation on use of appropriated funds for contracts with entities not meeting veterans employment reporting requirements).

(7) 22 U.S.C. 2593e (Measures Against Persons Involved in Activities that Violate Arms Control Treaties or Agreements with the United States). (The requirement at 22 U.S.C. 2593e(c)(3)(B) to provide a certification does not apply).

* * * * *

13.501 [Amended]

■ 8. Amend section 13.501 by removing from paragraph (a)(2)(ii) ''$700,000'' and adding ''$700,000 or the thresholds in paragraph (1) of the definition of simplified acquisition threshold in 2.101,'' in its place.

PART 16—TYPES OF CONTRACTS

16.206–2 [Amended]

■ 9. Amend section 16.206–2 by removing from the introductory text ''$150,000'' and adding ''the simplified acquisition threshold'' in its place.

16.206–3 [Amended]

■ 10. Amend section 16.206–3 by removing from paragraph (a) ''$150,000'' and adding ''the simplified acquisition threshold'' in its place.

16.207–3 [Amended]

■ 11. Amend section 16.207–3 by removing from paragraph (d) ''$150,000'' and adding ''the simplified acquisition threshold'' in its place.

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

22.1803 [Amended]

■ 12. Amend section 22.1803 by removing from the introductory text ''the simplified acquisition threshold'' and adding ''$150,000'' in its place.

PART 25—FOREIGN ACQUISITION

25.703–2 [Amended]

■ 13. Amend section 25.703–2 by removing from paragraph (a)(2) ''$3,500'' and adding ''$10,000'' in its place.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 14. Amend section 52.209–5 by revising the date of the provision and removing from paragraph (a)(1)(i)(D) introductory text ''$3,500'' and adding ''the threshold at 9.104–5(a)(2)'' in its place.

The revision reads as follows:

52.209–5 Certification Regarding Responsibility Matters.

* * * * *

Certification Regarding Responsibility Matters (Aug 2020)

* * * * *

■ 15. Amend section 52.212–3 by—

■ (a) Revising the date of the provision; and

■ (b) Removing from paragraph (h)(4) introductory text ''$3,500'' and adding ''the threshold at 9.104–5(a)(2)'' in its place.

The revision reads as follows:

52.212–3 Offeror Representations and Certifications—Commercial Items.

* * * * *

Offeror Representations and Certifications—Commercial Items (Aug 2020)

* * * * *

[FR Doc. 2020–12763 Filed 7–1–20; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 4, 13, 15, and 16

[FAC 2020–07; FAR Case 2017–010; Item III; Docket No. FAR–2017–0010; Sequence No. 1]

RIN 9000–AN54

Federal Acquisition Regulation: Evaluation Factors for Multiple-Award Contracts

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement a section of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017.

DATES: *Effective:* August 3, 2020.

FOR FURTHER INFORMATION CONTACT: Mr. Michael O. Jackson, Procurement Analyst, at 202–208–4949 or *michaelo.jackson@gsa.gov* for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755. Please cite FAC 2020–07, FAR Case 2017–010.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published a proposed rule at 83 FR 48271 on September 24, 2018, to implement section 825 of the NDAA for FY 2017 (Pub. L. 114–328). Section 825 of the NDAA for FY 2017 amends 10 U.S.C. 2305(a)(3) to modify the requirement to consider price or cost as an evaluation factor for the award of certain multiple-award task-order contracts issued by DoD, NASA, and the Coast Guard. Section 825 provides that, at the Government's discretion, solicitations for multiple-award contracts that will be awarded for the same or similar services and state the Government intends to award a contract to each qualifying offeror do not require price or cost as an evaluation factor for contract award. This exception does not apply to solicitations for multiple-award contracts that provide for sole-source orders pursuant to 8(a) of the Small Business Act (15 U.S.C. 637(a)). When price or cost is not evaluated during contract award, the contracting officer shall consider price or cost as a factor for the award of each order under the contract. In accordance with statute, the rule specifies that, when using the authority of section 825, the solicitation must be for the ''same or similar services.'' This language aligns with the guidance at FAR 16.504(c)(1)(i), which requires contracting officers, to the maximum extent practicable, to give preference to making multiple awards of indefinite-quantity contracts under a single solicitation for the same or similar supplies or services to two or more sources. By ensuring that a solicitation using the authority of section 825 is for the ''same or similar services,'' the contracting officer will avoid situations in which awardees specialize exclusively in one or a few areas within the statement of work, thus creating the likelihood that orders in those areas will be awarded on a sole-source basis (FAR 16.504(c)(1)(ii)(A)) and, in turn, negating the purpose of the statute to obtain price competition at the task order level–where service requirements are apt to be more definite and offers more meaningfully comparable.

Section 825 also amends 10 U.S.C. 2304c(b) to add the exceptions for the use of other than full and open competition found in FAR 6.302 to the list of exceptions to the fair opportunity process at FAR 16.505(b)(2) when placing an order under a multiple-award contract. Contracting officers shall still follow all of the applicable justification documentation, approval, and posting requirements of part 16.5 when providing an exception to the fair opportunity process and using one of the exceptions of FAR 6.302.

Five respondents submitted comments on the proposed rule.

II. Discussion and Analysis

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the public comments in the development of the final rule. No significant changes were made to the rule as a result of public comments. Changes were made to the final rule to clarify the intent of section 825 and the rule text, as a result of public comments. A change is made in the final rule to make the guidance in FAR subpart 4.10 consistent with section 825. A change is made to a sentence in FAR 16.504 to make the text consistent with the policy in FAR part 13. Changes were made to the format of the rule text to enhance readability. The definition of ''qualifying offeror'' is moved from FAR 13.106–1 and FAR 15.304 to FAR part 2. Discussion of the edits and comments are provided as follows:

A. Summary of Changes

FAR subpart 4.10, Uniform Use of Line Items, is amended to align guidance on the information required for a contract line item with usage of the rule. Currently, FAR 4.1005 requires price or cost to be included for each contract line item or subline item. In order to conform the subpart with section 825, the rule amends FAR 4.1005–2 to permit the omission of cost or price at the contract line item or subline item level when awarding multiple-award IDIQ contracts in accordance with the authority of section 825, provided that a total contract minimum and maximum is stated, in accordance with FAR subpart 16.5. This addition does not change the intent of the rule; instead, it conforms internal Government procedures to facilitate use of the rule.

In FAR subpart 16.5, section 16.504, Indefinite-Delivery Contracts, is amended to make the policy for the use of the multiple-award approach consistent with the policy in FAR part 13. Currently, FAR 16.504(c)(1)(ii)(B)(5) states that contracting officers must not use the multiple award approach if the estimated value of the contract is ''less than'' the simplified acquisition threshold (SAT). This statement was included in FAR 16.504 to comply with the policy in FAR 13.003, which requires the use of simplified acquisition procedures (SAP), to the maximum extent practicable, for purchases not exceeding the SAT. This rule changes the text of FAR 16.504 from ''less than'' the SAT to ''at or below'' the SAT, to be consistent with the policy of FAR part 13. Paragraph (G) at FAR 16.505(b)(2)(i) of the proposed

rule added the exceptions permitting other than full and open competition to the list of exceptions to the fair opportunity process.

At FAR 13.106–1(a)(2)(iv), paragraph (A) of the proposed rule is restructured stating the action contracting officers may take when using the authority of section 825, and adding subparagraphs (1)–(3), identifying the requirements a solicitation must meet before a contracting officer can take the action in paragraph (A); at paragraph (C), the definition of ''qualifying offeror'' is deleted and moved to part 2, with the addition of text clarifying the parts to which the definition is applicable; and the text of renumbered subparagraph (B) was modified to use the statutory language that ''if'' price or cost was not an evaluation factor for award, as opposed to ''whether or not'' price or cost was evaluated. Similar changes are made at FAR 15.304(c)(1)(ii). These revisions simply clarify the intent, readability, and applicability of the rule and section 825.

B. Analysis of Public Comments

Comment: A respondent expressed concern that the rule is not compliant with the implementing statute, because the rule does not include the term ''qualifying offeror,'' as used in section 825.

Response: The definition of ''qualifying offeror'' is taken directly from the statute and included in the final rule at FAR 2.101, 13.106–1(a)(2)(iv)(A)(3), and 15.304(c)(1)(ii)(A)(3). This requirement helps to ensure there will be sufficient contract holders submitting offers for task orders.

Comment: A respondent advised that use of the term ''head of the agency'' in section 825 makes the statute impractical for use by the contracting community, because the ''head of the agency'' does not typically issue solicitations. The respondent recommended amending the statutory language to implement section 825 effectively.

Response: Section 825 is implemented in the FAR effectively without a change to the statutory language. Unless otherwise stated in statute, the head of the agency may delegate procurement responsibilities to another officer or official in the same agency (see FAR 1.108(b)). FAR 1.102–4(b) further requires decision-making authority to be delegated to the lowest level within the FAR System, consistent with law. As section 825 does not prohibit delegation by the head of the agency, this rule delegates this authority to the contracting officer in accordance with FAR 1.108(b) and 1.102–4(b).

Comment: A respondent advised that the definition of a ''qualifying offer'' in the rule does not align with the statute. The rule requires that the proposal be ''technically acceptable,'' which is not required by the statute.

Response: The section 825 definition of a ''qualifying offeror'' includes language that the offeror ''submits a proposal that conforms to the requirements of the solicitation.'' The rule refers to a ''qualifying offeror'' as an offeror that ''submits a technically acceptable proposal that conforms to the solicitation.'' The terms ''technically acceptable'' and ''conforms'' have different meanings to Government contracting personnel. A proposal can conform to the requirements for the solicitation (*e.g.,* meeting a required page limit or proposal format), but not demonstrate that the offeror can meet the stated technical requirements (*e.g.,* having necessary certifications or offering the requisite services) of the Government. This clarification ensures contracting officers, when using the authorities in section 825, also evaluate whether a proposal meets the minimum technical requirements stated in the solicitation.

Comment: A respondent expressed concern that the rule is requiring the evaluation of price or cost in every source selection at FAR 15.304(c)(1)(i).

Response: FAR 15.304(c)(1) currently states that price or cost shall be evaluated in every source selection conducted under the negotiated acquisition procedures of FAR part 15. The cited language was already in the FAR. The rule relocates the text at FAR 15.304(c)(1) to a new subparagraph (i) with a reference to the new subparagraph (ii)(A), which includes the exception to considering price or cost when DoD, NASA, or the Coast Guard are using the authority of section 825.

Comment: A respondent suggested that the rule be expanded to include the authority granted under section 876 of the NDAA for FY 2019.

Response: Section 876 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 amends Title 41 of United States Code to provide executive agencies with the discretionary authority not to include price as an evaluation factor in certain solicitations for multiple-award and Federal Supply Schedule contracts, when specific conditions are met. Section 825 amends Title 10 of the U.S.C. to implement a similar, but not the same, authority for DoD, NASA, and the Coast Guard. The authority and applicability of these sections are different; as such, FAR Case 2018–014, Increasing Task Order Level Competition, implements section 876.

Comment: A respondent requested clarification regarding the inclusion of language that limits the application of the rule to multiple-award task-order contracts with a value above the simplified acquisition threshold (SAT).

Response: Currently, FAR 16.504(c)(1)(ii)(B)(5) does not permit the use of a multiple-award approach if the total estimated value of the IDIQ contract is less than the SAT; therefore, the rule applies the authority of section 825 to solicitations valued above the SAT. Additionally, this rule changes the text of FAR 16.504 from ''less than'' the SAT to ''at or below'' the SAT, to be consistent with the policy of FAR part 13, which requires the use of SAP for acquisitions valued at or below the SAT.

Comment: A respondent expressed support for establishing fair and reasonable rates at the time of contract award. The respondent recommends modifying the rule to require an evaluation of fair and reasonable pricing when awarding an IDIQ contract. The respondent advises that establishing maximum thresholds for price or cost at the time of contract award would still allow for competition at the task-order level, while assuring that the Government will subsequently receive fair and reasonably priced offers for requirements at the task- and delivery-order level. Another respondent expressed concern about the increased time and labor to be expended by a contracting officer placing an order under a multi-agency contract (MAC) awarded using the authority of section 825, as certain pricing information will no longer be available to support market research activities and associated acquisition decisions.

Response: The rule implements the intent of the statute. Section 825 provides DoD, NASA, and Coast Guard contracting officers with the ability not to include price or cost as an evaluation factor in certain solicitations for multiple-award contracts, if specific conditions are met. When determining whether to use the authority of section 825 or place an order under a resulting contract, a contracting officer must consider all of the circumstances and available information relating to the acquisition to decide the most appropriate procurement approach. Contracting officers are not required to use the authority of section 825 and may, instead, use the current solicitation, evaluation, and award procedures, which require that price be determined fair and reasonable prior to contract award.

In regard to the applicability of the rule to MACs, a MAC is a task-order or delivery-order contract established by one agency for use by Government agencies to obtain supplies and services, consistent with the Economy Act. This rule applies to multiple award contracts, which are: Contracts issued under the Multiple Award Schedule (MAS) authority described in FAR part 38; multiple-award task-order or delivery-order contracts issued in accordance with FAR subpart 16.5; or other indefinite-delivery indefinite-quantity contracts entered into with two or more sources pursuant to the same solicitation. A multiple award contract may also be a MAC, but the two terms are not interchangeable in identifying the same set of contracts. To avoid any potential confusion when applying section 825, some paragraphs of the rule text are renumbered to reinforce their applicability to section 825 and make the text more readable.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, Including Commercially Available Off-the-Shelf (COTS) Items

This rule does not contain any solicitation provisions or contract clauses that apply to contracts at or below the SAT, or contracts for the acquisition of commercial items, including commercially available off-the-shelf items.

IV. Expected Cost Savings

Currently, contracting officers must evaluate price or cost as a factor in the selection decision for both the award of the multiple-award contract and each order placed against the multiple-award contract. When applied to applicable multiple-award solicitations, this rule alleviates offerors' need to gather and analyze internal cost or pricing information or propose a price or cost for each line item in the solicitation. Subsequently, contracting officers do not need to review, analyze, and determine in writing that the proposed costs and prices are fair and reasonable for the award of the multiple-award contracts. When used, this rule impacts all offerors responding to a solicitation for a multiple-award contract for the same or similar services issued by the DoD, NASA, or the Coast Guard.

The Government has performed a regulatory cost analysis on this rule. The following is a summary of the estimated public cost savings in millions, which are calculated in 2016 dollars at a 7 percent discount rate:

Present Value Costs	−$4,813,740
Annualized Costs	−336,962
Annualized Value Costs as of 2016 if Year 1 is 2019	−275,061

To access the full regulatory cost analysis for this rule, go to the Federal eRulemaking Portal at *www.regulations.gov,* search for ''FAR case 2017–010,'' click ''Open Docket,'' and view ''Supporting Documents.''

V. Executive Orders 12866 and 13563

E.O.s 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

VI. Executive Order 13771

This rule is not subject to E.O. 13771, because this rule is not a significant regulatory action under E.O. 12866. However, this rule is considered to be a deregulatory action. Details on the estimated cost savings can be found in Section IV of this rule.

VII. Regulatory Flexibility Act

DoD, GSA, and NASA do not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* However, a Final Regulatory Flexibility Analysis (FRFA) has been prepared and is summarized as follows:

The reason for this action is to implement section 825 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017 (Pub. L. 114–328). The objective of this rule is to permit contracting officers to omit price or cost as an evaluation factor for award in certain solicitations for multiple-award contracts, if certain conditions are met. When applied to applicable multiple-award solicitations, this rule alleviates offerors' need to gather and analyze internal cost or pricing information or propose a price or cost for each line item in the solicitation.

No public comments were received in response to the initial regulatory flexibility analysis.

DoD, GSA, and NASA do not have data on the total number of small business entities that respond to multiple-award solicitations for the same or similar services. However, the Federal Procurement Data System (FPDS) provides information on the number of small business entities that received an award resulting from a multiple-award solicitation for services issued by DoD, NASA, and the Coast Guard. According to data from FPDS for FY 2015 through 2017, DoD, NASA, and the Coast Guard awarded an average of 1,905 multiple-award indefinite-delivery indefinite-quantity (IDIQ) contracts for services, and of those 1,905 contracts, an average of 1,292 contracts were awarded to 1,144 unique small business entities annually. The Government expects the number of small business entities impacted by the rule to be slightly larger than this estimate, as the data does not capture the small business entities that submit offers to applicable solicitations, but do not receive an award. This rule impacts all entities that submit offers in response to multiple-award solicitations for services that utilize the authority of section 825 issued by DoD, NASA, and the Coast Guard.

This rule does not include any new reporting, recordkeeping, or other compliance requirements. There are no known significant alternative approaches to the rule that would meet the requirements of the applicable statute.

Interested parties may obtain a copy of the FRFA from the Regulatory Secretariat. The Regulatory Secretariat has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

VIII. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 2, 4, 13, 15, and 16

Government procurement.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 2, 4, 13, 15, and 16 as set forth below:

■ 1. The authority citation for 48 CFR parts 2, 4, 13, 15, and 16 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 2—DEFINITIONS OF WORDS AND TERMS

■ 2. In section 2.101, amend paragraph (b) by adding the defined term ''Qualifying offeror'' in alphabetical order to read as follows:

2.101 Definitions.

* * * * *

(b) * * *

Qualifying offeror, as used in 13.106–1 and 15.304, means an offeror that is determined to be a responsible source, submits a technically acceptable proposal that conforms to the requirements of the solicitation, and the contracting officer has no reason to believe would be likely to offer other than fair and reasonable pricing (10 U.S.C. 2305(a)(3)(D)).

* * * * *

PART 4—ADMINISTRATIVE AND INFORMATION MATTERS

■ 3. Amend section 4.1005–2 by revising paragraph (a)(2) to read as follows:

4.1005–2 Exceptions.

(a) * * *

(2) *Indefinite-delivery indefinite-quantity (IDIQ) and requirements contracts.* (i) IDIQ and requirements contracts may omit the quantity at the line item level for the base award provided that the total contract minimum and maximum, or the estimate, respectively, is stated.

(ii) Multiple-award IDIQ contracts awarded using the procedures at 13.106–1(a)(2)(iv)(A) or 15.304(c)(1)(ii)(A) may omit price or cost at the line item or subline item level for the contract award, provided that the total contract minimum and maximum is stated (see 16.504(a)(1)).

* * * * *

PART 13—SIMPLIFIED ACQUISITION PROCEDURES

■ 4. Amend section 13.106–1 by revising paragraph (a)(2) to read as follows:

13.106–1 Soliciting competition.

(a) * * *

(2)(i) When soliciting quotations or offers, the contracting officer shall notify potential quoters or offerors of the basis on which award will be made (price alone or price and other factors, *e.g.,* past performance and quality).

(ii) Contracting officers are encouraged to use best value.

(iii) Solicitations are not required to state the relative importance assigned to each evaluation factor and subfactor, nor are they required to include subfactors.

(iv) In accordance with 10 U.S.C. 2305(a)(3), for DoD, NASA, and the Coast Guard—

(A) The contracting officer may choose not to include price or cost as an evaluation factor for award when a solicitation—

(*1*) Has an estimated value above the simplified acquisition threshold;

(*2*) Will result in multiple-award contracts (see subpart 16.5) that are for the same or similar services; and

(*3*) States that the Government intends to make an award to each and all qualifying offerors (see 2.101).

(B) If the contracting officer chooses not to include price or cost as an evaluation factor for the contract award, in accordance with paragraph (a)(2)(iv)(A) of this section, the contracting officer shall consider price or cost as one of the factors in the selection decision for each order placed under the contract.

(C) The exception in paragraph (a)(2)(iv)(A) of this section shall not apply to solicitations for multiple-award contracts that provide for sole source orders pursuant to section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

PART 15—CONTRACTING BY NEGOTIATION

■ 5. Amend section 15.304 by revising paragraph (c)(1) and paragraph (e) introductory text to read as follows:

15.304 Evaluation factors and significant subfactors.

* * * * *

(c) * * *

(1)(i) Price or cost to the Government shall be evaluated in every source selection (10 U.S.C. 2305(a)(3)(A)(ii) and 41 U.S.C. 3306(c)(1)(B)) (also see part 36 for architect-engineer contracts), subject to the exception listed in paragraph (c)(1)(ii)(A) of this section for use by DoD, NASA, and the Coast Guard.

(ii) In accordance with 10 U.S.C. 2305(a)(3), for DoD, NASA, and the Coast Guard—

(A) The contracting officer may choose not to include price or cost as an evaluation factor for award when a solicitation—

(*1*) Has an estimated value above the simplified acquisition threshold;

(*2*) Will result in multiple-award contracts (see subpart 16.5) that are for the same or similar services; and

(*3*) States that the Government intends to make an award to each and all qualifying offerors (see 2.101).

(B) If the contracting officer chooses not to include price or cost as an evaluation factor for the contract award, in accordance with paragraph (c)(1)(ii)(A) of this section, the contracting officer shall consider price or cost as one of the factors in the selection decision for each order placed under the contract.

(C) The exception in paragraph (c)(1)(ii)(A) of this section shall not apply to solicitations for multiple-award contracts that provide for sole source orders pursuant to section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

* * * * *

(e) Unless the exception at paragraph (c)(1)(ii)(A) of this section applies, the solicitation shall also state, at a minimum, whether all evaluation factors other than cost or price, when combined, are—

* * * * *

PART 16—TYPES OF CONTRACTS

16.504 [Amended]

■ 6. Amend section 16.504 by removing from paragraph (c)(1)(ii)(B)(*5*) ''is less than the simplified'' and adding ''is at or below the simplified'' in its place.

■ 7. Amend section 16.505 by adding paragraph (b)(2)(i)(G); and removing from paragraph (b)(2)(ii)(B)(*10*) ''(b)(2)(i)(A) through (E) of'' and adding ''(b)(2)(i)(A) through (E) and (G) of'' in its place.

The addition reads as follows:

16.505 Ordering.

* * * * *

(b) * * *

(2) * * *

(i) * * *

(G) For DoD, NASA, and the Coast Guard, the order satisfies one of the exceptions permitting the use of other than full and open competition listed in 6.302 (10 U.S.C. 2304c(b)(5)). The public interest exception shall not be used unless Congress is notified in accordance with 10 U.S.C. 2304(c)(7).

* * * * *

[FR Doc. 2020–12764 Filed 7–1–20; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 14, 15, 30, and 52

[FAC 2020–07; FAR Case 2018–005; Item IV; Docket No. FAR–2018–0006, Sequence No. 1]

RIN 9000–AN69

Federal Acquisition Regulation: Modifications to Cost or Pricing Data Requirements

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement a section of the National Defense Authorization Act for Fiscal Year 2018 to increase the threshold for requiring certified cost or pricing data.

DATES:

Effective: August 3, 2020.

Applicability: In the case of a change or modification made to a prime contract that was entered into before July 1, 2018, the threshold for obtaining certified cost or pricing data remains $750,000, with the following exception. Upon the request of a contractor that was required to submit certified cost or pricing data in connection with a prime contract entered into before July 1, 2018, the contracting officer shall modify the contract without requiring consideration to reflect a $2 million threshold for obtaining certified cost or pricing data from subcontractors. Similarly for sealed bidding, upon request by a contractor, the contracting officer shall modify the contract without requiring consideration to replace the relevant clause. (See FAR 14.201–7(c)(1)(ii) and 15.408).

FOR FURTHER INFORMATION CONTACT: Ms. Zenaida Delgado, Procurement Analyst, at 202–969–7207 or *zenaida.delgado@gsa.gov* for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.* Please cite FAC 2020–07, FAR Case 2018–005.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published a proposed rule on October 2, 2019, at 84 FR 52428, to increase the threshold for requesting certified cost or pricing data from $750,000 to $2 million for contracts entered into after June 30, 2018. The threshold for Cost Accounting Standards applicability is required by 41 U.S.C. 1502(b)(1)(B) to be the same threshold as the one for requesting certified cost or pricing data.

This FAR change implements section 811 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2018 (Pub. L. 115–91) that amends 10 U.S.C. 2306a and 41 U.S.C. 3502. Cost or Pricing Data: Truth in Negotiations, 10 U.S.C. 2306a, and Required cost or pricing data and certification, 41 U.S.C. 3502, require that the Government obtain certified cost or pricing data for certain contract actions listed at 15.403–4(a)(1), such as negotiated contracts, certain subcontracts and certain contract modifications. Two respondents submitted comments on the proposed rule.

II. Discussion and Analysis

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the public comments in the development of the final rule. A discussion of the comments is provided as follows:

A. Summary of Changes

There are no changes as a result of comments on the proposed rule.

B. Analysis of Public Comments

Comment: One respondent opposed the proposed rule and believed it will result in higher prices to the Government.

Response: This FAR change is required to implement section 811 of the NDAA for FY 2018 that amends 10 U.S.C. 2306a and 41 U.S.C. 3502.

Comment: One respondent suggested revision of FAR 15.403–4(a)(3) to reflect the $2 million threshold for both prime contracts and subcontracts entered into on and after July 1, 2018, to ensure consistency across the entire Truth in Negotiations Act certification process.

Response: The Councils cannot accept the suggestion because it is not consistent with the statute being implemented.

C. Other Changes

Some changes included in the proposed rule are no longer necessary because of publication of the final rule under FAR Case 2018–007, FAC 2020–006, on May 6, 2020, effective June 5, 2020.

III. Expected Impact of the Final Rule and Proposed Cost Savings

DoD, GSA, and NASA have performed a regulatory cost analysis on this rule. The following is a summary of the estimated public and Government cost savings. This rule will impact large and small businesses which currently compete on solicitations issued using FAR part 15 negotiation procedures and are valued between $750,000 and $2 million as these firms will no longer be required to submit certified cost or pricing data between those amounts. In addition, because of the comparable increase in the cost accounting standards threshold, fewer contractors will be required to comply with FAR clauses that implement the cost accounting standards. The following is a summary of the estimated cost savings calculated in 2016 dollars at a 7-percent discount rate and in perpetuity:

Summary	Public	Government	Total
Present Value Cost Savings	−$588,988,385	−$90,669,628	−$679,658,013
Annualized Cost Savings	−41,229,187	−6,346,874	−47,576,061
Annualized Value Cost Savings as of 2016 if Year 1 is 2020	−31,453,549	−4,841,999	−36,295,548

To access the full Regulatory Cost Analysis for this rule, go to the Federal eRulemaking Portal at *www.regulations.gov,* search for ''FAR Case 2018–005,'' click ''Open Docket,'' and view ''Supporting Documents.''

IV. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, Including Commercially Available Off-the-Shelf Items

The changes are not applicable to contracts at or below the simplified acquisition threshold or to contracts for the acquisition of commercial items.

V. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, is not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

VI. Executive Order 13771

This final rule is considered to be an E.O. 13771 deregulatory action. The total annualized value of the cost

savings is −$36,295,548 (as of 2016 if Year 1 is 2020). Details on the estimated cost savings can be found in section III of this preamble.

VII. Regulatory Flexibility Act

DoD, GSA, and NASA have prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The FRFA is summarized as follows:

This rule is required to implement section 811 of the National Defense Authorization Act for Fiscal Year 2018 which amends 10 U.S.C. 2306a and 41 U.S.C. 3502 to increase the threshold for requesting certified cost or pricing data from $750,000 to $2 million. The threshold for Cost Accounting Standards applicability is required by 41 U.S.C. 1502(b)(1)(B) to be the same threshold as the one for requesting certified cost or pricing data.

There were no significant issues raised by the public in response to the initial regulatory flexibility analysis.

This rule will impact small entities who compete on solicitations issued using FAR part 15, Contracting by Negotiation, valued between $750,000 and $2 million. It also impacts subcontracts and contract modifications, including those contracts awarded under sealed bidding procedures, valued between $750,000 and $2 million. Offerors and contractors under the revised threshold will no longer be required to submit ''certified cost or pricing data'' and will now submit ''data other than certified cost or pricing data,'' which takes less time to prepare.

In order to calculate the savings due to the increased threshold, the same FY 2016 Federal Procurement Data System (FPDS) data was utilized that was used to calculate information collection burdens associated with submission of certified cost or pricing data and of data other than certified cost or pricing data under the Office of Management and Budget (OMB) Control Number 9000–0013, which was cleared in January 2018. For contracts and orders awarded using FAR part 15 that were valued between $750,000 and $2 million, reflecting the actions impacted by the increase in the threshold, there were 2,697 contract awards/orders issued, 636 modifications to contracts or orders, an estimated 1,288 subcontracts awarded, and 592 subcontract modifications. Of these responses, 3,364 were from small entities. Of the 1,871 small entities that were awarded contracts or issued orders, 1,501 were unique small entities (about 1.25 contracts/orders per small entity). We estimate a comparable ratio of actions to entities in the other categories. This ratio is less than the overall ratio of actions to entities because this is just a small slice of the total range covered by the information collection clearance. The cost accounting standards do not apply to small entities, therefore that threshold change only affects other than small entities.

The rule does not include additional reporting or record keeping requirements.

There are no available alternatives to the rule to accomplish the desired objective of the statute. However, the impact on small entities will be beneficial, as it will relieve them of the requirement to provide certified cost or pricing data when the acquisition is less than $2 million. Instead, in most cases they would submit data other than certified cost or pricing data which is estimated to save 40 hours of labor effort and related cost savings for each submission not requiring certification.

Interested parties may obtain a copy of the FRFA from the Regulatory Secretariat Division. The Regulatory Secretariat Division has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

VIII. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. Chapter 35) does apply. The rule contains information collection requirements. OMB has cleared this information collection requirement under OMB Control Numbers: 9000–0013, Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data, and 9000–0129, Cost Accounting Standards Administration. No comments were received on the revision to OMB Control Number 9000–0013 that was provided in the proposed rule. The annual reporting burden under OMB Control Number 9000–0129 was revised using the $2 million threshold; a 30-day notice was published on October 8, 2019, at 84 FR 53727.

List of Subjects in 48 CFR Parts 14, 15, 30, and 52

Government procurement.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 14, 15, 30, and 52 as set forth below:

■ 1. The authority citation for parts 14, 15, 30, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 14—SEALED BIDDING

■ 2. Amend section 14.201–7 by revising paragraph (c)(1) to read as follows:

14.201–7 Contract clauses.

* * * * *

(c)(1) When contracting by sealed bidding, the contracting officer shall—

(i) Insert the clause at 52.214–28, Subcontractor Certified Cost or Pricing Data—Modifications—Sealed Bidding, in solicitations and contracts if the contract amount is expected to exceed the threshold for submission of certified cost or pricing data at 15.403–4(a)(1); or

(ii) Upon request of a contractor in connection with a prime contract entered into before July 1, 2018, the contracting officer shall modify the contract without requiring consideration to replace clause 52.214–28, Subcontractor Certified Cost or Pricing Data—Modifications—Sealed Bidding, with its Alternate I.

* * * * *

PART 15—CONTRACTING BY NEGOTIATION

■ 3. Amend section 15.403–4 by—

■ a. Revising the third sentence of paragraph (a)(1) introductory text;

■ b. Revising the second sentence of paragraph (a)(1)(iii) introductory text; and

■ c. Adding paragraph (a)(3).

The revisions and addition read as follows:

15.403–4 Requiring certified cost or pricing data (10 U.S.C. 2306a and 41 U.S.C. chapter 35).

(a)(1) * * * The threshold for obtaining certified cost or pricing data is $750,000 for prime contracts awarded before July 1, 2018, and $2 million for prime contracts awarded on or after July 1, 2018. * * *

* * * * *

(iii) * * * Price adjustment amounts must consider both increases and decreases (*e.g.,* a $500,000 modification resulting from a reduction of $1,500,000 and an increase of $1,000,000 is a $2,500,000 pricing adjustment exceeding the $2,000,000 threshold). * * *

* * * * *

(3) Upon the request of a contractor that was required to submit certified cost or pricing data in connection with a prime contract entered into before July 1, 2018, the contracting officer shall modify the contract, without requiring consideration, to reflect a $2 million threshold for obtaining certified cost or pricing data on subcontracts entered on and after July 1, 2018. See 15.408.

* * * * *

■ 4. Amend section 15.408 by revising paragraphs (d) and (e) to read as follows:

15.408 Solicitation provisions and contract clauses.

* * * * *

(d) *Subcontractor Certified Cost or Pricing Data.* The contracting officer shall—

(1) Insert the clause at 52.215–12, Subcontractor Certified Cost or Pricing Data, in solicitations and contracts

when the clause prescribed in paragraph (b) of this section is included; or

(2) Upon the request of a contractor that was required to submit certified cost or pricing data in connection with a prime contract entered into before July 1, 2018, the contracting officer shall modify the contract without requiring consideration, to replace clause 52.215–12, Subcontractor Certified Cost or Pricing Data, with its Alternate I.

(e) *Subcontractor Certified Cost or Pricing Data—Modifications.* The contracting officer shall—

(1) Insert the clause at 52.215–13, Subcontractor Certified Cost or Pricing Data—Modifications, in solicitations and contracts when the clause prescribed in paragraph (c) of this section is included; or

(2) Upon the request of a contractor that was required to submit certified cost or pricing data in connection with a prime contract entered into before July 1, 2018, the contracting officer shall modify the contract without requiring consideration, to replace clause 52.215–13, Subcontractor Certified Cost or Pricing Data—Modifications, with its Alternate I.

* * * * *

PART 30—COST ACCOUNTING STANDARDS ADMINISTRATION

30.201–4 [Amended]

■ 5. Amend section 30.201–4, in paragraph (b)(1), by removing ''$750,000'' and adding ''$2 million'' in its place.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 6. Amend section 52.214–28 by—

■ a. Removing from the clause prescription ''14.201–7(c)'' and adding ''14.201–7(c)(1)(i)'' in its place; and

■ b. Adding Alternate I.

The addition reads as follows:

52.214–28 Subcontractor Certified Cost or Pricing Data—Modifications—Sealed Bidding.

* * * * *

Subcontractor Certified Cost or Pricing Data—Modifications—Sealed Bidding (May 2020)

* * * * *

Alternate I (AUG 20). As prescribed in 14.201–7(c)(1)(ii), substitute the following paragraph (b) in place of paragraph (b) of the basic clause:

(b) Unless an exception under FAR 15.403–1(b) applies, the Contractor shall require the subcontractor to submit certified cost or pricing data (actually or by specific identification in writing), as part of the subcontractor's proposal in accordance with FAR 15.408, Table 15–2 (to include any information reasonably required to explain the subcontractor's estimating process such as the judgmental factors applied and the mathematical or other methods used in the estimate, including those used in projecting from known data, and the nature and amount of any contingencies included in the price)—

(1) Before modifying any subcontract that was awarded prior to July 1, 2018, involving a pricing adjustment expected to exceed $750,000; or

(2) Before awarding any subcontract expected to exceed $2 million on or after July 1, 2018, or modifying any subcontract that was awarded on or after July 1, 2018, involving a pricing adjustment expected to exceed $2 million.

■ 7. Amend section 52.215–12 by—

■ a. Removing from the clause prescription ''15.408(d)'' and adding ''15.408(d)(1)'' in its place; and

■ b. Adding Alternate I.

The addition reads as follows:

52.215–12 Subcontractor Certified Cost or Pricing Data.

* * * * *

Subcontractor Certified Cost or Pricing Data (May 2020)

* * * * *

Alternate I (AUG 20). As prescribed in 15.408(d)(2), substitute the following paragraph (a) in place of paragraph (a) of the basic clause:

(a) Unless an exception under FAR 15.403–1 applies, the Contractor shall require the subcontractor to submit certified cost or pricing data (actually or by specific identification in writing), in accordance with FAR 15.408, Table 15–2 (to include any information reasonably required to explain the subcontractor's estimating process such as the judgmental factors applied and the mathematical or other methods used in the estimate, including those used in projecting from known data, and the nature and amount of any contingencies included in the price)—

(1) Before modifying any subcontract that was awarded prior to July 1, 2018, involving a pricing adjustment expected to exceed $750,000; or

(2) Before awarding any subcontract expected to exceed $2 million on or after July 1, 2018, or modifying any subcontract that was awarded on or after July 1, 2018, involving a pricing adjustment expected to exceed $2 million.

■ 8. Amend section 52.215–13 by—

■ a. Removing from the clause prescription ''15.408(e)'' and adding ''15.408(e)(1)'' in its place; and

■ b. Adding Alternate I.

The addition reads as follows:

52.215–13 Subcontractor Certified Cost or Pricing Data—Modifications.

* * * * *

Subcontractor Certified Cost or Pricing Data—Modifications (May 2020)

* * * * *

Alternate I (AUG 20). As prescribed in 15.408(e)(2), substitute the following paragraphs (a), (b), and (d) for paragraphs (a), (b), and (d) of the basic clause:

(a) The requirements of paragraphs (b) and (c) of this clause shall—

(1) Become operative only for any modification to this contract involving aggregate increases and/or decreases in costs, plus applicable profits, expected to exceed the threshold for submission of certified cost or pricing data at FAR 15.403–4(a)(1); and

(2) Be limited to such modifications.

(b) Unless an exception under FAR 15.403–1 applies, the Contractor shall require the subcontractor to submit certified cost or pricing data (actually or by specific identification in writing), in accordance with FAR 15.408, Table 15–2 (to include any information reasonably required to explain the subcontractor's estimating process such as the judgmental factors applied and the mathematical or other methods used in the estimate, including those used in projecting from known data, and the nature and amount of any contingencies included in the price)—

(1) Before modifying any subcontract that was awarded prior to July 1, 2018, involving a pricing adjustment expected to exceed $750,000; or

(2) Before modifying any subcontract that was awarded on or after July 1, 2018, involving a pricing adjustment expected to exceed $2 million.

(d) The Contractor shall insert the substance of this clause, including this paragraph (d), in each subcontract that exceeds $2 million.

52.230–2 [Amended]

■ 9. Amend section 52.230–2 by removing from the clause prescription ''30.201–4(a)'' and adding ''30.201–4(a)(1)'' in its place.

52.230–4 [Amended]

■ 10. Amend section 52.230–4 by removing from the clause prescription ''30.201–4(c)'' and adding ''30.201–4(c)(1)'' in its place.

52.230–5 [Amended]

■ 11. Amend section 52.230–5 by removing from the clause prescription ''30.201–4(e)'' and adding ''30.201–4(e)(1)'' in its place.

[FR Doc. 2020–12765 Filed 7–1–20; 8:45 am]

BILLING CODE 6820– EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 52

[FAC 2020–07; FAR Case 2018–022; Item V; Docket No. FAR–2019–0010; Sequence No. 1]

RIN 9000–AN80

Federal Acquisition Regulation: Orders Issued via Fax or Electronic Commerce

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending a Federal Acquisition Regulation (FAR) clause to permit the issuance of task or delivery orders via facsimile or electronic commerce and clarify when an order is considered ''issued'' when using these methods.

DATES: *Effective:* August 3, 2020.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis E. Glover, Sr., Procurement Analyst, at (202) 501–1448 or *curtis.glover@gsa.gov* for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at (202) 501–4755. Please cite FAC 2020–07, FAR Case 2018–022.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 84 FR 44270 on August 23, 2019, to update a clause to permit the issuance of task or delivery orders via fax or electronic commerce and clarify when an order is considered ''issued'' when using these methods. Two respondents submitted comments on the proposed rule.

FAR clause 52.216–18, Ordering, currently states that task or delivery orders may be issued orally, by fax, or electronic commerce only if authorized in the contract schedule. If mailed, task or delivery orders are considered ''issued'' when the Government puts the order in the mail. The clause is included in solicitations and contracts when an indefinite-delivery definite-quantity, requirements, or indefinite-delivery indefinite-quantity contract is contemplated.

As part of today's business environment, the Government and Federal contractors frequently use email, fax (via computer, online service, or machine), or other electronic commerce methods to communicate with one another. In an effort to reflect current business practices and maintain speed and efficiency in the ordering process, this rule updates FAR clause 52.216–18 to no longer require a separate authorization in the contract to use electronic commerce or fax to issue task or delivery orders. The rule also identifies when a task or delivery order is considered ''issued'' when using such methods. As a result, contracting officers will no longer need to include supplemental ordering language in the contract when anticipating the use of fax or electronic commerce to issue task or delivery orders. Ordering information will be located in one place in the contract. A common understanding of when a task or delivery order is considered issued, in such situations, will be applied Governmentwide.

As task or delivery orders are not issued orally as frequently as other issuance methods and the use of such a method is dependent upon the particular circumstances of the procurement, the authority to issue orders orally must still be separately authorized under the contract and is not being amended by this rule.

II. Discussion and Analysis

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the public comments in the development of the final rule. Both comments were outside of the scope of this rule and no changes were made to the final rule as a result of public comments.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT) and for Commercial Items, Including Commercially Available Off-the-Shelf (COTS) Items

This final rule does not create any new provisions or clauses, nor does it change the applicability or burden of any existing provisions or clauses included in solicitations and contracts valued at or below the SAT, or for commercial items, including COTS items.

IV. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

V. Executive Order 13771

This rule is not subject to E.O. 13771, because this rule is not a significant regulatory action under E.O. 12866.

VI. Regulatory Flexibility Act

DoD, GSA, and NASA have prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The FRFA is summarized as follows:

The Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA) are amending a Federal Acquisition Regulation (FAR) clause to automatically permit the issuance of task or delivery orders via fax or electronic commerce, without additional authorization text in the contract and to clarify when an order is considered to be ''issued'' when using these methods. The objective of the rule is to update the clause to reflect current business practices and maintain speed and efficiency when issuing task and delivery orders under a contract.

No public comments were received in response to the initial regulatory flexibility analysis. DoD, GSA, and NASA do not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The rule simply formalizes a current business practice. The Government does not collect data on the total number of task and delivery orders issued by mail, fax, and/or electronic commerce. However, the Federal Procurement Data System (FPDS) provides the following information for fiscal year 2018:

The Federal Government awarded approximately 17,690 new indefinite-delivery indefinite-quantity, indefinite-delivery definite-quantity, and requirements contracts; of which approximately 62 percent were awarded to approximately 7,420 unique small business entities.

This rule does not impose any Paperwork Reduction Act reporting, recordkeeping, or other compliance requirements on any small entities. There are no known significant alternative approaches to the rule that would meet the stated objectives.

Interested parties may obtain a copy of the FRFA from the Regulatory Secretariat Division. The Regulatory Secretariat Division has submitted a

copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

VII. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 52

Government procurement.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR part 52 as set forth below:

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 1. The authority citation for 48 CFR part 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

■ 2. Amend section 52.216–18 by—

■ a. Revising the date of the clause;

■ b. Revising paragraph (c); and

■ c. Adding paragraph (d).

The revisions and addition read as follows:

52.216–18 Ordering.

* * * * *

Ordering (Aug 2020)

* * * * *

(c) A delivery order or task order is considered ''issued'' when—

(1) If sent by mail (includes transmittal by U.S. mail or private delivery service), the Government deposits the order in the mail;

(2) If sent by fax, the Government transmits the order to the Contractor's fax number; or

(3) If sent electronically, the Government either—

(i) Posts a copy of the delivery order or task order to a Government document access system, and notice is sent to the Contractor; or

(ii) Distributes the delivery order or task order via email to the Contractor's email address.

(d) Orders may be issued by methods other than those enumerated in this clause only if authorized in the contract.

(End of clause)

[FR Doc. 2020–12766 Filed 7–1–20; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 4, 5, 9, 18, 27, and 52

[FAC 2020–07; Item VI; Docket No. FAR–2020–0052; Sequence No. 2]

Federal Acquisition Regulation; Technical Amendments

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This document makes amendments to the Federal Acquisition Regulation (FAR) in order to make needed editorial changes.

DATES: Effective: July 2, 2020.

FOR FURTHER INFORMATION CONTACT: Ms. Lois Mandell, Regulatory Secretariat Division (MVCB), at 202–501–4755 or *GSARegSec@gsa.gov.* Please cite FAC 2020–07, Technical Amendments.

SUPPLEMENTARY INFORMATION: In order to update certain elements in 48 CFR parts 5, 9, 27, and 52 this document makes editorial changes to the FAR.

List of Subjects in 48 CFR Parts 4, 5, 9, 18, 27, and 52

Government procurement.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 4, 5, 9, 18, 27, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 4, 5, 9, 18, 27, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 4—ADMINISTRATIVE AND INFORMATION MATTERS

4.1603 [Amended]

■ 2. In section 4.1603 amend paragraph (a)(1) by removing ''*http://www.gsa.gov/graphics/fas/Civilian__contacts.pdf*'' and adding ''*https://community.max.gov/x/24foL*'' in its place.

PART 5—PUBLICIZING CONTRACT ACTIONS

5.205 [Amended]

■ 3. In section 5.205 amend paragraph (f) by removing ''national buy''.

PART 9—CONTRACTOR QUALIFICATIONS

9.109–4 [Amended]

■ 4. Amend section 9.109–4 in paragraph (a)(1)(i) by removing ''*https://www.state.gov/t/avc/rls/rpt/*'' and adding ''*https://www.state.gov/bureaus-offices/under-secretary-for-arms-control-and-international-security-affairs/bureau-of-arms-control-verification-and-compliance/*'' in its place.

PART 18—EMERGENCY ACQUISITIONS

18.205 [Amended]

■ 5. In section 18.205 amend paragraph (a) by removing ''*http://www.fema.gov/emergency/nrf/*'' and adding ''*https://www.fema.gov/media-library/assets/documents/117791*'' in its place.

PART 27—PATENTS, DATA, AND COPYRIGHTS

27.405–3 [Amended]

■ 6. In section 27.405–3 amend paragraph (b) by removing ''with paragraph (a)(1) of'' and adding ''with paragraph (a) of'' in its place.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 7. Amend section 52.209–13 by:

■ a. Revising the date of the provision; and

■ b. Removing from paragraphs (b)(1)(i) and (ii) ''*https://www.state.gov/t/avc/rls/rpt/*'' and adding ''*https://www.state.gov/bureaus-offices/under-secretary-for-arms-control-and-international-security-affairs/bureau-of-arms-control-verification-and-compliance/*'' in its place.

The revision reads as follows:

Violation of Arms Control Treaties or Agreements—Certification

Violation of Arms Control Treaties or Agreements—Certification (JUL 2020)

* * * * *

■ 8. Amend section 52.212–5 by—

■ a. Revising the date of the clause;

■ b. Removing from paragraph (b)(14)(ii) ''(MAR 2020)'' and adding ''(MAR 2020) of 52.219–6'' in its place;

■ c. Redesignating paragraph (b)(18) as (b)(18)(i) and adding (b)(18)(ii);

■ d. Removing from paragraph (b)(22)(i) ''(MAR 2020)'' and adding ''(MAY 2020)'' in its place; and

■ e. Removing from paragraph (b)(42) ''(DEC 2007)'' and adding ''(MAY 2020)'' in its place.

The addition reads as follows:

52.212–5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items.

* * * * *

Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items (JUL 2020)

* * * * *

(b) * * *

____(18) * * *

____(ii) Alternate I (MAR 2020) of 52.219–13.

* * * * *

[FR Doc. 2020–12757 Filed 7–1–20; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR–2020–0051, Sequence No. 3]

Federal Acquisition Regulation; Federal Acquisition Circular 2020–07; Small Entity Compliance Guide

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of DOD, GSA, and NASA. This *Small Entity Compliance Guide* has been prepared in accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of the rules appearing in Federal Acquisition Circular (FAC) 2020–07, which amends the Federal Acquisition Regulation (FAR). An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been prepared. Interested parties may obtain further information regarding these rules by referring to FAC 2020–07, which precedes this document. These documents are also available via the internet at *https://www.regulations.gov.*

DATES: July 2, 2020.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact the analyst whose name appears in the table below. Please cite FAC 2020–07 and the FAR Case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.*

RULE LISTED IN FAC 2020–07

Item	Subject	FAR case	Analyst
*I	Requirements for DD Form 254, Contract Security Classification Specification	2015–002	Glover.
*II	Increased Micro-Purchase and Simplified Acquisition Thresholds	2018–004	Jackson.
*III	Evaluation Factors for Multiple-Award Contracts	2017–010	Jackson.
*IV	Modifications to Cost or Pricing Data Requirements	2018–005	Delgado.
*V	Orders Issued Via Fax or Electronic Commerce	2018–022	Glover.
VI	Technical Amendments		

ADDRESSES: The FAC, including the SECG, is available via the internet at *https://www.regulations.gov.*

SUPPLEMENTARY INFORMATION: Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these FAR rules, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2020–07 amends the FAR as follows:

Item I—Requirements for DD Form 254, Contract Security Classification Specification (FAR Case 2015–002)

This final rule amends the FAR to provide procedures for use of the DD Form 254, Contract Security Classification Specification, and the use of the Procurement Integrated Enterprise Environment (PIEE) for electronic submission to streamline the submission process. It requires use of the DD Form 254 by DoD components, and by nondefense agencies that have industrial security services agreements with DoD, and requires the use of the National Industrial Security Program Contracts Classification System module of the PIEE, unless the nondefense agency has an existing DD Form 254 information system.

Item II—Increased Micro-Purchase and Simplified Acquisition Thresholds (FAR Case 2018–004)

This final rule increases the micro-purchase threshold (MPT) from $3,500 to $10,000, increases the simplified acquisition threshold (SAT) from $150,000 to $250,000, and increases the special emergency procurement authority in paragraph (2) from $300,000 to $500,000. The rule also clarifies certain procurement terms, as well as aligns some non-statutory thresholds with the MPT and SAT. It implements section 217(b) of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017 and sections 805, 806, and 1702(a) of the NDAA for FY 2018.

This final rule will likely have a positive significant economic impact on a substantial number of small entities.

Item III—Evaluation Factors for Multiple-Award Contracts (FAR Case 2017–010)

DoD, GSA, and NASA are issuing a final rule amending the FAR to implement section 825 of the National Defense Authorization Act for Fiscal Year 2017 (Pub. L. 114–328). The final rule modifies the requirement to consider price or cost as an evaluation factor for the award of certain multiple-award task order contracts issued by DoD, NASA, and the Coast Guard. Specifically, the rule provides that, at the Government's discretion, solicitations for multiple-award contracts for the same or similar services that state the Government intends to award a contract to each qualifying offeror do not require price or cost as an evaluation factor for contract award. This exception does not apply to solicitations for multiple-award contracts that provide for sole source orders pursuant to 8(a) of the Small Business Act (15 U.S.C. 637(a)). When price or cost is not evaluated during contract award, the contracting officer shall consider price or cost as a factor for the award of each order under the

contract. Section 825 also amends 10 U.S.C. 2304c(b) to add exemptions for the use of competitive procedures when placing an order under a multiple-award contract.

Item IV—Modifications to Cost or Pricing Data Requirements (FAR Case 2018–005)

This final rule increases the threshold for requesting certified cost or pricing data from $750,000 to $2 million for contracts entered into after June 30, 2018. For earlier contracts, contractors may request a modification to use the new clause Alternates, with the new $2 million threshold for subcontracts awarded on or after July 1, 2018. The rule implements section 811 of the National Defense Authorization Act for Fiscal Year 2018, Public Law 115–91.

This final rule will not have a significant economic impact on a substantial number of small entities.

Item V—Orders Issued Via Fax or Electronic Commerce (FAR Case 2018–022)

This final rule amends a FAR clause to permit the issuance of task or delivery orders via facsimile or electronic commerce and clarify when an order is considered ''issued'' when using these methods. As a result, contracting officers will no longer need to include supplemental ordering language in the contract when anticipating the use of fax or electronic commerce to issue task or delivery orders. The authority to issue orders orally must still be separately authorized in the contract. A common understanding of when a task or delivery order is considered issued, in such situations, will be applied Governmentwide.

Item VI—Technical Amendments

Editorial changes are made at FAR 5.205, 9.109–4, 27.405–3, 52.209–13, and 52.212–5.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2020–12758 Filed 7–1–20; 8:45 am]

BILLING CODE 6820–EP–P

FEDERAL REGISTER

Vol. 85 Thursday,

No. 128 July 2, 2020

Part V

The President

Executive Order 13933—Protecting American Monuments, Memorials, and Statues and Combating Recent Criminal Violence

Proclamation 10054—Amendment to Proclamation 10052

Federal Register
Vol. 85, No. 128
Thursday, July 2, 2020

Presidential Documents

Title 3—

The President

Executive Order 13933 of June 26, 2020

Protecting American Monuments, Memorials, and Statues and Combating Recent Criminal Violence

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. *Purpose.* The first duty of government is to ensure domestic tranquility and defend the life, property, and rights of its citizens. Over the last 5 weeks, there has been a sustained assault on the life and property of civilians, law enforcement officers, government property, and revered American monuments such as the Lincoln Memorial. Many of the rioters, arsonists, and left-wing extremists who have carried out and supported these acts have explicitly identified themselves with ideologies—such as Marxism—that call for the destruction of the United States system of government. Anarchists and left-wing extremists have sought to advance a fringe ideology that paints the United States of America as fundamentally unjust and have sought to impose that ideology on Americans through violence and mob intimidation. They have led riots in the streets, burned police vehicles, killed and assaulted government officers as well as business owners defending their property, and even seized an area within one city where law and order gave way to anarchy. During the unrest, innocent citizens also have been harmed and killed.

These criminal acts are frequently planned and supported by agitators who have traveled across State lines to promote their own violent agenda. These radicals shamelessly attack the legitimacy of our institutions and the very rule of law itself.

Key targets in the violent extremists' campaign against our country are public monuments, memorials, and statues. Their selection of targets reveals a deep ignorance of our history, and is indicative of a desire to indiscriminately destroy anything that honors our past and to erase from the public mind any suggestion that our past may be worth honoring, cherishing, remembering, or understanding. In the last week, vandals toppled a statue of President Ulysses S. Grant in San Francisco. To them, it made no difference that President Grant led the Union Army to victory over the Confederacy in the Civil War, enforced Reconstruction, fought the Ku Klux Klan, and advocated for the Fifteenth Amendment, which guaranteed freed slaves the right to vote. In Charlotte, North Carolina, the names of 507 veterans memorialized on a World War II monument were painted over with a symbol of communism. And earlier this month, in Boston, a memorial commemorating an African-American regiment that fought in the Civil War was defaced with graffiti. In Madison, Wisconsin, rioters knocked over the statue of an abolitionist immigrant who fought for the Union during the Civil War. Christian figures are now in the crosshairs, too. Recently, an influential activist for one movement that has been prominent in setting the agenda for demonstrations in recent weeks declared that many existing religious depictions of Jesus and the Holy Family should be purged from our places of worship.

Individuals and organizations have the right to peacefully advocate for either the removal or the construction of any monument. But no individual or group has the right to damage, deface, or remove any monument by use of force.

In the midst of these attacks, many State and local governments appear to have lost the ability to distinguish between the lawful exercise of rights to free speech and assembly and unvarnished vandalism. They have surrendered to mob rule, imperiling community safety, allowing for the wholesale violation of our laws, and privileging the violent impulses of the mob over the rights of law-abiding citizens. Worse, they apparently have lost the will or the desire to stand up to the radical fringe and defend the fundamental truth that America is good, her people are virtuous, and that justice prevails in this country to a far greater extent than anywhere else in the world. Some particularly misguided public officials even appear to have accepted the idea that violence can be virtuous and have prevented their police from enforcing the law and protecting public monuments, memorials, and statues from the mob's ropes and graffiti.

My Administration will not allow violent mobs incited by a radical fringe to become the arbiters of the aspects of our history that can be celebrated in public spaces. State and local public officials' abdication of their law enforcement responsibilities in deference to this violent assault must end.

Sec. 2. *Policy.* (a) It is the policy of the United States to prosecute to the fullest extent permitted under Federal law, and as appropriate, any person or any entity that destroys, damages, vandalizes, or desecrates a monument, memorial, or statue within the United States or otherwise vandalizes government property. The desire of the Congress to protect Federal property is clearly reflected in section 1361 of title 18, United States Code, which authorizes a penalty of up to 10 years' imprisonment for the willful injury of Federal property. More recently, under the Veterans' Memorial Preservation and Recognition Act of 2003, section 1369 of title 18, United States Code, the Congress punished with the same penalties the destruction of Federal and in some cases State-maintained monuments that honor military veterans. Other criminal statutes, such as the Travel Act, section 1952 of title 18, United States Code, permit prosecutions of arson damaging monuments, memorials, and statues on State grounds in some cases. Civil statutes like the Public System Resource Protection Act, section 100722 of title 54, United States Code, also hold those who destroy certain Federal property accountable for their offenses. The Federal Government will not tolerate violations of these and other laws.

(b) It is the policy of the United States to prosecute to the fullest extent permitted under Federal law, and as appropriate, any person or any entity that participates in efforts to incite violence or other illegal activity in connection with the riots and acts of vandalism described in section 1 of this order. Numerous Federal laws, including section 2101 of title 18, United States Code, prohibit the violence that has typified the past few weeks in some cities. Other statutes punish those who participate in or assist the agitators who have coordinated these lawless acts. Such laws include section 371 of title 18, United States Code, which criminalizes certain conspiracies to violate Federal law, section 2 of title 18, United States Code, which punishes those who aid or abet the commission of Federal crimes, and section 2339A of title 18, United States Code, which prohibits as material support to terrorism efforts to support a defined set of Federal crimes. Those who have joined in recent violent acts around the United States will be held accountable.

(c) It is the policy of the United States to prosecute to the fullest extent permitted under Federal law, and as appropriate, any person or any entity that damages, defaces, or destroys religious property, including by attacking, removing, or defacing depictions of Jesus or other religious figures or religious art work. Federal laws prohibit, under certain circumstances, damage or defacement of religious property, including the Church Arson Prevention Act of 1996, section 247 of title 18, United States Code, and section 371 of title 18, United States Code. The Federal Government will not tolerate violations of these laws designed to protect the free exercise of religion.

(d) It is the policy of the United States, as appropriate and consistent with applicable law, to withhold Federal support tied to public spaces from State and local governments that have failed to protect public monuments, memorials, and statues from destruction or vandalism. These jurisdictions' recent abandonment of their law enforcement responsibilities with respect to public monuments, memorials, and statues casts doubt on their willingness to protect other public spaces and maintain the peace within them. These jurisdictions are not appropriate candidates for limited Federal funds that support public spaces.

(e) It is the policy of the United States, as appropriate and consistent with applicable law, to withhold Federal support from State and local law enforcement agencies that have failed to protect public monuments, memorials, and statues from destruction or vandalism. Unwillingness to enforce State and local laws in the face of attacks on our history, whether because of sympathy for the extremists behind this violence or some other improper reason, casts doubt on the management of these law enforcement agencies. These law enforcement agencies are not appropriate candidates for limited Federal funds that support State and local police.

Sec. 3. *Enforcing Laws Prohibiting the Desecration of Public Monuments, the Vandalism of Government Property, and Recent Acts of Violence.* (a) The Attorney General shall prioritize within the Department of Justice the investigation and prosecution of matters described in subsections 2(a), (b), and (c) of this order. The Attorney General shall take all appropriate enforcement action against individuals and organizations found to have violated Federal law through these investigations.

(b) The Attorney General shall, as appropriate and consistent with applicable law, work with State and local law enforcement authorities and Federal agencies to ensure the Federal Government appropriately provides information and assistance to State and local law enforcement authorities in connection with their investigations or prosecutions for the desecration of monuments, memorials, and statues, regardless of whether such structures are situated on Federal property.

Sec. 4. *Limiting Federal Grants for Jurisdictions and Law Enforcement Agencies that Permit the Desecration of Monuments, Memorials, or Statues.* The heads of all executive departments and agencies shall examine their respective grant programs and apply the policies established by sections 2(d) and (e) of this order to all such programs to the extent that such application is both appropriate and consistent with applicable law.

Sec. 5. *Providing Assistance for the Protection of Federal Monuments, Memorials, Statues, and Property.* Upon the request of the Secretary of the Interior, the Secretary of Homeland Security, or the Administrator of General Services, the Secretary of Defense, the Attorney General, and the Secretary of Homeland Security shall provide, as appropriate and consistent with applicable law, personnel to assist with the protection of Federal monuments, memorials, statues, or property. This section shall terminate 6 months from the date of this order unless extended by the President.

Sec. 6. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

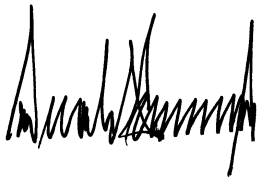
(i) the authority granted by law to an executive department or agency, or the head thereof; or

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

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

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

(d) This order is not intended to, and does not, affect the prosecutorial discretion of the Department of Justice with respect to individual cases.



THE WHITE HOUSE,
June 26, 2020.

[FR Doc. 2020–14509
Filed 7–1–20; 11:15 am]
Billing code 3295–F0–P

Presidential Documents

Proclamation 10054 of June 29, 2020

Amendment to Proclamation 10052

By the President of the United States of America

A Proclamation

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 212(f) and 215(a) of the Immigration and Nationality Act (8 U.S.C. 1182(f) and 1185(a)) and section 301 of title 3, United States Code, I hereby amend Proclamation 10052 of June 22, 2020 (Suspension of Entry of Immigrants and Nonimmigrants Who Present a Risk to the United States Labor Market During the Economic Recovery Following the 2019 Novel Coronavirus Outbreak), as follows:

Section 1. *Amendment.* Section 3(a)(ii) is amended to read as follows:

''(ii) does not have a nonimmigrant visa, of any of the classifications specified in section 2 of this proclamation and pursuant to which the alien is seeking entry, that is valid on the effective date of this proclamation; and''

Sec. 2. *General Provisions.* (a) Nothing in this proclamation shall be construed to impair or otherwise affect:

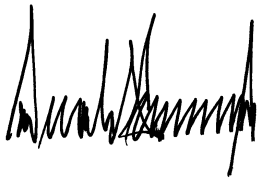
(i) the authority granted by law to an executive department or agency, or the head thereof; or

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

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

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

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



[FR Doc. 2020–14510
Filed 7–1–20; 11:15 am]
Billing code 3295–F0–P

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